

STEM CELLS

Mr. REID. Mr. President, at 12 o'clock today, President Obama brought new hope to millions of Americans who suffer from afflictions that one day might be cured. President Obama's executive order finally overturns the Bush administration's flawed policy on stem cells and restores scientific integrity to our law and our policy.

President Obama's executive order puts science above ideology and honors the strong wishes of hundreds of leading medical and scientific associations, research universities, patient advocacy groups, and, most importantly, the American people.

Since 2001, our most promising scientists have been forced to work literally with one hand tied behind their back. The President's action today sends a message to the millions who suffer that help—and hope—are on the way.

Mr. President, I suggest the absence of a quorum.

Oh, I see my friend here.

Mr. President, through the Chair I ask my friend from South Carolina, are you ready to take the floor?

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NATIONAL READING MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 69.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 69) designating March 2009 as "National Reading Month" and authorizing the collection of nonmonetary book donations in Senate office buildings during the period beginning March 9, 2009 and ending March 27, 2009 from Senators and officers and employees of the Senate to assist elementary school students in the Washington, DC metropolitan area.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, there be no intervening action or debate, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 69) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 69

Whereas literacy is a learned skill that is improved through practice and regular reading;

Whereas public and school libraries play an important role in helping children learn to read and gain critical information literacy skills by providing easy and free access to books and other information on a wide range of topics;

Whereas the reading of books with children improves children's language, cognitive, and literacy skills;

Whereas research demonstrates that reading aloud with children is the single most important activity for helping them become successful readers;

Whereas quality children's books and the continued efforts of educators, parents, and volunteer reading partners can instill a love of reading that will last a lifetime;

Whereas school reading programs provide students with a chance to improve their reading skills and take pleasure in stories;

Whereas such programs have a profound and lasting positive impact on a child's life through improved reading comprehension, motivation, and achievement, as well as improved overall academic performance, classroom behavior, self-confidence, and social skills; and

Whereas all people of the United States can help celebrate the importance of reading by donating children's books, volunteering to read to and mentor young students, and supporting public policies aimed at improving literacy rates: Now, therefore, be it

Resolved, Notwithstanding any other rules and regulations of the Senate—

(1) the Senate designates March 2009 as "National Reading Month";

(2) a Senator or officer or employee of the Senate may solicit another Senator or officer or employee of the Senate within Senate buildings for nonmonetary book donations during the period beginning March 9, 2009 and ending March 27, 2009 to assist elementary school students in the Washington, D.C. metropolitan area, if such solicitation does not otherwise violate any rule or regulation of the Senate or any Federal law; and

(3) a Senator or officer or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (2).

RESERVATION OF LEADER TIME

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

OMNIBUS APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1105, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1105) making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Ensign amendment No. 615, to strike the restrictions on the District of Columbia Opportunity Scholarship Program.

Kyl amendment No. 631, to require the Secretary of State to certify that funds made

available for reconstruction efforts in Gaza will not be diverted to Hamas or entities controlled by Hamas.

Kyl amendment No. 629, to provide that no funds may be used to resettle Palestinians from Gaza into the United States.

Kyl amendment No. 630, to require a report on countersmuggling efforts in Gaza.

McCain amendment No. 593, to prohibit the use of certain funds provided in the bill.

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

Mr. DEMINT. Mr. President, everyone is well aware our country is going through some serious tribulation economically. The whole world, in fact, is dealing with serious economic troubles.

There are signs of hope in many areas of our economy. I think it is important for us, particularly those of us in elected office, to recognize those good things, and that the strength of the American people will certainly pull us out of this hole, as they have many times in the past.

Hopefully, what we do here in Washington will help and not hurt. I think everyone is aware a large part of our recession is the banking and credit problem. Certainly, if it did not cause it, it made it much worse, and continues to today.

Unfortunately, the new administration and the Congress have not put forth any plan to fix our credit crisis, to make our banks work appropriately. While many of them are calling me to remind me they are loaning money, they are working, there is still a lot we need to do in the credit area that we have not fixed.

Unfortunately, the trillion-dollar so-called stimulus plan we passed only a couple weeks ago—all borrowed money—did not address the credit/banking problem. It addressed issues that had nothing to do with the recession. The stimulus provided a lot of additional funds for education, health care, and infrastructure—a lot of good things. But those things did not cause our recession, and they are certainly not going to get us out of it.

I think the failure to bring forth a plan that addresses the real causes of the recession has many people around the country wondering what we are thinking. The fact is, what we are thinking is about the next election and not the next generation. It has become clear we are not addressing the real causes of the problems but are doing things that are more politically beneficial than beneficial to our economy.

As we deal with the difficult economic situation, it is almost hard to see the White House going in a lot of different directions, and some that are especially painful, particularly the issue of life. The new President campaigned on reducing the number of abortions, but in the first month or 6 weeks of his Presidency, he has changed the rule where now the American taxpayer is funding abortions all around the world. They put forth an Executive order to strike the conscience clause, which means we are

going to require physicians who are opposed to abortion to perform abortions. That makes no sense at all. When there are physicians who make a living performing abortions, why should we take a physician who considers it the taking of a life and force him to do it? Why do we need to do that in the middle of a recession and the economic problems we have?

Today, the President reversed a prohibition on Federal funding of certain types of stem cells. It seems to be opening Pandora's box to begin the destruction of unborn human beings. His Cabinet nominee for Health and Human Services has been one of the most radical pro-abortion folks in the country, having encouraged and protected late-term abortion and partial-birth abortions. Many people who are not pro-life believe we certainly should not be performing late-term abortions in this country. Yet the President seems to be going in a rather radical direction, in the middle of this economic storm we have. We have to wonder: What are they thinking?

Today we come to this, what we are calling an omnibus spending bill. Only 2 weeks after we passed this huge spending bill we called a stimulus—\$1 trillion or more if you add interest and 2 weeks later we are talking about a bill that is over \$400 billion. The Federal agencies cannot even spend the money as fast as we are throwing it at them, but now we are here today with this other bill under the pretense that we have to have this money to make the country operate. Americans need to know we have been operating under this year's funding through what we call a continuing resolution, which means we are operating essentially at last year's budget. The country has been operating effectively. The reason we are passing this bill is not that we need it to fund the Government because the Government is funded under a continuing resolution which we could extend through the end of the year. We actually need to be about working on next year's budget and next year's appropriations. That is what we are supposed to be doing now. Instead, we are going back and creating this new spending bill, which I consider an ominous spending bill, not so much an omnibus.

What I have in front of me right here is the reason there is such a rush to pass this additional spending bill. All Americans have heard of earmarks. These are the earmarks in this spending bill. This is the reason it has to be passed. Remember, last week they brought it up and said we had to pass it before Friday or the Government would shut down and it would just not be right to pass another continuing resolution. Well, come Thursday, they found out that because the American people had gotten agitated and outraged and had begun to call and e-mail their Senators, they didn't quite have the votes to pass this bill last week. But they will pass it because they have

taken over 9,000 earmarks—special projects—and sprinkled them all around among Republicans and Democrats in the House and in the Senate. It is hard to vote against a bill that has a special project in it.

Some Americans have begun to hear a little bit about these earmarks. I will take the one that is sitting right here on the top of this stack. Keep in mind we have over 9,000 earmarks for most of the Congressmen and Senators. Now, a lot of Senators will come today and talk about how it is wasteful and we should cut the earmarks, but they will vote for it because a lot of them have already done the press releases on the money they are taking back home.

I will read a couple on the front page. There is an amount column, a project column, a purpose, and a location. Then they have the names of the Congressmen and Senators, but they have struck those. I am not exactly sure why. The first amount is \$200,000 to Providence Holy Cross Foundation and it is for tattoo removal to a violence prevention outreach program in Mission Hills, CA. Now, I am sure that is a worthy cause, but in the middle of a recession, when we are borrowing trillions of dollars to try to keep this country going and the President is saying we have to make every dollar count and he is going to strike every item of waste, what is the Federal Government doing funding the removal of tattoos?

The second item is \$75,000. That is not too bad, although it is more than most families make in a whole year. It is for the city of Albany. It is for Totally Teen Zone. This is Albany, GA. This is where they go and play with Xboxes and things such as that. I am sure that is a fine thing, but you have to wonder, in these times when we are out of money as a country, do we need to be involved as a Federal Government with this kind of thing?

The next item is \$400,000 for the University of Montana. It is for teacher training, curriculum development, and awareness initiatives to combat bullying as well as the development of emergency protocol for school shootings—something I am sure is very necessary to combat bullying in schools; it is certainly something every school has to deal with. But how can we as a Federal Government send \$400,000 to one university and expect to solve problems all over the country?

Well, the next one is \$50,000 to Los Angeles for after-dark gang prevention. Again, these are all good things, but there is probably no Senator who has read all of these, but they know the ones that are in it for them because that is why they are going to be voting for the bill. The tacit agreement always is, we are going to get the votes to pass this bill so these 9,000 earmarks—these 9,000 press releases—will go out all over the country.

Our only hope of stopping this is if the American people continue to show their outrage and to continue to connect the dots of what we are doing be-

cause we are not doing this to fund the Government. This isn't about last year's business. It violates every pledge many people here have run on and certainly the President. If you recall, the President has said he was against earmarks. When I introduced a 1-year moratorium on earmarks, he flew back, along with all the candidates for President—or at least the top three at that time—to vote to have a 1-year moratorium on earmarks because more and more we are seeing the damage this is doing to our country. You can pass almost any bill with any bad policy with almost any level of spending as long as you fill it with earmarks for people back home.

They are thinking about the next election, not the next generation. They are not thinking about the families who are hurting because they are losing their jobs right now because this is much more likely to cause additional job losses over the next 5 to 10 years than it is to help create them. So this is the seed. This greases the skids to pass almost any type of bill. If my colleagues remember, when the first Wall Street bailout came through the House, it failed. So when the Senate took it up, what did they add to it to help it get passed? More earmarks.

Now, we have had several amendments to strike some of these earmarks, and there have been some heroes on the issue. JOHN McCAIN has certainly been on the floor talking about the problems with earmarks he has seen over the many years he has been in the Senate, and he has one other amendment that will be on the floor that will basically take all these earmarks—they aren't in the legislation; they are in what they call report language off to the side, so it is not seen in the bill that is on the desk right here. But there is a reference in here to this, and that supposedly makes it all legal. The Constitution says we have to appropriate money based on law, which means it has to be in the bill, but we do everything we can to get around that Constitution and law by attaching some rider in here that says all these should be considered as law.

Folks, this is no way to run a Federal government. This is just one bill; it has nothing to do with the trillions of dollars on Wall Street and the banking bailout we have been talking about or the \$1 trillion stimulus 2 weeks ago. It is over \$400 billion, with over 9,000 earmarks they wanted to rush through last week, but because of people back home, some were shamed into saying they couldn't vote for it unless we had a longer process with more amendments.

Now, this is show. There is already a strategy to kill every amendment that comes up, so we are not trying to pass an amendment to strip earmarks. You will see Senator McCAIN's good amendment, a commonsense amendment that, in the middle of our financial crisis, let's us take these and set them aside and pass the bill that funds our

Government. It is a good amendment, but the decision has already been made on the other side to kill that amendment unless the American people can shame a few more into voting against it.

JOHN ENSIGN has an amendment that will strike some language in the bill that seeks to discontinue school choice in Washington, DC. It is a small program—only 1,700 kids are involved with it—but there is a waiting list of parents who would like another choice. In this funding bill, this must-have funding bill, they sneak in a little policy such as that to kill a little bit of freedom in our country that we need to be expanding to every State, not killing it in Washington, DC.

DAVID VITTER has an amendment that will force Congress to vote on pay raises for Congressmen and Senators every year instead of what we do right now. Currently, there is an automatic provision in appropriations bills that goes through and gives us a cost-of-living pay raise. This should be done in the light of day. Right now, we can say we didn't vote on a pay raise, and we didn't because it was set up years ago to be automatic. So at a time when many Americans don't have work and some are taking pay cuts to keep their job, Senator VITTER's idea to be more transparent in what we do in Washington makes a lot of sense.

The President has promised change. Our growing concern is that the biggest change so far in Washington has been in him. We want to support him as much as we can. He did say he would stop this practice of earmarking, but he is looking the other way on this bill. He is saying he supports it. He could veto this bill and send it back to Congress and tell us to get rid of these earmarks. He could keep his promise and he could force us to change. But right now, this stack of earmarks is so addictive that the Congressmen and Senators who have these projects that they are so proud of back home are not going to vote against the bill. You could double this bill to \$800 billion, and I am pretty sure it would pass anyway, as long as it had these earmarks in it.

Folks, as Senator COBURN from Oklahoma says, earmarks are the gateway drug to this runaway spending we have in Washington. We are spending our children and grandchildren into such a hole it is going to be almost impossible for them to get out. We are almost guaranteeing them a lower quality of life than we have had, as we borrow more and more money from other countries, as we print more and more money, and as we spend more money as a government than we ever thought possible.

This is the time when we need to stop this runaway spending. An amendment will be on the floor to strike these earmarks and to continue to fund the Government through the rest of the year. The other side doesn't want any amendments passed because that would

mean we would have to go back and work with the House on a final bill. They want it to go through amendment free. It is up to us to make sure the American people know what is in this bill before we vote on it. That is the whole point of extending the debate. My hope is we will have 2 or 3 days to make the American people more aware of what is in it and, even more importantly, what is in this stack of earmarks, which is the reason this bill is being rushed through the Senate.

I thank the Chair, and I yield the floor.

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

Mrs. FEINSTEIN. Mr. President, I came to the floor to oppose two amendments, the Ensign amendment and the Barrasso amendment. However, before doing so, because my distinguished colleague from South Carolina spoke about the horrible earmarks, I wish to present my point of view.

I come from the largest State in the Union.

We are about 38 million people. In population, we are bigger than 21 States and the District of Columbia put together. We have 10.1 percent unemployment. We have 1.86 million people unemployed. That is more people unemployed in California today than are people in 14 States in the United States. We have increasing wildfires. We have decreasing water. We are the largest agricultural State in the Union—a \$40 billion agricultural industry. For the great Central Valley south of the delta, the water allocation for this year is zero. We are a State that is in great need of infrastructure repair. The great North Delta, which provides the drinking water for 16 million people in my State, is subject to collapse. Levees collapse. We have major problems with collapsing sewers, bridge repair—Doyle Drive going onto the great Golden Gate Bridge is in high susceptibility to coming down in an earthquake. I could go on and on.

I have been, for 14 out of the 16 years I have been here, on the Appropriations Committee. Yes, I fight for funds for my State. That is what I came here to do. I want my earmarks, which are congressionally added spending, to be transparent and be out there for the world to see. If I make a mistake, I will change the mistake. But I want to help my State; otherwise, why do I come here? I cannot guarantee that the President of the United States, with all he has on his desk, is going to take care of California's needs. That is what I am here for; that is what I became an appropriator to do. And to handcuff what is a coequal branch of Government—remember, we have three

branches of Government and they are coequal under the Constitution. To say that I am going to represent this great State, the seventh or eighth largest economic engine on Earth, and not help its infrastructure, not help provide for the needs of its people as some-

body who sits as an appropriator—something I don't want to do. Candidly, why be an appropriator if you can't help your State? If you have to depend on a President who may want to ignore your State—that has happened in the past, and it can happen in the future.

So I think all of this dialog is misplaced. If I can't fight for my State, if I can't help my State, if I can't see that there is money for sewers and money for water reconstruction and where education needs are vital—and a State that had a \$42 billion deficit and was almost ready to collapse because it could not come to agreement on the terms should be made worse off because I can't do anything to help my State or Senator BOXER can't do anything to help our State?

So I look at this as a way to reduce spending, no question about that, but also to create a more powerful precedent where the Congress is less able to add vital projects. Supposing a President has a bias against a given project. There is nothing, then, that an individual Senator or House Member or the House Members as a whole or the Senate as a whole can do about it. We make ourselves impotent as a coequal branch of Government if there is no ability, where necessary, to add to the budget.

Now, it has been said that earmarks have greatly declined—and they have—and it has been said by some that they will be limited to 1 percent of the budget for the next year. I have no problem with that. I think that ought to be announced now. I am prepared to do that in the Interior budget. But we have to know what the rules are when we do the appropriations bills. What happens is, we do the appropriations bills, and then they come out here and run into this kind of opposition. I say set the rule ahead of time, decide earmarks are to be a certain part of the budget. They have been ratcheted down over the years. Continue to ratchet them down and set a percent, so every one of us who is chairman of an appropriations subcommittee knows exactly what we have to work with.

Quickly, let me speak to two amendments—one that has been presented on the floor and one that hasn't but will be. The one that has been presented on the floor is the Ensign amendment, No. 615, on DC vouchers. I wish to speak on that and the Barrasso amendment, No. 637, on oil and gas drilling permits.

Here is another situation we are in. If the Senate approves either of these amendments, or any of the other 10 to 12 amendments now pending, this omnibus bill dies. The bill has been passed by the House. The House said they will take no amendments. The bill is over here, and we have a number of amendments being presented, many of which some of us would like to vote for, but we cannot. The Ensign amendment is one of those amendments for me.

If the omnibus bill dies, you then fund the Federal Government for another year. It has already been funded

for 6 months out of a continuing resolution. This year is already 43 percent gone. This means no agency has been able to start a new program, and funding levels have been frozen at fiscal year 2008 levels since October 1, 2008. As a matter of fact, we have paid for 1.2 million Federal executive branch employees. It is increased 3.9 percent in January of this year. The money for that is in this omnibus bill. If the bill doesn't pass, I suppose it has to be added to a CR, and other things would have to be added to a CR as well. But I believe we should pass this bill.

Let me speak for a moment about the Ensign amendment. I have supported the pilot program that provides vouchers on a pilot basis in Washington, DC, since its inception 5 years ago. I believe I was the deciding vote. This was added to an appropriations bill. I thought long and hard about it and decided to support it. I am prepared to continue to support this if the comprehensive evaluation, due this spring, shows that the program has value and students are improving.

I believe in my heart of hearts that public education must fundamentally change. It must move away from the large, institutional-type school into the smaller, more personal setting where teachers can spend more time with students and their families, particularly in a student's younger, habit-forming years. I don't believe youngsters from lower income families should be denied the opportunity to learn in these smaller, more personal settings.

We have huge schools in California. Some have thousands of students and hundreds more than should be in any one school. The Washington, DC, scholarship program is a 5-year pilot program to determine whether low-income students do, in fact, learn more and learn better in the area's private and parochial schools. Forty-nine schools, private and parochial, are included; 1,700 students are participating. They come from families under the average income of \$23,000. They receive a Federal stipend of \$7,500 a year to make their education in the private or parochial school possible, and the appropriation is \$14 million a year.

I believe we need different models for children to learn. Think of it—this country is so diverse, so many different people, so many different languages, so many different cultures. Yet there is one institutional type—public school. That is the model that is followed. I don't understand why there can't be different models. I believe there should be.

So far, preliminary evaluation by the U.S. Department of Education Institute of Educational Sciences has shown some academic gains in reading and math. When these students entered the program, they were performing in the bottom third in reading and math tests in DC's public schools. Last year's evaluation, as I understand it, showed that the reading test scores of three

subgroups of students, representing 88 percent of students receiving a scholarship, were higher by the equivalent of 2 to 4 months of additional schooling. These academic gains, again, are despite the many challenges these children face outside the classroom, coming from families where the average income is \$23,000.

I believe the results of the more comprehensive evaluation are critical, and we expect to have those results this spring. I look forward to learning more in the months ahead on how students are performing overall in the program and the impact it has had.

In closing, I believe the debate over the DC Voucher Program is an important one. It is a valid one, and we should discuss it and debate it on this floor. But this bill is not the place to do it. If I were to vote yes and others were to vote yes, it would kill this bill, and we all know that. Simply stated, the House will not accept it. So I believe the debate is for another time. I regretfully will have to vote no on this amendment.

As chairman of the Appropriations Subcommittee on Interior, I also want to oppose the Barrasso amendment. The 2009 Interior appropriations bill, as written, carries a provision that allows the Bureau of Land Management to recoup the cost of processing over 9,000 oil and gas drilling permits that were filed this year. Now, appropriations bills are replete with user fees, so this is nothing new. In fact, the language we are carrying in the omnibus bill is the same as what was in the 2008 bill and mirrors the proposal put forward by the Bush administration for the past 2 years. This language simply says to the oil and gas companies: If you are going to drill on public land, you need to cover the cost of processing your permit. For fiscal year 2009, the fee is \$4,000 per permit. It is used to pay for the necessary environmental analysis that must be done before a permit can be issued.

The \$36 million raised through this fee is but a drop in the bucket compared to what these companies are getting. Listen to this: 23,293 active leases produce 108 million barrels of oil, 3 trillion cubic feet of natural gas, and 2 million gallons of liquid natural gas. In 2008, that resulted in \$34.9 billion in revenues to oil and gas companies. From that, they pay \$4.2 billion in royalties, leaving the companies with \$30.7 billion. Out of that substantial sum, what we are asking the companies to do is pay \$36 million in permit costs for environmental analyses and the processing of the permits. That is less than one-eighth of a percent or, to be precise, .12 percent to offset administrative costs.

I want to ask you to consider this: From 2003 to 2007, the revenue of the oil and gas industry increased by 63 percent, from \$1.1 trillion to nearly \$1.9 trillion. At the same time, industry profits net income more than doubled, increasing from \$72 billion to more

than \$150 billion during this time period.

This is not an industry that is in need of a special break. As a matter of fact, one of these companies is a corporation that has made the greatest net profit of any corporation in our Nation's history. These companies are well off. They can afford to pay the permit costs, and I believe they should.

The amendment proposed by the Senator from Wyoming strikes the cost recovery of the permit process and leaves the Federal Government and ultimately the taxpayers responsible for paying all of the administrative costs. I think that is fundamentally wrong.

Furthermore, the industry would cause the Interior bill to exceed the subcommittee's spending allocation. Right now, our bill complies with the allocation we have been given, but striking the cost recovery fee, the Barrasso amendment would put the Interior bill \$36 million over its allocation. I understand a point of order will be made against the bill at a later time.

That concludes my comments. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, while the Senator from California is here, I wish to acknowledge her role in helping to create the DC voucher program for low-income children. It was not an easy vote for her. I listened to her remarks as I have before about the importance of trying new ideas in American public education. The new Secretary of Education, Arne Duncan, who I think is one of the President's best—maybe his best—appointments, believes the same thing.

I look forward to working with the Senator to see what the study, which comes out this spring, says about the first few years of this program. We know parental satisfaction is high.

Mrs. FEINSTEIN. Mr. President, will the Senator yield to me?

Mr. ALEXANDER. Yes.

Mrs. FEINSTEIN. I know he is under a time agreement. I say to the Senator through the Chair, I really do look forward to working with Senator ALEXANDER. This is very important. I so regret some of the pressures that are brought upon this program. I am so pleased he and I agree these children should have different models to choose from in the public educational arena.

This Washington Scholarship Program, I think we both believe, can go a long way, and hopefully the findings will be positive. I look forward to working with the Senator from Tennessee as well. I thank him for his comments.

Mr. ALEXANDER. Mr. President, I thank the Senator. We do agree on that. The one area with which I respectfully disagree is that this was not the bill to put on restrictions and conditions to make sure the program ends. That is the reason we have an amendment, because someone thought it was

important to say that the program needs to end unless it is approved by the DC City Council which, unlike the Mayor, opposes the program. That is why we have an amendment.

Unfortunately, the circumstance we have is, unless we take very quick action in the Congress, the 1,700 children who are part of this program will not be a part of it after another year. The program will shut down. It is beginning to do that now, and it will not be accepting new applications.

I also regret that the amendment is being offered, but that was necessary because of the restrictions and the conditions that were placed on the scholarship program in the omnibus. But that does not change my attitude about working with the Senator from California to look to the future.

Mr. President, I ask that I be notified when 9 minutes is completed.

The ACTING PRESIDENT pro tempore. The Chair will so notify.

Mr. ALEXANDER. I thank the Chair.

(The further remarks of Mr. ALEXANDER are printed in today's RECORD under "Morning Business.")

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I happened to be on the Senate floor. I thank my friend from Tennessee for his statement in regard to the time and difficulty it takes to confirm nominees for higher office in a new administration.

I will tell my friend what he may well know, which is, under the leadership of one of his predecessors, Fred Thompson, a former Senator from Tennessee, our committee attempted to grapple with this problem. I think we made some progress but obviously not enough.

I will be glad to discuss the Senator's proposal with Senator COLLINS who is always ready to lead a gang in a good cause.

I thank my friend from Tennessee.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Connecticut.

AMENDMENT NO. 615

Mr. LIEBERMAN. Madam President, I rise to speak in favor of the amendment which I have cosponsored to the legislation before us, the one with Senator ENSIGN and others. I believe it is amendment No. 615.

This amendment would strike language currently in the omnibus bill before us that is crippling to the DC Opportunity Scholarship Program. The language we seek to strike terminates the OSP program unless a reauthorization bill is passed by Congress and the DC Council prior to the 2010-2011 school year. So the language I have offered with Senator ENSIGN would strike the language that terminates the District of Columbia Opportunity Scholarship Program.

Madam President, quoting from title IV of the underlying bill, it says:

... use of any funds in this Act or any other Act for opportunity scholarships after

school year 2009-2010 shall only be available upon enactment of reauthorization of that program by Congress and the adoption of legislation by the District of Columbia approving such reauthorization.

In narrative language attached to the report, it says:

Funding provided for the scholarship program shall be used for currently-enrolled participants rather than new applicants. The chancellor of the District of Columbia Public Schools should promptly take steps to minimize potential disruption and ensure smooth transition for any students seeking enrollment in the public school system as a result of any changes made to the private scholarship program affecting periods after school year 2009-2010.

That is a quote from the underlying measure which the amendment of Senator ENSIGN and I and others would strike.

Madam President, the language, in my opinion, is unnecessary, in some sense it is gratuitous, as is the narrative language, which essentially says to approximately 1,700 low-income students in the District of Columbia who are benefitting from this program: Get ready for it to end. I think substantively this is terribly wrong, but I think procedurally it is wrong to include such a measure in an Omnibus appropriations bill that we are being asked to pass without amendment. I understand that request, but it is harder to respond to that request when we are asked not to amend something that is not necessary as part of the Omnibus appropriations bill. It is an unnecessary and, I would say, gratuitous attempt to undercut this DC Opportunity Scholarship Program before the evaluation of the benefits of the program for the students involved are in and in total contradiction of the enormous amount of money we appropriate every year without authorization for a host of different programs.

That is the summary of why I support this amendment. I would come back to say that the DC Opportunity Scholarship Program was created as part of an agreement—a kind of grand bargain that occurs here occasionally. A lot of people were opposed to these so-called vouchers, but an agreement was made—a kind of tripartite agreement—which said we would give, at that point, as I recall, an equal or slightly greater amount of money to the public school budget for the District of Columbia, to the charter school budget for the District of Columbia, and to the DC Opportunity Scholarship Program, which allows low-income students in the District to basically get a scholarship to go to a private or religious—faith-based—school. I think in that agreement there was the essence of what this is all about: Education is not about protecting a particular system for the sake of the system, it is about how we best educate our children.

I don't think anyone can say all our public schools are doing the job that is so fundamental to our society; that of educating every one of America's chil-

dren so every one of them has an equal opportunity to rise as far as their talents and hard work will take them. Some of them are not getting a quality education in the public schools they are in. Of course, as a societal goal, we should try to make sure every public school in America is prepared to give every child that equal opportunity to a first-class, world-class education. But that is not the reality now. Suffering most of all are the poor children—often children of minorities, either African American or Hispanic.

As one response to this dilemma, while we are working on so much else, there has been an attempt in some parts of the country—Ohio, I believe Wisconsin, and here, through congressional action the District of Columbia—to create a lifeline for some of the children whose parents want them to go to another school than the one they are going to. As studies have shown, most Members of Congress send our children not to public schools but to the private and faith-based schools because we can afford it. This program says to the parents of children of the District of Columbia—a limited number—you have the same right, if you think the public school your child is in is not now giving them the kind of high-quality education your child needs to realize his or her dreams.

So far the evaluations of students who have benefitted or taken advantage of this program have been quite positive. Final evaluation is coming this spring. I guess one evaluation is that every year this program is oversubscribed. In other words, there are many more parents of children in the DC school system who aspire to a scholarship to go to a school their parents feel is better. So why put in this omnibus bill a demand or requirement that there needs to be an authorization for this program to continue and adoption by the District City Council? Why do that, when so many programs are appropriated without authorization?

I read from a CBO report—Congressional Budget Office report—dated January 15, 2009, titled "Unauthorized Appropriations and Expiring Authorizations," and on page 2 of that report it says:

In recent years, the total amount of unauthorized appropriations reported by the Congressional Budget Office has ranged between \$160 billion and \$170 billion.

Unauthorized appropriations every year are between \$160 billion and \$170 billion. How much money do we appropriate for the DC Opportunity Scholarship Program? Fourteen million dollars. That is million with an M. So why are we singling out the \$14 million dedicated to providing school choice to low-income students in the District of Columbia for such a demand, such a requirement? I don't think it is fair. I don't think it makes sense. I think it is an attempt to put into this bill a kind of obstacle that the sponsors of it don't think can be passed, and particularly to do it on a measure in which we are

asked to oppose all amendments is just plain impossible to accept.

The average household income of the families in the scholarship program in Washington is less than \$24,000. So how in good conscience can we tell parents in the District they are going to be denied the resources to do what they believe is best for their children, when so many of us make the very same decision regarding the education of our own children? The DC scholarship program comes from our Nation's fundamental commitment not just to opportunity but to equal opportunity, so each and every American child is able to develop their God-given talents to the fullest extent based on their own willingness to work hard. We can't let the realization of that promise be jeopardized by the language in this bill.

There was discussion on the DC Voting Rights Act of this DC Opportunity Scholarship Program. Those who were going to amend that bill withdrew it in a colloquy in which two things happened: First, as chairman of the Homeland Security and Governmental Affairs Committee, I committed to holding hearings this spring, hopefully after the final evaluation of this program comes out—an independent evaluation which will allow us to fairly evaluate it before we act in any way. Why our committee? It happens that Governmental Affairs' jurisdiction—traditional historic jurisdiction—includes jurisdiction over the District of Columbia. I am open to proposals to improve the standards in administration of the program and will probably propose some of my own. But I believe the restrictive language in this bill, this Omnibus appropriations bill, is so damaging to the Opportunity Scholarship Program and to the lives of these 1,700 children that it should be removed.

I was very encouraged that our new Education Secretary, Arnie Duncan, said as much himself, when he said it would be particularly unfair to stop this program appraisal and the funding of it by Congress for the 1,700 students who are in it now.

There was a second promise made, which was from Senator REID, the majority leader, which I greatly appreciate; and that was that at some point this spring there would be floor time given to a debate on the merits of the Opportunity Scholarship Program in the District of Columbia. So why jump ahead of that with this restrictive language in this underlying bill?

I would add this, finally. This is all about children, about the future of our children. It is not about protecting the status quo, it is not about teachers' rights, it is about giving kids a chance to make their way forward and ultimately improving our public schools so they are all as good as we want them to be.

I was raised with a quote that may seem irrelevant to this, but I think it is relevant. It came from religious sources. It was that if you save one

life, it is as if you saved the whole world. What did that mean? I was taught it meant if every individual—and I am looking at these great pages of ours, young men and women with all sorts of promise that just radiates from them—if you saved the life of one person, all the promise, the possibilities of what that young man or woman would do in life will be saved, and they, in effect, can change the world.

When I heard that years ago, and I thought of saving a life, I thought of protecting somebody from danger or a doctor who saved the life of a patient. But I will tell you that a good education in our country today makes so much of a difference between whether a person will have a real life in this country, full of opportunity and satisfaction and self-sufficiency or whether the person will always feel slightly behind the ball and always feel slightly unable to do what one has to do in this society to make it.

So this DC Opportunity Scholarship Program says we can save lives by giving kids a choice, giving parents a choice to send their children to the school they want to send them to because they think it will be better for the child than the public school the child happens to be in now.

As I mentioned in the beginning, this was part of a tripartite agreement that gave money to public schools in the District, charter schools in the District, and the DC Opportunity Scholarship Program. In this budget this year, those numbers are \$20 million for the public schools here in the District, \$20 million for the charter schools, and \$14 million to opportunity scholarships. I say to my friends who seem to have this wonderful DC Opportunity Scholarship Program in the crosshairs, that if this is followed through on, the danger here is that other Members of the Senate and Congress will rise and eliminate the extra funding for the DC public schools and the charter schools. That would be a shame three times over. That is why I am so proud to stand with Senator ENSIGN and others to try to strip this language from this bill so my committee can go ahead and hold a hearing this spring and we can bring a bill out to the floor this spring and have a full debate based on the final evaluation that an independent group will do. It is in the process of doing that, finishing the report now.

I understand there are colleagues, like my friend and colleague from California, Senator FEINSTEIN, who just spoke before, who support the DC Opportunity Scholarship Program, and she has worked so hard to make this happen. I have the greatest admiration for her for doing that—and so much else she has done in her public life. She will not vote for this amendment of ours because she does not want to jeopardize the underlying Omnibus appropriations bill.

I understand that, and I understand that is probably why the amendment Senator ENSIGN and I and others have

sponsored will not make it. But it is an important cause for which we are fighting. I think it is important that the vote on the amendment occur and that it serve as a kind of preface to the full-scale debate we will have this spring on this critically important and innovative and I think effective program that is changing the lives—as I took the liberty to say, saving the lives, creating a future—for 1,700 children, and hopefully more in the years ahead, who live in the District of Columbia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. I thank the Presiding Officer and ask that I be recognized for 15 minutes, and I ask unanimous consent that Senator VITTER be recognized to speak following me, after my 15 minutes.

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

Mr. ROBERTS. Madam President, in the midst of this debate on the \$410 billion omnibus spending package, the Finance Committee heard from Treasury Secretary Geithner as part of the committee's annual review of the President's budget. This is a very ambitious budget, particularly, coming on the heels of this omnibus package. It seems as if we have one huge bill after another—TARP, omnibus, stimulus, and now budget.

For the first time we are looking at a budget that tops \$3.6 trillion. At a time when many families are struggling, this budget asks them, to support Federal spending on new and very questionable programs and higher taxes to support those programs. We ought to be concentrating instead on the scope of the economic recovery package, not on these other programs—which I will go into in just a moment.

I also want to help set the record straight with regard to the Federal deficit. If we are ever going to achieve any progress, and with some bipartisan support, then we ought to quit looking in the rear-view mirror and citing some statistics that do not add up. Facts are stubborn. Since the new administration took office, we have heard a persistent drumbeat from the majority about the legacy of debt that they say they have inherited from the previous administration. The President did inherit a significant debt, but to say it was solely a result of Republican policies and those of the previous administration is simply not telling the full story to the American people. Or, as the late great Paul Harvey would say: "Now the rest of the story."

I borrowed this chart from Senator GRASSLEY, the ranking member and previous chairman of the Finance Committee. It shows the deficit as a percentage of GDP over the past 8 years. It begins with the economy that the previous administration inherited. The deficit levels for those earlier years of the decade reflect the downturn in the economy, the burst of the tech and the impact of the 9/11 terrorist attacks on

the economy. However, the deficit levels came down when we had bipartisan support for tax relief—not tax cuts, tax relief—that was passed in 2001, 2003.

Look at what happened. The deficit shrank noticeably between 2004 and 2007, from \$413 billion in 2004 to \$163 billion in 2007. Nobody ever talks about that.

If you really wanted to get somewhat partisan, you could point to the fact that we were not in power then in 2007. That is when the majority took over. But I am not into that. It doesn't make much difference. It seems to me we should quit looking in the rear-view mirror and look on down the road with what we do for economic recovery.

In other words, under the policy of the previous administration, the deficit shrank by more than half during this period from 2004 to 2007. Those are the facts. It was not until 2 years ago, when Democrats came to power in Congress, that the deficits began to increase again. The spending spree over the past 2 years was led by the majority who wrote and pushed through a \$700 billion financial bailout bill that has contributed significantly to the deficit the country now faces.

This bill, I will be very fair about it—this bill was bipartisan. It had the support of both Democrats and Republicans in the Congress, and a Republican President. As a Member of the Senate at that time President Obama supported the bill. When we talk about the deficit that the country is facing, let's keep this in mind. Again, we cannot keep looking in the rear-view mirror with facts that are misleading if we wish to achieve bipartisan progress in addressing the deficit.

The American people are very fearful, if not fed up, with the current rampant and unceasing spending that is going on in Washington—\$700 billion to bail out financial firms that are too big to fail—with more requests for assistance expected; a \$250 billion placeholder is provided in the President's budget; a questionable stimulus bill that will cost \$787 billion—more than \$1 trillion, when you add in interest; and there is a \$410 billion omnibus bill and a \$3.6 billion budget proposal. They simply want to know, and I think every Senator here wants to know as well, where does it end? When will we have spent enough and how on Earth are we going to pay for it? Is it going to work? Those are the questions.

At least a partial downpayment for this spending is included in the budget. The President has returned to the tried and true majority playbook to pay for more spending by simply raising taxes.

I take issue with the statement that the tax increases in the President's budget will be borne primarily by those families who earn over \$250,000—the “not one dime” argument. This budget raises taxes on small businesses, the Nation's job creators. It passes on the cost of a cap-and-trade—or as I see it a cap-and-tax—system, not only to businesses but to consumers in the form of

higher prices for energy. To my way of thinking, nobody has explained to this Senator how that is going to work or if we have the technology to make it work. It may be desirable, but I have yet to see how it is going to work or the technology.

The budget raises taxes on domestic energy producers. It raises taxes on investments. American consumers and families will pay higher taxes under this cap-and-trade proposal.

The counter argument is that they are targeting what they have determined are the wealthy to pay for their spending priorities. I always said I wonder when it would be time for those in Congress who believe this is the way to do things to determine who is rich or who is not. That is called class warfare in my view, but that is another speech and another story.

In other words, most Americans do not need to worry about these tax increases because it will not affect them, it will only affect their neighbor. I have yet to see a tax imposed on one set of taxpayers where the cost was not ultimately passed on to someone else. We are all in this economy together, and a tax increase on one neighbor is likely to be felt by the guy next-door.

The President's budget includes several of what I call anthill issues. These were the issues I discussed with Secretary Geithner.

The reason I call them anthill issues is you do not want to be giving a speech, or standing on an anthill—and I have had that experience, with a fellow Senator in Kansas, where she was standing on an anthill. I suggested she move. She said she was happy where she was. And I said: I don't think you will be in about 2 or 3 minutes. That was the case and she moved.

I have read with interest over the past few days the comments from several of my Democrat colleagues who have expressed the same concerns I have about these so-called anthill issues, those that bite, and that is a good sign. One anthill issue proposal would increase revenue by reducing the amount of mortgage interest that homeowners who pay taxes in the top brackets can deduct. At a time when the Federal Government is taking unprecedented steps to shore up the housing market and make home ownership possible for qualified homeowners, it seems counterintuitive. That is a Senate word, “counterintuitive.” “It seems like we shouldn't be doing this.” Those are the real words. It seems counterintuitive, to say the least, to reduce an inherent incentive in the Tax Code to own a home.

Does it make sense to tell these families who have lived in their home for 10 to 20 years that they can no longer deduct their mortgage interest? And what does reducing the mortgage interest deduction mean for the value of their home? We have already heard concerns that limiting the deduction would further depress home prices. What message does it send to families

who may be looking to purchase a home right now, which I thought was the goal.

I do not know how the administration can, on one hand, provide billions of dollars to aid housing, including a \$75 billion plan that Secretary Geithner announced a few weeks ago, to help those who have bought homes they can no longer afford and aid homeowners who are underwater in their mortgages but, on the other hand, reduce the tax incentive for those earning over a certain amount and who own or are looking to buy.

The second anthill proposal targets contributions to charitable organizations. I don't know who thought this up. In this economic climate, many charitable organizations are being asked to do more with less while donors tighten their belts, while at the same time more people are turning to charities for assistance. Yet this budget not only raises income taxes on those in the top two tax brackets, reducing their discretionary income from which they can make charitable contributions, it also reduces the value of the deduction for charitable contributions for these taxpayers. Clearly, these changes will not bring a halt to charitable giving. I know that. But won't it reduce contributions to charities when more Americans are relying more on charitable assistance? Won't the cost of a decline in charitable giving be borne by those most in need of assistance?

Secretary Geithner, in testimony, says an estimated \$4 billion loss is “modest.” I do not agree with that. I suggest that a \$4 billion loss to charitable organizations around the country is not modest. Why would the administration create any disincentive that will reduce donations to charity?

Finally, the third anthill issue targets certain small businesses for tax increases. This is a point I want to underscore. In Kansas, we have over 60,000 small businesses which make up 97 percent of the State employers.

They are the leading job creators.

The budget reinstates the 36 percent and 39.6 percent—might as well make it 40 and 41 when you count the deductions that will not be included—in income tax rates for individuals earning over \$200,000 and for families earning over \$250,000, reinstates the personal exemption phaseout, and limits the benefits of itemized deductions for these taxpayers.

These increases will result in higher taxes on many small businesses. I know supporters of the wealth redistribution in the budget say it does not raise taxes on that many small business owners. But the National Federation of Independent Business data shows differently. The data shows that 50 percent of the small business owners who employ 20 to 249 workers would fall into the top two brackets. And over half of the Nation's private sector workers are employed by small businesses with 20 to 500 employees.

Small businesses in Kansas feel they are stressed to the limit and they worry that to pay the additional taxes proposed in this budget—and this is the real world, this is the reality, this is the law of unintended effects that we always fall into—means they are going to have to lay off workers, reduce wages or benefits, or pass these costs on to their customers. None of those are good options.

Let me say that tomorrow we are set to pass this \$410 billion omnibus spending bill. I am going to oppose this bill. I do not like doing so, but I am going to oppose this bill. There are a lot of things wrong with this bill. And it is clear, it seems to me, that we must—we must—get a grip on Federal spending because in a few weeks we will take up the budget proposal for next year.

If there is a silver lining in the President's \$3.6 trillion budget, it is that the tax increases would not take effect until 2011, reflecting the administration's acknowledgement that raising taxes when the economy is in crisis is not a good idea.

Thus, it appears that the administration expects that the economy will be recovering by 2011. I hope so. And that certainly would be good news. I hope the administration will use caution when determining if the economy is sufficiently recovered to withstand nearly \$1 trillion in new taxes in 2011.

I hope they will consider stepping off the anthills I have mentioned: limiting deductions for charitable giving, mortgage interest, and tax increases on small businesses. I hope they will not insist on pursuing their spending agenda at the expense of economic recovery. To forestall recovery in order to pursue their tax and spending agenda is simply not right.

As the eminent columnist Charles Krauthammer wrote in the Washington Post last week with regard to the President's proposed budget:

The day of reckoning has arrived. President Obama has come to redeem us with his far-seeing program of universal, heavily nationalized health care; a cap and trade tax on energy; and a major federalization of education with universal access to college as the goal.

Wow, that is an ambitious agenda. However, pursuing this through higher taxes and bigger Government is not a legacy I think the administration will want to pass on to future Presidents or to future generations.

That is the rest of the story.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 621

Mr. VITTER. Madam President, the distinguished Senator from Iowa, Mr. GRASSLEY, is on his way to the floor to discuss the same issue I will be discussing, so in light of that, I ask unanimous consent that immediately following my remarks he be recognized for 10 minutes.

The PRESIDING OFFICER. In my capacity as a Senator from North Carolina, I object.

Mr. VITTER. I ask unanimous consent to be recognized for 20 minutes instead of my initial 15.

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

Mr. VITTER. I stand to discuss my amendment to the omnibus spending bill, No. 621. My amendment would do something very simple and straightforward but important. It would change the present system which has been on the books since 1989 that puts annual pay raises for Members of Congress on autopilot, so there never has to be any inconvenient debate, any inconvenient votes whatsoever. They happen automatically. No votes. In fact, there is not even a line item in the appropriations bills about it.

My amendment would change that, would end that law to require that any pay raise for Members of Congress, House or Senate, would have to be debated in open before the public and then be followed by a rollcall vote.

I am honored to be joined by several Senators who support this idea and who have long tried to advance it. Senator FEINGOLD has a stand-alone bill, as do I. He has had it for several years. I certainly want to recognize his leadership and thank him for that. He is an original cosponsor of my amendment. Also Senators GRASSLEY and ENSIGN are original cosponsors of my amendment and our stand-alone bill.

This system of automatic, autopilot pay raises is offensive to the American people. Let me mention an experience I have had recently in Louisiana in the last several weeks. I have had well over a dozen townhall meetings, as I do on a regular basis all around the State. This past Friday I had two. The week before that during our recess week I had 12 all around the State.

As I went to parishes all around the State, smaller communities, Hahnville and Lake Providence, and larger places such as Gonzales in the Greater Baton Rouge area, I was struck by a message that came across loudly and clearly. The message was not about any one narrow issue, the message was the tone of all of those meetings. Because without exception, meeting after meeting after meeting, folks expressed not just concern, not just anxiety, folks expressed real anger about what was going on in our country, to our country; what was going on here in the Halls of Congress in Washington, DC.

If I had to summarize the tone I heard at these meetings, not directed at me because they knew my voting record, but directed at what is going on here in this city, the tone was, to quote that movie from several years ago, "Network": I am as mad as hell and I am not going to take it anymore.

That was the tone over and over and over again. And why was that? Well, it is pretty simple. People see their 401(k)s cut in half, people see their life savings dwindling every day. People are facing, in some cases, real crisis in their lives: losing jobs, losing homes, with it losing crucial things such as health care.

And yet up here in Congress, a majority in Congress rolls along with policy they view as enormously irresponsible, and in some cases, downright offensive. One thing they point to as downright offensive is this system of pay raises for Members of Congress being on autopilot, happening every year without the need for any inconvenient debate, without the need for any inconvenient vote, the system that has been in place under the law since 1989.

My amendment would change that. It would simply say: We want to have a raise, we need to talk about it, we need to justify it out in public, in the open, have that open debate, and then have an actual vote on the floor of the Senate, on the floor of the House, and have a full, open, recorded rollcall vote.

That is the way we should do it whenever we debate the issue and consider the issue. That sure as heck is the way we should do it in the midst of a horrible recession, what will only surely be the worst recession we have faced as Americans since World War II.

In this omnibus spending bill, we do have a provision to forgo the one raise coming next year, and I applaud the leadership of the House and Senate for at least agreeing to that and inserting that in the underlying bill. That is the least we could do. We should have done that last December as well.

We have been suffering this horrible economy for several months. We have seen the financial collapse in September. The economy continued to go down and down and down and yet still under this system, Congress had a significant \$4,700 raise. So we should have done it then too. But at least this bill does it next time.

But, quite simply, that is not good enough. What is truly fair to the American people is to do away with this system altogether, to get these issues out in the open for public debate whenever we want them to come up and demand a rollcall vote on the issue.

That is what my amendment would do, purely and simply. My amendment is supported by Senators FEINGOLD, GRASSLEY, and ENSIGN. I urge Members, Democrats and Republicans, to support this commonsense reasonable amendment that the American people surely support overwhelmingly.

In closing, let me say, in supporting this amendment, be aware of a lot of diversions and a lot of distractions and a lot of tricks that will no doubt be put before us. On Thursday night here on the floor, I finally secured a vote on the amendment. I had been trying to get a vote all last week. It was a significant amendment to the omnibus spending bill. It is even germane. Trying to get a vote never could happen.

I have to tell you, it was pretty frustrating. I would tune in my TV in my office and hear over and over the leadership say: Come on down. We are open for business. We are open for amendments. We want to make amendments in order. And then when I would try to do that, the door was inevitably shut.

Well, finally on Thursday night I secured a vote on this amendment for the very simple reason that the distinguished majority leader needed unanimous consent in order to call off the vote that was scheduled for that evening and therefore had to agree to give me a vote to get that unanimous consent. I am happy that happened.

Then the next day a funny thing happened. Out of the blue, after denigrating it, quite frankly, in our exchange on the floor, the concept of my amendment the night before, the distinguished majority leader, backed by his leadership on the majority side, introduced a stand-alone bill that was almost exactly my amendment.

Well, don't get me wrong. I am delighted to get any converts, folks who have long supported the concept, recent converts. But let's not be fooled by how the stand-alone bill might be used and abused, pointed to saying, we will get to that. We will have a debate. We have this stand-alone bill. That is not the way to enact change in the law. We all know the way to enact this change into law, if we truly support it, is to support this amendment, to put it on a spending bill that must pass at the end of the day in some form, and to hold everyone's feet to the fire. If we truly want to pass it into law, I urge all of us to come together, particularly in this moment of enormous economic suffering across all of America, come together around this reasonable amendment and support amendment No. 621.

With that, I yield for my distinguished colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise in support of the Vitter amendment. Just so colleagues of mine don't think I am a latecomer to this battle on pay raises, I want to refer to a debate that went on in the House of Representatives, July 30, 1975, my first term in the House. There was a non-controversial bill that came up, referred to on page 25824, -825 and -826 of the CONGRESSIONAL RECORD for that day, a little noncontroversial postal safety bill came up for postal employees. Attached to that bill were the provisions of the law that have been a little bit changed in 1989 but go back to this postal bill in 1975, when included in it was a provision that is referred to here as section (c)(2):

Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 . . .

And I will not read the whole legislative language from the debate, but it essentially said that Members of Congress were going to get an automatic pay increase just as civil servants were already getting.

The stage on that day was set so that everybody was going to be on the floor of the House of Representatives. The idea of the Republican leadership and the Democratic leadership—and the

Democrats were controlling the House at that time, with only 140 or 141 Republicans, as I recall—the idea was to get everybody on the floor so when unanimous consent was asked to bring up this bill, there would be unanimous consent and there wouldn't be a vote because everybody, even 34 years ago, didn't want to take a vote on raising pay; particularly, you didn't want to take a vote on the automatic increase in pay. So they had the stage all set. There are two words I want to refer you to after my name, "Mr. GRASSLEY." This is after unanimous consent was asked for. I said:

I object.

My point in objecting wasn't knowing whether I could kill that piece of legislation at that particular time. It was that I thought, as Senator VITTER thinks and as I think yet today, 34 years later, that if we are going to have a vote on a pay raise for a Member of Congress, we ought to have guts enough to stand up and cast a vote, yes or no.

Eventually, the bill passed that very day by just a 1-vote margin, 214 to 213. I remember after that vote there was a Mr. Hays, a Representative from Ohio, who was chairman of the Democratic Congressional Campaign Committee. It is still called the same thing today. He was chairman of it. He came up and he pointed to me and he said: We are going to get you. In other words, he was going to do everything he could as chairman of the Democratic Campaign Committee to defeat me in the next election. Well, he didn't defeat me in that next election, and I haven't been defeated since. That has nothing to do with it except I think I was reflecting what the attitude of the people at the grassroots of America was then, and I think Senator VITTER is expressing that same thing today. My colleagues at that time were not happy with me, and they probably aren't happy with what Senator VITTER is doing today. I thank him for going out in front.

Then, in the 1980s, I sponsored legislation to reform the system where the President could recommend a congressional pay increase and have it go into effect without a vote of Congress because that system needed to be reformed further. I worked with several of my colleagues who felt letting pay raises take effect without a vote was wrong. The system did get reformed as part of the 1989 ethics reform bill but not in the way we had proposed at that particular time. That act just put congressional pay raises on autopilot. The congressional pay raise now takes effect every year unless Congress specifically rejects it.

I have consistently voted for measures to deny all the congressional pay raises. However, in recent years Congress has not considered the annual spending bills on time or under regular order. This has denied us the typical opportunity to consider amendments as Senator VITTER is offering now.

This massive omnibus bill we are now considering is a result of the failure to

consider any of the fiscal year 2009 appropriations bills separately and on time. As a result, Congress gets a 2.8-percent pay raise without a vote. At a time when many Americans are being forced to tighten their belts, this sends a very bad message. It makes Americans cynical about government. Congress seems totally out of touch, taking a pay raise when the people who pay our salaries are struggling to make ends meet. I completely understand the frustration because I hear it from my own constituents. That is why I support this amendment.

I am not saying Congress should never consider increases to keep pace with inflation. We don't want only people who are independently wealthy to be able to afford to serve in Congress. What we are saying with this amendment is that if Congress decides it needs a pay raise, we had better be prepared to justify it to our constituents. When it can't be justified, like now, when Americans are facing a dismal economy and Congress just voted to double the deficit, then the least we can do is not boost our own salary.

Article I, section 6, of the Constitution establishes that:

Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law.

However, to prevent the conflict of interest inherent in Congress raising its own salary, the 27th amendment stipulates that:

No law, varying the compensation for services of Senators and Representative, shall take effect, until an election of Representatives shall have intervened.

This amendment was submitted to the States in 1789 as part of what became known as the Bill of Rights but was not fully ratified by the necessary three-fourths of the States until 1992. The clear intent of the wise and forward-thinking men of 1789 was that the sitting Congress not be able to raise its own salary before the people could have their say. Congress should be held accountable.

The courts have ruled that the annual automatic congressional pay increase does not technically violate the 27th amendment, but it sure seems to violate the intentions of its authors. It is time to go back to the system originally envisioned by the Constitution without pay raises for Congress when the American people are not looking. In fact, I can't think of a better time to send that message to a public that is becoming increasingly cynical about the actions of the Congress.

I urge adoption of the Vitter amendment to take us back to pre-July 30, 1975, when Congress, by a 1-vote margin on an otherwise noncontroversial bill that was selected by the leadership of both the Republicans and Democrats at that time to let Congressmen get a pay raise without having a vote on it—that 1-vote margin was a controversy at that time, and I hope at this particular time we have a massive vote in support of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. I thank my colleague from Iowa. I thank him for all of his leadership on this issue for several years. I also recognize again the leadership of our cosponsors of the amendment, Senator FINGOLD and Senator ENSIGN. Others will join us, but I ask all colleagues to support this amendment when we present it and vote on it tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, most Americans have a healthy understanding of the difference between a pay raise and a pay adjustment based on inflation.

Most Americans will tell you that when they do receive a pay adjustment to their wages, they do not consider it a raise; they consider it being held harmless against the impact of inflation.

The pay adjustment provided to Members of the House and Senate is based on a method established by the 1989 Ethics Reform Act that requires the annual adjustment be determined by a formula based on certain elements of the employment cost index, an index that measures inflation of wages.

Basically the formula is tied to the pay adjustments given to Federal employees under the General Schedule.

Further by law, and under no uncertain terms, Members cannot receive an adjustment greater than the increase provided in the base pay of our GS level Federal employees.

Understanding that the substance of the matter before us is not about pay raises for Members but about pay adjustments tied to inflation. Everyone in this Chamber also is aware of the economic situation we are facing as a Nation.

Because of this economic crisis, section 103 was included in the underlying bill, stating that Members of Congress will not receive a cost-of-living adjustment in fiscal year 2010.

We have proactively addressed the issue of a Member pay adjustment and the current economic situation.

To offer this amendment today is simply playing politics.

This amendment is about trying to make it appear as if Members are against prohibiting a pay adjustment for themselves, when in fact they already have prohibited a pay adjustment for themselves.

This amendment is about trying to change the underlying bill, knowing that the House has indicated they will not take this bill back up, in an effort to force the Government to operate under a continuing resolution for the remainder of the fiscal year.

If the Senator from Louisiana is successful in having his amendment adopted and killing enactment of the underlying bill, the prohibition against the Member pay adjustment for fiscal year 2010 will not be enacted into law.

Further our Federal agencies will have to decide between eliminating programs or firing employees as they absorb the 2009 cost increases at fiscal year 2008 funding levels.

This amendment does not do anything that is not already addressed in the underlying bill, and its passage could in fact jeopardize the steps that have been taken.

I encourage my colleagues not to take the political bait here, and vote against this amendment which appears to do one thing, but in fact creates exactly the opposite situation.

I yield the floor.

AMENDMENT NO. 668

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent that the pending amendment be set aside and amendment No. 668 be made pending.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 668.

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

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

The amendment is as follows:

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

At the appropriate place in title II of division F, insert the following:

SEC. _____. Notwithstanding any other provision of this Act, 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. Madam President, I rise to discuss amendment 668. This amendment relates to the Ryan White Program. We reauthorized that program 3 years ago. We did it on a very bipartisan basis. I need to expose how one person has once again overruled a bipartisan, bicameral effort to create fair and equitable funding mechanisms for the program. I did this last year. It was funneling money specifically to one area that had less people. The idea behind the bill was to make sure we had money for the people with HIV/AIDS, and the money is supposed to follow the people. Why do I bring this up? I was involved in the original reauthorization. We will be doing that reauthorization later this year. I can tell Members that Wyoming is not affected one way or the other by my amendment. But 46 States are affected by this amendment; 46 States are affected adversely if this amendment does not pass.

If anybody wonders which States those are, I am more than happy to tell them who the losers will be. And it will probably be a lot easier to say who the winners would be. I will get to that in a little bit.

The Ryan White CARE Act provides funding to States across this country

to provide HIV/AIDS treatment, care, and prevention to individuals in need. In 2006, the committee reauthorized the program and established new bipartisan, bicameral funding formulas that provided more equity in the program. It required funding determinations to be made based on the number of people with HIV and AIDS. This is a major distinction.

Before 2006, funding was only based on AIDS cases. The Omnibus Appropriations Act includes a provision that will modify and dramatically change these bipartisan funding formulas. It allows larger cities to receive more Ryan White funding simply because they received more money in the past. The cities that had a high number of people with AIDS before 2006 will benefit, and those that have seen an increase in HIV and AIDS since 2006 will not be awarded the funding they need. Sadly, larger cities, most notably San Francisco, will receive more money than other cities for all the wrong reasons.

Unfortunately, this is not new language. We have seen it in the appropriations bills in the past. We know exactly what the language does. It primarily benefits San Francisco—a city that continues to receive funding to care for people who are deceased. All the while, nearly every other city would have reduced funding so San Francisco can receive more riches.

According to data put together by GAO—these are not my numbers; these are GAO's numbers, provided last Friday—so according to data put out by the Government Accountability Office, the language in the bill will ensure an additional \$6.7 million will be awarded to San Francisco, while the other large cities will see a decrease in funding. I do not know why they did not ask to print \$7 million more and put it in there instead of taking it from other people. That is kind of what we are doing these days.

That additional funding is not based on the number of people they are treating or how many new cases they have. As a hold-harmless provision, it is related to what that city has received before. Let me expand on that. If your city's problem is increasing, under the omnibus, you will get less money. You will be penalized if your city's HIV/AIDS problem is increasing. Now, if your city's problem is decreasing, according to the omnibus, you will get more money. If we are giving cities with more people with HIV/AIDS less funding, and cities with less people with HIV/AIDS more funding, how fair is that?

What is even more egregious is that after being exposed more than a year ago, someone has the audacity to include the language again. Of course, that may be because in conference they were able to get that pulled out and it happened anyway, even after a very substantial vote on this side of the building.

Our bipartisan reauthorization was based on a pretty simple idea: The

money should follow the patients. We modernized funding formulas in order to fight this deadly disease on its new front lines. More people in rural areas and the South, more women, and more African Americans are being infected with HIV/AIDS every day, and we made sure these populations could get the treatment they needed. It was a bipartisan, bicameral agreement. We were very clear about the implications of those new formula changes. In fact, we provided GAO reports with estimates on how the new formulas would change funding levels for grantees that were nearly identical to how the funding would be distributed today—but because of the language in the appropriations bill, it has not. Yes, that is how we did this vote last year, which, again, I repeat, Wyoming had no gain or loss in. We are not even involved in this issue. I have been involved in this issue trying to take care of HIV/AIDS patients. My amendment was taken out so the language can continue, and it is very unfair. It is unfair to the people in rural areas and the South, where more women, more African Americans are being infected with HIV/AIDS every day. We made sure treatment could be gotten. It passed this body. It passed the House. We agreed to these formulas. We were clear about the implications of the new formula changes. As I have mentioned, the GAO reports are practically the same this time as they were a year ago.

Those funding formulas included hold-harmless provisions to ensure that the formula funding would not decrease by more than 5 percent for anybody. Now, when we did that, I think we all thought that was going to be 5 percent for each of 3 years. As it turned out, it was a total of a 5-percent decrease over the 3 years for anybody. 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, but that was what we agreed on. That is the agreement we reached in this bipartisan, bicameral bill.

We did not pull the wool over anyone's eyes. We provided clear information about the implications of those funding formulas. We found the third way. Now, with one simple pen stroke, someone is again undoing all those carefully crafted bipartisan, bicameral compromises by inserting another hold-harmless provision with little thought to how this change would affect others. Last year we had the list of people, and we have that again, of who gains and who loses, and it was an easy vote to win.

This change does not allow money to follow the patient. It allows money to follow those who are in power. We want to change that with this amendment.

I do not know about you, but I find this reprehensible. This is simply unfair to those cities and States that are struggling to come up with the moneys for basic HIV/AIDS treatments. What is worse, the majority—well, what is

worse is that this bill continues to cheat others. Not just once, not twice, but this would be the third year that San Francisco will have benefited from this language.

In 2007, I brought up this exact issue. A very strong majority of the Senate agreed with me. Unfortunately, it did not change. They are still willing to try to institute an unfair and unjust formula. I object to that provision and the implications of it.

We changed the formula to have money follow the problem. In 2007, we passed my amendment to focus the funding on people living with HIV/AIDS. Most of the people in this Chamber voted with me. Of the ones who are still here, it is a vast majority.

Now, I understand that after passing it with those kinds of numbers, it was dropped in conference. I understand that will probably happen this year too. But I do think we need to send the message and hope for fairness. Without this amendment, there will be no fairness.

You realize that—last year—only a couple of States have a city that is helped. Most of you will be contributing money from your cities to help those with declining problems. Where I come from that is called cheating. So if you wonder if your State gains or loses, check with me.

The amendment I am offering is simple. It states that the language in the omnibus bill will not change the funding formulas we agreed to in a bipartisan, bicameral process in 2006. If you support an equitable system that distributes funding on the true basis of need, I believe you should support my amendment.

Madam President, I ask unanimous consent that a letter from GAO to me dated March 6, 2009, and relevant material be printed in the RECORD.

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

GOVERNMENT ACCOUNTABILITY OFFICE,
Washington, DC, March 6, 2009.
Subject: Ryan White CARE Act: Estimated
Effect of Proposed Stop-Loss Provision
on Urban Areas
Hon. MICHAEL B. ENZI,
Ranking Member, Committee on Health, Education,
Labor, and Pensions, U.S. Senate.
Hon. TOM A. COBURN,
U.S. Senate.

You asked us to estimate the effect on Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (CARE Act) funding to urban areas if certain stop-loss provisions are enacted. The CARE Act, administered by the Department of Health and Human Services's (HHS) Health Resources and Services Administration (HRSA), was enacted to address the needs of jurisdictions, health care providers, and people with human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).¹ In December 2006, the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006) reauthorized CARE Act programs for fiscal years 2007 through 2009.² In February 2009, the House of Representatives passed H.R. 1105, the Omnibus Appropriations Act, 2009, which contains a stop-loss provision covering CARE Act funding for

urban areas that receive funding under the CARE Act.³ This bill has not been passed by the Senate.

Under the CARE Act, funding for urban areas—Eligible Metropolitan Areas (EMA) and Transitional Grant Areas (TGA)⁴—is primarily provided through three categories of grants:

(1) formula grants that are awarded based on the case counts of people with HIV/AIDS in an urban area; (2) supplemental grants that are awarded on a competitive basis based on an urban area's demonstration of need, including criteria such as HIV/AIDS prevalence; and (3) Minority AIDS Initiative (MAI) grants, which are supplemental grants awarded on a competitive basis for urban areas to address disparities in access, treatment, care, and health outcomes. Changes in grantee characteristics and funding formulas can cause increases or decreases in grantees' funding.

H.R. 1105, which was passed by the House of Representatives on February 25, 2009, contains a provision to ensure that decreases in total 2008 Part A funding for fiscal year 2008 for each EMA and TGA would not exceed levels specified in the bill.⁵ It would limit the total funding decrease for an EMA for the 2008 fiscal year to no more than 6.3 percent of what the EMA received for the 2006 fiscal year. Decreases for a TGA for the 2008 fiscal year would be limited to 11.3 percent of its total funding for fiscal year 2006.⁶ The funding necessary to limit the decreases to urban areas would be given as increases to supplemental grants for fiscal year 2009.

To provide you with technical assistance, we developed an estimate of fiscal year 2009 Part A CARE Act funding for EMAs and TGAs with the stop-loss provision in H.R. 1105. We also developed an estimate of such funding without that provision. We used data from HHS, H.R. 1105, and an Explanatory Statement submitted by the Chairman of the House Committee on Appropriations to H.R. 1105 to estimate these amounts.⁷ In order to conduct these analyses, we made a number of assumptions. These assumptions are described in notes to the accompanying tables. See enclosure I for estimates of Part A CARE Act funding for EMAs with and without the stop-loss provision. See enclosure II for estimates of Part A CARE Act funding for TGAs with and without the stop-loss provision.

The objective of this work was to provide pertinent and timely information by showing the effect of the stop-loss provision on EMAs and TGAs for fiscal year 2009 that Congress can use in determining funding for CARE Act programs. We used data from agency reference documents to conduct our analyses. Because of time constraints, we did not conduct any additional analysis of the proposed provision. We performed our work in March 2009.

We are sending copies of this letter to interested congressional committees. The letter will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this letter, please contact me. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this letter.

MARCI A. CROSSE,
Director, Health Care.
Enclosures.

ENDNOTES

¹ Pub. L. No. 101-381, 104 Stat. 576 (codified as amended at 42 U.S.C. 300ff through 300ff-121). Unless otherwise indicated, references to the CARE Act refer to current law.

² Pub. L. No. 109-415, 120 Stat. 2767. The CARE Act programs had previously been reauthorized by the Ryan White CARE Act Amendments of 1996 (Pub. L. No. 104-146, 110 Stat. 1346) and the Ryan White CARE

Act Amendments of 2000 (Pub. L. No. 106-345, 114 Stat. 1319).

³H.R. 1105, 111th Cong. (2009). For purposes of this report, unless otherwise specified we use the term H.R. 1105 to refer to the bill as passed by the House of Representatives.

⁴In this report, we use the term urban areas to refer to both EMAs and TGAs. An EMA is a metropolitan area with a population of 50,000 or more that had more than 2,000 AIDS cases reported in the most recent 5-year period. The 2,000 AIDS-case criterion does not include cases of HIV that have not progressed to AIDS. In fiscal year 2008, there were 22 EMAs. The Modernization Act of 2006 created a new program for TGAs. A TGA is a metropolitan area with a population of 50,000 or more, which had 1,000 to 1,999 AIDS cases reported in the most recent 5-year period. Under this program, urban areas that

were eligible for EMA funding in fiscal year 2006 but that no longer meet the eligibility criteria for either EMAs or TGAs maintain their eligibility for funding and are considered TGAs until for 3 consecutive years they (1) fail to have at least 1,000 to 1,999 AIDS cases reported in the most recent 5-year period and (2) do not have more than 1,500 living cases of AIDS. In fiscal year 2008, there were 34 TGAs according to HRSA.

⁵Part A of the CARE Act covers funding to urban areas. Part B covers funding to states, territories, and the District of Columbia.

⁶The stop-loss provision in H.R. 1105 states that “within the amounts provided for Part A \$10,853,000 is available . . . for increasing supplemental grants for fiscal year 2009 to metropolitan areas that received grant funding in fiscal year 2008 . . . to ensure that an area’s total funding under

[Part A to an EMA] for fiscal year 2008, together with the amount of this additional funding, is not less than 93.7 percent of the amount of such area’s total funding under part A for fiscal year 2006, and to ensure . . . that an area’s total funding under [Part A to a TGA] for fiscal year 2008, together with the amount of this additional funding, is not less than 88.7 percent of the amount of such area’s total funding under part A for fiscal year 2006.” Because the provision would apply to an EMA’s or TGA’s “total funding” under Part A, we consider the total amount subject to the stop-loss provision to be for formula, supplemental, and MAI grants made with Part A funds. MAI grants are authorized by 42 U.S.C. 300ff-121, which specifically directs HHS to provide funding under Part A.

⁷115 Cong. Rec. H1653, H2377 (daily ed. Feb. 23, 2009) (statement of Rep. Obey).

Enclosure I

Total Eligible Metropolitan Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006, Fiscal Year 2008, and Projected Funding for Fiscal Year 2009 under Part A Funding Levels Identified in the Explanatory Statement to H.R. 1105

Eligible Metropolitan Area (EMA)	Fiscal year 2006 funding	93.7 percent of fiscal year 2006 funding ^a		Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss ^b	H.R. 1105: Estimated stop-loss ^b	H.R. 1105: Estimated fiscal year 2009 funding after applying stop-loss	Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
		2006 funding	2008 funding					
Atlanta, Ga.	\$18,869,561	\$17,680,779	\$17,942,992	\$18,337,471	\$0	\$18,337,471	\$18,660,212	
Baltimore, Md.	20,628,895	19,329,275	20,594,272	23,889,479	0	23,889,479	24,292,574	
Boston, Mass.	13,339,141	12,498,775	14,027,340	16,274,966	0	16,274,966	16,564,752	
Chicago, Ill.	25,044,633	23,466,821	26,632,351	30,882,913	0	30,882,913	31,427,282	
Dallas, Tex.	13,196,377	12,365,005	13,547,516	15,792,149	0	15,792,149	16,070,891	
Detroit, Mich.	8,428,477	7,897,483	8,055,626	9,201,600	0	9,201,600	9,360,130	
Ft. Lauderdale, Fla.	14,963,638	14,020,929	15,171,291	17,501,950	0	17,501,950	17,810,954	
Houston, Tex.	19,953,520	18,696,448	20,094,436	22,938,330	0	22,938,330	23,338,238	
Los Angeles, Calif.	34,895,377	32,696,968	36,013,941	41,310,363	0	41,310,363	42,038,454	
Miami, Fla.	23,999,914	22,487,919	24,974,906	28,478,276	0	28,478,276	28,964,002	
New Orleans, La.	7,434,812	6,966,419	7,669,652	8,838,306	0	8,838,306	8,994,183	
New York, N.Y.	120,423,326	112,836,656	111,883,651	114,607,968	953,005	115,560,973	116,582,701	
Newark, N.J.	14,752,254	13,822,862	14,038,197	15,447,478	0	15,447,478	15,713,291	
Orlando, Fla.	8,561,273	8,021,913	7,968,264	9,047,025	53,649	9,100,674	9,204,349	
Philadelphia, Pa.	22,384,551	20,974,324	22,773,161	25,550,597	0	25,550,597	25,994,618	
Phoenix, Ariz.	6,519,338	6,108,620	7,522,978	8,762,472	0	8,762,472	8,923,024	
San Diego, Calif.	9,269,256	8,685,293	10,955,986	12,877,535	0	12,877,535	13,109,380	
San Francisco, Calif.	27,964,864	26,203,078	19,419,733	19,722,536	6,783,345	26,505,881	19,815,968	
San Juan, P.R.	13,470,347	12,621,715	12,877,445	13,087,902	0	13,087,902	13,148,287	
Tampa-St. Petersburg, Fla.	9,571,830	8,968,805	9,524,707	10,465,933	0	10,465,933	10,652,830	
Washington, D.C.	26,923,066	25,226,913	27,911,311	31,591,530	0	31,591,530	32,142,719	
West Palm Beach, Fla.	8,276,018	7,754,629	8,352,071	8,602,738	0	8,602,738	8,753,459	
Total	\$468,870,468	\$439,331,629	\$457,951,827	\$503,209,515	\$7,789,999^c	\$510,999,514	\$511,562,296	

Source: GAO analysis of HHS data, H.R. 1105, and the Explanatory Statement to H.R. 1105.

Notes: The projected fiscal year 2009 funding in this table is based on the funding amount for urban areas identified in the Explanatory Statement to H.R. 1105. We assumed that the percent of Part A funding allotted to EMAs and the percent allotted to Transitional Grant Areas (TGA) in fiscal year 2009 would be the same as the percent allotted to each in fiscal year 2008.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that Health Resources and Services Administration (HRSA) used to determine fiscal year 2008 funding.

We cannot determine the exact effect of the stop-loss provision on total funding for each EMA for fiscal year 2009. It is not possible to determine exactly how each EMA would be affected by the 6.3 percent stop-loss for EMAs because it is not known how HRSA will award fiscal year 2009 supplemental and Minority AIDS Initiative (MAI) grants and because the case counts on which formula grants will be based are not yet available. To estimate fiscal year 2009 supplemental funding for EMAs, we calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2009. For example, if an EMA received 2 percent of the total supplemental funding available for distribution to EMAs in fiscal year 2008, then we estimated that area's supplemental funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

We based our estimate of fiscal year 2009 MAI funding for EMAs on the amount to be reserved for fiscal year 2009 Part A MAI funding in the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006). (The exact amount used was 95.985 percent of the amount specified in the Modernization Act of 2006. This amount was used because this was the percent of the amount specified in the Modernization Act of 2006 for fiscal years 2007 and 2008 that had been distributed in those years.) We calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 MAI funding represented. We then multiplied that percentage by the estimated total MAI funding to be available for distribution in fiscal year 2009. For example, if an EMA received 2 percent of the total MAI funding available for distribution to EMAs in fiscal year 2008, then we estimated that area's MAI funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

^aUnder the stop-loss provision in H.R. 1105, an EMA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2008 would not be less than 93.7 percent of what it received for fiscal year 2006.

^bThe total funding that an EMA would receive in fiscal year 2009 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "H.R. 1105: Estimated stop-loss."

^cWe estimate the funding needed to satisfy the H.R. 1105 stop-loss provision for both EMAs and TGAs to be \$11,130,937. However, the amount specified in H.R. 1105 to cover the stop-loss provision is \$10,853,000, a difference of \$277,937. See enclosure II for the funding needed to satisfy the stop-loss provision for TGAs.

Enclosure II

Total Transitional Grant Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006, Fiscal Year 2008, and Projected Funding for Fiscal Year 2009 under Part A Funding Levels Identified in the Explanatory Statement to H.R. 1105

Transitional Grant Area (TGA)	Fiscal year 2006 funding	88.7 percent of fiscal year 2006 funding*	Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss ^b	H.R. 1105: Estimated stop-loss	H.R. 1105: Estimated fiscal year 2009 funding after applying stop loss	Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
Austin, Tex.	\$3,719,076	\$3,298,820	\$3,780,228	\$4,162,255	\$0	\$4,162,255	\$4,232,183
Baton Rouge, La.	0	0	3,235,045	3,558,823	0	3,558,823	3,617,603
Bergen-Passaic, N.J.	4,485,650	3,978,772	3,772,874	4,151,023	205,898	4,356,920	4,219,835
Caguas, P.R.	1,648,356	1,462,092	1,063,691	1,167,262	398,401	1,565,663	1,185,745
Charlotte-Gastonia, N.C.-S.C.	0	0	4,676,968	5,143,544	0	5,143,544	5,228,264
Cleveland, Ohio	3,349,096	2,970,648	3,911,591	4,302,543	0	4,302,543	4,373,547
Denver, Colo.	4,283,042	3,799,058	7,298,643	8,048,873	0	8,048,873	8,187,495
Dutchess County, N.Y.	1,367,584	1,213,047	1,155,700	1,269,994	57,347	1,327,341	1,290,615
Fort Worth, Tex.	3,409,819	3,024,509	3,588,582	3,952,428	0	3,952,428	4,019,120
Hartford, Conn.	4,666,281	4,138,991	3,185,949	3,503,924	953,042	4,456,966	3,561,619
Indianapolis, Ind.	0	0	3,587,145	3,952,045	0	3,952,045	4,019,096
Jacksonville, Fla.	4,913,816	4,358,555	4,826,190	5,308,171	0	5,308,171	5,395,750
Jersey City, N.J.	5,145,142	4,563,741	4,593,150	5,048,353	0	5,048,353	5,130,699
Kansas City, Mo.	2,916,485	2,586,922	4,011,340	4,420,666	0	4,420,666	4,496,001
Las Vegas, Nev.	4,323,627	3,835,057	4,552,895	5,017,196	0	5,017,196	5,102,314
Memphis, Tenn.	0	0	5,859,876	6,438,653	0	6,438,653	6,543,133
Middlesex-Somerset-Hunterdon, N.J.	2,595,663	2,302,353	2,462,767	2,711,055	0	2,711,055	2,756,415
Minneapolis-St. Paul, Minn.	3,046,512	2,702,256	4,675,211	5,148,836	0	5,148,836	5,235,593
Nashville, Tenn.	0	0	3,743,376	4,123,916	0	4,123,916	4,193,729
Nassau-Suffolk, N.Y.	6,148,307	5,453,548	4,811,511	5,295,773	642,037	5,937,810	5,384,059
New Haven, Conn.	6,684,594	5,929,235	5,209,416	5,735,036	719,819	6,454,855	5,831,010
Norfolk, Va.	4,414,760	3,915,892	5,360,103	5,898,719	0	5,898,719	5,996,942
Oakland, Calif.	5,735,837	5,087,687	5,867,538	6,462,486	0	6,462,486	6,570,622
Orange County, Calif.	4,858,579	4,309,560	5,332,920	5,877,173	0	5,877,173	5,976,553
Ponce, P.R.	2,391,444	2,121,211	1,926,154	2,117,579	195,057	2,312,636	2,152,253
Portland, Ore.	3,401,956	3,017,535	3,310,036	3,714,698	0	3,714,698	3,779,492
Riverside-San Bernardino, Calif.	7,074,521	6,275,100	6,949,457	7,667,837	0	7,667,837	7,800,012
Sacramento, Calif.	2,778,729	2,464,733	2,325,684	2,565,172	139,049	2,704,221	2,609,095

Enclosure II

Transitional Grant Area (TGA)	Fiscal year 2006 funding	88.7 percent of fiscal year 2006 funding*	Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss ^b	H.R. 1105: Estimated fiscal year 2009 funding after applying stop-loss	H.R. 1105: Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
				2009 funding before applying stop-loss ^b	2009 funding after applying stop-loss	2009 funding without H.R. 1105 stop-loss provision in place
San Antonio, Tex.	3,325,881	2,950,056	3,969,302	4,368,560	0	4,368,560
San Jose, Calif.	2,304,762	2,044,324	2,578,512	2,841,808	0	2,841,808
Santa Rosa, Calif.	1,028,634	912,398	1,072,099	1,182,455	0	1,182,455
Seattle, Wash.	5,445,484	4,830,144	6,316,558	6,969,212	0	6,969,212
St. Louis, Mo.	4,502,572	3,993,781	5,796,624	6,098,186	0	6,098,186
Vineland-Millville-Bridgeton, N.J.	849,715	753,697	723,408	795,232	30,289	825,521
Total	\$110,815,924	\$98,293,725	\$135,530,543	\$149,019,485	\$3,340,938^c	\$152,360,424
						\$151,519,703

Source: GAO analysis of HHS data, H.R. 1105, and the Explanatory Statement to H.R. 1105.

Notes: The projected fiscal year 2009 funding in this table is based on the funding amount for urban areas identified in the Explanatory Statement to H.R. 1105. We assumed that the percent of Part A funding allotted to Eligible Metropolitan Areas (EMA) and the percent allotted to TGAs in fiscal year 2009 would be the same as the percent allotted to each in fiscal year 2008.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that Health Resources and Services Administration (HRSA) used to determine fiscal year 2008 funding.

We cannot determine the exact effect of the stop-loss provision on total funding for each TGA for fiscal year 2009. It is not possible to determine exactly how each TGA would be affected by the 11.3 percent stop-loss provision for TGAs because it is not known how HRSA will award fiscal year 2009 supplemental and Minority AIDS Initiative (MAI) grants and because the case counts on which formula grants will be based are not yet available.

To estimate fiscal year 2009 supplemental funding for TGAs, we calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2009. For example, if a TGA received 2 percent of the total supplemental funding available for distribution to TGAs in fiscal year 2008, then we estimated that area's supplemental funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to TGAs.

We based our estimate of fiscal year 2009 MAI funding for TGAs on the amount to be reserved for fiscal year 2009 Part A MAI funding in the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006). (The exact amount used was 95.985 percent of the amount specified in the Modernization Act of 2006. This amount was used because this was the percent of the amount specified in the Modernization Act of 2006 for fiscal years 2007 and 2008 that had been distributed in those years.) We calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 MAI funding represented. We then multiplied that percentage by the estimated total MAI funding to be available for distribution in fiscal year 2009. For example, if a TGA received 2 percent of the total MAI funding available for distribution to TGAs in fiscal year 2008, then we estimated that area's MAI funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to TGAs.

*Under the stop-loss provision in H.R. 1105, a TGA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2008 would not be less than 88.7 percent of what it received for fiscal year 2006.

^bThe total funding that a TGA would receive in fiscal year 2009 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "H.R. 1105: Estimated stop-loss."

^cWe estimate the funding needed to satisfy the H.R. 1105 stop-loss provision for both EMAs and TGAs to be \$11,130,937. However, the amount specified in H.R. 1105 to cover the stop-loss provision is \$10,853,000, a difference of \$277,937. See enclosure I for the funding needed to satisfy the stop-loss provision for EMAs.

Mr. ENZI. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 630

Mr. KERRY. Madam President, I rise to talk about two amendments offered by the good Senator from Arizona, Mr. KYL, amendment No. 630 and amendment No. 629. I say to my friend from Arizona that I regret to sort of be in the position of opposing a couple of his amendments because these are subjects I would have loved to have worked with him on closely and I appreciate the relationship we have and the conversations we have had recently about a number of very important issues in front of the Senate.

So I find myself a little bit in an uncomfortable position, but nevertheless a necessary one, because, first of all, on amendment No. 630—which refers to the issue of requiring a report on whether more United States assistance to Egypt is going to improve Egyptian efforts to counter illicit smuggling in Gaza—we all agree we have to increase the efforts with respect to smuggling.

In fact, we agree so much that over the course of the last administration, and now continuing into this one, we have entered into new agreements with the Egyptians, with new technical means that are going to be applied to this effort, with an increased effort that is going to be taking place right now.

But the problem with the amendment is—it is a well-intended amendment, but again everyone here understands what the effect of this amendment is going to be. It is simply to keep us, if it were to pass, from enacting this bill before the current continuing resolution expires. Because given what we have heard from the House, a vote for the amendment is effectively a vote against the Omnibus appropriations bill and a vote for a year-long continuing resolution at last year's funding levels. That is what is at stake here.

But going from there, given the fact there are so many priorities in this bill we want to pass, and we need to, let me talk for a moment about the substance, just on the substance itself. I personally do not think this is the best moment or best way to go about achieving what we want to achieve with the Egyptians, who have been particularly helpful at this moment with respect to the efforts to try to seek Hamas-Fatah reconciliation, and particularly helpful with respect to some of the issues on the border at Rafah and with respect to the tunnels.

Moreover, the bill that is in front of us states that "not less than \$1,300,000,000 shall be made available for grants only for Egypt, including for border security programs and activities in the Sinai." So there is additional money here. There is money available to be spent on this task.

It also reflects the fact we have recently upgraded our efforts with Egypt.

I think if we come along now and pass this amendment, we wind up saying that the efforts we have made are insufficient, and it is a slap in the face to the Egyptians in the process. So this is a sensitive time. It is an important time. I hope Egypt's good interventions—and I recently was in Egypt. I met with President Mubarak. I met with General Suleiman and the people involved directly in this effort. I am absolutely confident about their focus on the border, as well as their focus on these reconciliation efforts. So in the context of those efforts, this amendment is, frankly, not helpful to the broader interests in the region at this moment.

AMENDMENT NO. 629

The second amendment, No. 629, would prohibit the use of any funds in the omnibus to resettle Palestinians from Gaza into the United States.

Now, let me first point out, in 2008 the United States did not resettle anyone from Gaza. So this is an amendment, this is a solution in search of a problem. The fact is, there is no problem currently. But let's assume—let's assume for the purposes of argument—in the future a Palestinian escaped from Gaza to get away from Hamas oppression and applied to be resettled in the United States. This amendment would prevent that resettlement.

Now, obviously, any Palestinian refugee ought to be subjected to a complete and thorough battery of security checks, screens, background checks, as we do already for any refugee from anywhere. And, of course, we want to be assured that an asylum seeker does not have ties with Hamas, with Islamic Jihaddists or any other terrorist organization.

But the point is, we already have exactly those kinds of security screens and background checks. We have them in the regular Department of Homeland Security resettlement procedures. So I see no reason to make an exception to the normal procedures that suddenly singles out a resident of Gaza. It also sends a message, not just of indifference, but, frankly, of hostility to tens of thousands of Palestinians in Gaza who are victims of Hamas.

Now, I just was in Gaza. I became—unbeknownst to me; I did not realize it at the time—the highest ranking American to go into Gaza in something like 8 or 9 years, and I saw thousands of kids roaming around the rubble of Gaza. I met with Fatah businessmen and others, with people who are struggling to make ends meet and pull their lives together. If one of them were to escape because of the oppression of Hamas and wanted to come to the United States, it would seem, given the daily deprivations and brutality of Hamas militants, the United States, commensurate with our highest values and the traditions of this country, would not want to refuse the possibility of asylum to those folks. In fact, this amendment assumes that every resident of Gaza, regardless of age,

background, political opinion or any other distinguishing characteristic, is pro-Hamas and ineligible for consideration for resettlement in the United States, even if they are lucky enough to escape from Gaza. It ignores the fact that a whole bunch of folks in Fatah were killed by Hamas and some of them knee-capped and otherwise assaulted in the course of the recent war because they weren't part of Hamas.

It is unnecessary. There are ample laws on the books which prohibit entry into the United States of any person who has been involved in terrorism or other crimes. During the Cold War, we did not bar Russians from coming to the United States, just as we don't bar Cubans or North Koreans from entering the United States, even though they live in oppressive regimes that we object to—or did live, in the case of the Soviet Union, in that situation. This amendment, therefore, is not only unnecessary but it would establish for the first time since the passage of the 1980 Refugee Act a law that discriminates against a particular nationality in a particular geographic region.

I urge my colleagues to vote against both these amendments, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, while my colleague from Massachusetts is still here, let me advise him of two things with respect to amendment No. 629. First of all, it was certainly not my intention that we deal individually with political asylees, but the amendment could have been read that way and I appreciate the point. Secondly, it was a response to a news story which gained a great deal of attention from my constituents related to the January 30 order by the President, ordering \$20 million for urgent relief efforts to provide migration assistance to Palestinian refugees. That has gotten a lot of attention from folks. They wanted to know what we were doing.

We have talked to the State Department, and while I haven't withdrawn the amendment yet, we have received assurances from them orally that—and I believe and hope we will receive assurances in writing—that was not the intention of that order. Assuming that is the case, there would be no need for the amendment, and it would be my intention tomorrow to withdraw it. I hope they will have something to us in writing. If not, if they have a spokesman of high enough authority to provide the assurance orally, that will suffice as well, but we will want to get that.

I will speak to the other amendment, but I wished to respond to my colleague.

Mr. KERRY. Madam President, I appreciate the comments of the Senator. As I said, I know he works reasonably on these things and I look forward to working with him on it and I thank him.

AMENDMENT NO. 630

Mr. KYL. Madam President, if my colleague would like to hear a brief comment with regard to amendment No. 630, although I don't need to hold him here, it will be my intention to get a vote on that amendment. Let me explain why, even though I certainly recognize the validity of some of the points made by the Senator from Massachusetts.

This amendment deals with a problem that was violently brought to our attention again when the cease-fire between Hamas and Israel was broken and hundreds of rockets were again rained down on Israel, most of which had been smuggled across the Sinai and into the Gaza Strip; many of the weapons having come from Iran, or at least groups sponsored by Iran. We have partially, as a result—in fact, significantly, as a result of the assistance that I know the Senator from Massachusetts has supported, and we have all supported, to Egypt—gotten a lot of cooperation from Egypt in helping to bring this smuggling to a much lower level than it otherwise would have been. I am very cognizant of that. I have thanked the Egyptian Government for its efforts, and we want to continue to thank them for those efforts. The problem is smuggling does continue.

All this amendment does is to ask for a report about what other uses this money could be put to, to help the Egyptians, the Israelis, the United States, and others who engaged in the effort to stop the smuggling from the Sinai through primarily tunnels but by other means as well into Gaza so Israel can no longer be threatened. The amendment is not to denigrate these efforts of the Egyptians in any way. I understand there is some sensitivity by folks at the State Department, for example, that the amendment may look like we are not grateful for those efforts. Quite to the contrary. But I do think—and I will be happy to read some news reports—that illustrates it is the view of the Israeli Government that this smuggling is continuing and will continue unless more is done, including by the Egyptians. So the purpose of the amendment is simply to keep track of what else we might do to try to stop the smuggling.

If my colleague would like to intercede at this point, I would be happy to hear his comments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I understand what the Senator is saying. Again, I was just in Israel and I know the smuggling continues. We all understand that.

Immediately after the war, the Hamas folks immediately began to try to restore those tunnels, and we understand that. But there are specific steps now to counter that in new means which I will not go into here on the floor of the Senate—I can't. But Egypt has agreed to engage in a significantly

ratcheted-up effort. Since there is additional money and that is exactly what is contained, again, I say this is unnecessary, particularly given the impact that this might have on this bill if it were to pass.

So we have three reasons there. One, the problem is being addressed. Two, it does have an impact on the Egyptians in terms of what they have already agreed to, given the fact that we have agreed to it. Three, it has a huge damaging impact on the overall omnibus bill we are trying to pass. But I thank my friend.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I certainly acknowledge what my colleague has said. Let me quote from one news article which illustrates the reason why I think we need to do this. This is from March 3—very recent—from the Jerusalem Post. The authors of the article talk about Hamas's ongoing smuggling into Gaza—ongoing. They talk about the persistence of Hamas arms smuggling which almost ensures a resumption of hostilities in Gaza. That is the point of this: to try to prevent more hostilities. If those weapons are not smuggled into Gaza, they are not going to rain them down on the people of Israel and there won't be a need for Israel to engage in any hostilities. I am afraid that if it continues, they would have no choice but to try to defend itself.

I will conclude with these two paragraphs in this one article:

In most cases, following the exposure of a tunnel, Egyptian forces have either placed a guard at the mouth of the tunnel or blocked the tunnel's entrance rather than taking steps to demolish the tunnel completely. As such, smugglers have been able to employ these tunnels again after a short interval. When a tunnel entrance has been blocked, diggers typically cut a new access channel nearby and connect it with the existing tunnel closer to the border.

In addition, there is no evidence that Egyptian forces are taking steps to arrest and punish smugglers. These rings are rarely broken up, and in the absence of lengthy jail terms, there is little deterrence.

I ask unanimous consent that three of these similar reports be printed in the RECORD at this point.

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

[From the Jerusalem Post, Jan. 1, 2009]
LATEST ROCKETS MANUFACTURED IN CHINA
(By Yaakov Katz)

The Grad-model Katyusha rockets that were fired into Beersheba on Wednesday were manufactured in China and smuggled into Gaza after the Sinai border wall was blown up by Hamas in January, defense officials said.

The Chinese rockets have a range of 40 kilometers. They are very similar to the 122 mm Soviet-made Katyusha that was used extensively by Hezbollah during the Second Lebanon War and are slightly more sophisticated than an Iranian-made Grad-model Katyusha that is also in Hamas's arsenal.

The four rockets that hit Beersheba this week were filled with metal balls that can

scatter up to 100 meters from the impact site, officials said. These rockets have also been fired into Ashkelon and Ashdod.

The three countries that manufacture Grad-model Katyushas are China, Russia and Bulgaria.

Defense officials told The Jerusalem Post the rockets were smuggled into Gaza in the 12 days after Hamas blew a hole in the border wall between Gaza and Egypt on January 23.

"Huge quantities of weaponry were smuggled into Gaza, then from above ground, including the Grad rockets," an official said, adding that even after the border wall was sealed, Hamas continued to smuggle the long-range rockets into Gaza via tunnels under the Philadelphi Corridor.

From China, the rockets make several stops before reaching Gaza. In many cases, officials said, they are bought by Iran or Hezbollah and then transferred to Sinai.

In some instances, the Shin Bet (Israel Security Agency) has learned of weapons that came from Yemen and Eritrea, were moved to Sudan, then north to Egypt, and finally smuggled into Gaza.

"This is a complicated smuggling system that involves many different people around the world," one official said.

The Grad-model Katyushas, officials said, were packed with large quantities of ammonia and less-than-maximum explosives to increase their durability and lethality.

Last Thursday, Egyptian Foreign Minister Ahmed Aboul Gheit told Foreign Minister Tzipi Livni that Cairo was not responsible for Hamas's military buildup and that the long-range rockets in the group's arsenal were not smuggled through the tunnels from Sinai.

Defense officials said. Wednesday that Aboul Gheit was partially correct, in that some of the rockets did not come into Gaza through tunnels, but that they did enter the Strip from Sinai.

[From the Jerusalem Post, Mar. 3 2009]

ANALYSIS: WHEN IT COMES TO TUNNELS, EGYPT STILL HAS ITS HEAD IN THE SAND

(By Yoram Cohen and Matthew Levitt)

This week's Egyptian-hosted international conference on the reconstruction of the Gaza Strip underlined that the rehabilitation of Gaza is high on the international community's agenda.

But the implementation of any rebuilding project may be premature. Indeed, given Hamas's ongoing weapons smuggling into Gaza, Israel's mid-January unilateral ceasefire may be short-lived.

Although the United States and Israel reached an agreement on January 16 to counter the smuggling, Egypt and Israel have yet to forge a similar understanding. The persistence of Hamas's arms-smuggling almost ensures an eventual resumption of hostilities in Gaza.

Beyond small arms, Israeli intelligence estimates that some 250 tons of explosives, 80 tons of fertilizer, 4,000 rocket-propelled grenades, and 1,800 rockets were transported from Egypt to Gaza from September 2005 to December 2008.

According to Israeli figures, from June 2007 to December 2008, Hamas increased not only the quantity but also the quality of its arsenal in Gaza, improving the performance of its improvised explosive devices and expanding the distance and payload capabilities of its Kassam rocket warheads.

Most small-range rockets fired from Gaza prior to and during the recent conflict were locally produced. However, over the past year, Hamas has acquired a formidable collection of imported 122-mm. rockets—the longer-range Grads—brought in piecemeal through tunnels and reassembled in Gaza.

These Grads, an Iranian-produced version of the Chinese-designed rocket, increase the reach of Hamas into Israel, making them a sought-after commodity and well worth the effort and expense of smuggling them all the way from Iran.

According to Israeli assessments, the arms-smuggling network is directed by Hamas offices in Damascus and aided by Iran's Islamic Revolutionary Guard Corps (IRGC), which provides the majority of the weaponry.

The arms travel overland to Egypt through a variety of routes that cross Yemen, Eritrea, Ethiopia, and South Africa and eventually meet in Sudan, where they are moved to Egypt's Sinai desert. After the material enters the Sinai, it is transferred into Gaza via tunnels underneath the Philadelphi Corridor.

Less frequently, arms are moved to Gaza via the Mediterranean Sea. The weapons are deposited in waterproof barrels submerged below the surface and tied to buoys eventually retrieved by fishermen.

Despite recent improvements to the countersmuggling effort in the Sinai, Egypt is averse to recognizing the severity of the issue. Egypt's approach to countering Hamas's extensive network of smuggling tunnels has been tentative, generally limited to exposing tunnel openings and seizing weapons arsenals inside the Sinai Peninsula.

In most cases, following the exposure of a tunnel, Egyptian forces have either placed a guard at the mouth of the tunnel or blocked the tunnel entrance, rather than taking steps to demolish the tunnel completely. As such, smugglers have been able to employ these tunnels again after a short interval. When a tunnel entrance has been blocked, diggers typically cut a new access channel nearby and connect with the existing tunnel closer to the border.

In addition, there is no evidence that Egyptian forces are taking steps to arrest and punish smugglers. These rings are rarely broken up, and in the absence of lengthy jail terms, there is little deterrence.

Moreover, cooperation between Egypt and Israel has been lacking. In mid-February, for example, Egypt announced it would not send a delegation to Israel as originally planned to discuss anti-smuggling and cease-fire negotiation efforts. Although Israel recognizes an effort is being made—Shin Bet (Israel Security Agency) chief Yuval Diskin told the cabinet on February 15 that Egyptian actions are indeed combating arms smuggling—Israeli officials note that the effort is, at best, “slow.”

Finally, the United States has provided Egypt with various technological devices—such as seismographic sensors—to expose the tunnels, but Egyptian forces still require training to make full use of these tools.

It is imperative that Egypt recognize that arms smuggling is not just an Israeli issue but an Egyptian national security priority. The head of the Egyptian parliament's foreign relations committee said on December 3, 2008 that it would not allow an Islamic state on its northern border. If arms smuggling continues, however, such an outcome will become more likely.

As such, Egypt needs to adopt a sustained and effective approach to its activities countering the movement of weapons from Sudan to the Sinai Peninsula, as well as the tunnels themselves. First, Egypt should close these tunnels for good rather than temporarily securing them. At the same time, Egyptian security forces should arrest smugglers, target their networks, and impose stricter penalties for these illegal activities. Finally, Egypt should better publicize these efforts to create a deterrent effect.

More effective bilateral cooperation between Israel and Egypt, with US oversight

and active involvement, should be initiated. Discussions between all three parties would go a long way toward increasing coordination and efforts to combat this threat.

In this regard, the United States could play an important role as a watchdog, providing periodic reports on the effectiveness of Egyptian and Israeli action. Perhaps most importantly, the three countries' intelligence services should join forces and share information to successfully combat the Hamas weapons-smuggling networks.

Much of the weaponry is provided by Iran, and specifically by the IRGC, increasing Iran's regional influence while threatening the position of Fatah in Palestinian politics. Dealing effectively with these tunnel systems could curtail Iranian influence. Conversely, if Gaza remains a terror base—a safe haven for extremists and global jihadists—regional instability and Palestinian suffering will surely grow.

[From Haaretz, Feb. 26, 2009]

GAZA ROCKETS STRIKE NEGEV; IAF RETURNS FIRE

(By Amos Harel and Anshel Pfeffer)

While talks between rival Palestinian factions continue in Cairo, a near-daily ritual continues of Gaza militants firing Qassam rockets and the Israel Air Force retaliating by striking smuggling tunnels along the Philadelphi route.

Yesterday morning, two rockets landed in open fields in the Eshkol region, causing neither casualties nor damage. In the ensuing air strikes, an Israel Defense Forces spokesman said, pilots reported seeing secondary blasts from the smuggling tunnels, indicating that they contained explosives.

Security officials said yesterday the extended waiting period for a cease-fire agreement between Israel and Hamas could undermine the relative calm that currently prevails in the Gaza Strip.

Egypt has been trying to broker a long-term cease-fire between Israel and Hamas in the aftermath of Israel's 22-day military offensive.

The officials said Hamas took steps to reduce the rocket fire from smaller militant factions after Israel's withdrawal from Gaza. However, since then, the group has noticeably cut down its efforts. They added that Egypt is making only limited attempts to stem the tide of weapons flowing into the territory.

An Israeli intelligence source recently said that significant quantities of weapons and explosives, including Grad rockets, anti-aircraft missiles and explosive materials, had been transported from Egypt to Gaza through the Rafah crossing.

Israel tightened its blockade of Gaza after Hamas took control of the Strip in 2007. Egypt also limits the movement through its border crossing with the territory.

“The smuggling is part of a broad worldwide apparatus, from Iran to Yemen and other sources, to the Gaza Strip, by land and sea. We are working against them,” Defense Minister Ehud Barak said.

[From the Jerusalem Post, Feb. 26, 2009]

ISRAEL THANKS CYPRUS FOR CONFISCATING IRANIAN ARMS ON WAY TO GAZA

(By Herb Keinon)

President Shimon Peres thanked visiting Cypriot Foreign Minister Markos Kypriano on Wednesday for confiscating Iranian arms that were believed to be headed to Gaza.

Peres, according to his office, said the confiscation of the ship's cargo was extremely important, and that fighting the arms smuggling to the Gaza Strip required this type of cooperation.

Last Wednesday, Cypriot authorities said the ship suspected of transporting the contraband cargo was free to go after the cargo was unloaded and stored at a Cypriot naval base.

Cypriot officials said that the cargo was “material that could be used to make munitions,” and the Cypriot government said the ship had breached the UN ban on Iranian arms exports.

The US military said it found arms aboard the ship after stopping it last month in the Red Sea.

The issue also came up in talks Kypriano held with Foreign Minister Tzipi Livni.

“Iran must be made aware that the weapon smuggling to Syria, Lebanon and Hamas constitutes a severe violation of international agreements, and must cease,” Livni said. “The weapon smuggling organized by Iran is one of the central problems in the region. If the weapon smuggling to Gaza continues, Israel will have no other option than to initiate another defensive operation. That is why the international community must exhaust all the legal and operative means at its disposal to put an end to the arms smuggling.”

[From VOA News, Feb. 16, 2009]

ISRAEL POUNDS GAZA SMUGGLING TUNNELS AFTER MORE ROCKET ATTACKS

(By Luis Ramirez)

Israeli warplanes have attacked smuggling tunnels between the Gaza Strip and Egypt, after militants in Gaza fired at least two rockets into southern Israel. The tit-for-tat violence is further complicating prospects to draft a truce between Israel and the militant Islamic group Hamas.

The rocket attacks have again become an almost everyday occurrence in the four weeks since Israel called off its 22-day offensive on militants in Gaza.

Nearly a month after both sides declared separate cease-fires, efforts by Egypt to mediate a durable truce are deadlocked.

Hamas wants Israel to open all of its border crossings, including one to Egypt. Israel wants Hamas to stop militants from firing rockets into its territory and the smuggling of weapons into the seaside enclave.

Israeli officials say they will not consider reopening border crossings until Hamas returns Gilad Schalit, an Israeli soldier who has been held since he was captured in the Gaza Strip in 2006.

Hamas legislator Mushir al-Masri, a spokesman for the militant Islamist group, rejected any attempt by Israel to link the release of Schalit to a longer-term cease-fire.

Al-Masri says Hamas' position is obvious. He says Hamas wants a cease-fire and is not backing away on that issue. But he says the Israeli attempt to connect the Schalit case with a cease-fire agreement is going to destroy the process and he says Hamas considers that “a stab in the face” of the Egyptian efforts to mediate peace.

Hamas is also demanding that Israel release hundreds of prisoners—including militants who were responsible for a number of suicide bombings—in exchange for Schalit.

Despite the setbacks, prospects for a truce remain alive.

Israeli officials say the country's security cabinet is due to meet Wednesday to discuss a response to Hamas' demands, and details of a possible peace deal.

Mr. KYL. Madam President, again, I wish to compliment the Egyptian Government and others who have insisted on trying to stop this smuggling. My amendment asks for a study by the Secretary of State and the DNI about whether additional taxpayer support

out of the annual appropriation for Egypt would aid in stopping this smuggling activity.

That is one of the two amendments—amendment No. 630—that will be voted on this evening. The other amendment is amendment No. 631; that is to say, if the unanimous consent agreement goes into effect, which includes the four amendments we are likely to vote on, two of those would be my amendments, No. 630 and 631.

AMENDMENT NO. 631

Let me briefly describe amendment 631. It deals with the \$300 million for Gaza reconstruction that Secretary Clinton offered at the Sharm el-Sheikh Donors Conference last Monday. We don't have details from the administration on its plans to keep the \$300 million out of Hamas's hands. Clearly, obviously, we want to do that. What we do have is a general acknowledgment by the State Department of its concern that this is important to do. Obviously, we are all aware that Hamas controls nearly every means of power and leverage in the Gaza Strip. So I don't think we can be too careful in ensuring that none of our taxpayer dollars get into the hands of a terrorist group such as Hamas.

Section 7040(f) of the bill addresses this problem partly. It provides limitations on the disbursements of the main types of assistance funds—these are the bilateral economic assistance, international security assistance and multilateral assistance and export investment assistance—to the Palestinian Authority. So there are limitations on the funds going to the Palestinian Authority.

The problem is, some of this money goes through the United Nations and through nongovernmental organizations—the so-called NGOs. So what my amendment does is to close this loophole to ensure that none of our money goes to them and then Hamas as well. It adds the crucial step of making explicit that no funds from the omnibus shall be made available for reconstruction in Gaza until the Secretary of State certifies that no such funds will be diverted to Hamas or entities controlled by Hamas. As I said, the reason is because some of the money is going to these other organizations.

There is a recent op-ed in *Forbes* magazine—and I will ask for its inclusion in a moment—by Claudia Rosett, the same intrepid reporter, incidentally, who first revealed the United Nations oil-for-food scandal. In it she wrote:

On the matter of how exactly the “safeguards” will work, the State Department has been stunningly vague. At a State Department press briefing on Monday, while Clinton was in Egypt making her pledge, a spokesman said that up to \$300 million would go for Gaza’s “urgent humanitarian needs” as identified by the U.N. and the Palestinian Authority. Those funds, he said, would flow via the United States Agency for International Development “in coordination with U.N. agencies, international organizations, and USAID grantees” and “through the

State Department for the U.N. agencies, including the international committee of the Red Cross, and other humanitarian organizations.”

Then she further notes that one of the institutions that the U.N. uses to funnel aid to the Palestinian Authority is the Commercial Bank of Syria. Here is what she says about that:

Under Secretary Stuart Levey alleged that the bank had been used by terrorists to move money, “and as a state-owned entity with inadequate money laundering and terrorist financing controls, the Commercial Bank in Syria poses a significant risk of being used to further the Syrian Government’s continuing support for international terrorist groups.” Among the terrorist groups cited as examples of such clients were Hezbollah in Lebanon, and such denizens of Gaza as Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine and Hamas.

I ask unanimous consent that this article be printed in the RECORD.

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

[From *Forbes* magazine, Mar. 5, 2009]
CAN WE GIVE TO GAZA WITHOUT GIVING TO HAMAS?

(By Claudia Rosett)

If stuffing billions worth of aid into the Palestinian territories could end Islamist terrorism out of Gaza, it might be worth the money. That seems to be President Obama’s gamble, with Secretary of State Hillary Clinton jetting to a donors’ conference in Sharm el-Sheikh, Egypt, this past Monday, to chip in \$900 million on behalf of U.S. tax payers. All told, more than 70 countries, cheered on by United Nations Secretary-General Ban Ki-Moon, pledged a whopping total of \$4.5 billion in fresh aid to the Palestinians.

The focus was largely on repairing damage to Gaza, after Israel’s recent three-week battle to shut down mortar and rocket attacks out of the terrorist-controlled enclave. But, as Clinton described it, this is a nuanced effort. The broad aim is to bypass the Iranian-backed Hamas terrorists who control Gaza, and shovel resources for strictly humanitarian uses into the enclave “in coordination with” the Palestinian Authority, which is run by the U.S.-favored Fatah faction, Hamas’ rival, based in the West Bank.

Thus the long and winding title for the Sharm el-Sheikh powwow: “The International Conference in Support of the Palestinian Economy for the Reconstruction of Gaza.” Thus, also, the confusion and contradictory news accounts over how much of the multiple billions in aid will flow to the West Bank, how much to Gaza, when and how this will happen, and who will decide.

And so, despite a record which suggests that decades of aid to the Palestinians—bilateral, multilateral, you name it—have fostered not peace, but continuing violence, here we go again. The plan this time seems to be to flood the Palestinian Authority with funds that might somehow grease the way toward somehow easing Hamas out of the cockpit in Gaza.

Speaking of her aim to “foster conditions” to create a responsible, accountable Palestinian state, living in peace with Israel, Clinton pledged that America’s \$900 million in new aid to Palestinians—still to be approved by Congress—would include \$300 million for Gaza. To blunt concerns that some of these taxpayer dollars might end up bankrolling Hamas, Clinton spelled out that “We have worked with the Palestinian Authority to install safeguards that will ensure that our

funding is used only where, and for whom, it is intended, and does not end up in the wrong hands.”

Good luck. The downside of this gamble, and the likelier scenario, is that this new multibillion-dollar wave of aid, pouring in from many sources, will boost Hamas. In case anyone needs a reminder, Hamas is an Islamist, terrorist group, spun out of the Egyptian Sunni Muslim Brotherhood but backed and trained these days by the Shiite mullocracy of terrorist-sponsoring Iran—which looks close to acquiring a nuclear arsenal. Hamas is dedicated in its charter to the destruction of Israel and hostile in its principles to western democracy.

Hamas was elected in 2006 by a Gazan population that five years earlier had celebrated the Sept. 11 terrorist attacks on America by handing out sweets and dancing in the streets. Hamas consolidated its control over Gaza in 2007, kicking out Fatah in a bloody battle that included fighting in hospitals and apartment buildings, and both sides throwing prisoners off rooftops. Nor does Hamas mind putting Gaza’s 1.5 million people at risk in order to pursue its terrorist “Death to Israel” agenda. Since Israel called a halt on Jan. 17 to its Operation Cast Lead, Hamas-controlled Gaza has continued to serve as a launching pad for attacks on Israel, firing more than 50 rockets, including 11 over the past weekend, one of them hitting a school in Ashkelon.

Were such attacks targeting, say, New York, one might hope they would be treated as terrorism and answered with force. But on Monday, the *de facto* reply of the “international community” to these assaults on Israel was to promise Gaza—already one of the developed world’s top per-capita welfare clients—billions more in aid. Clinton, while making her pledge, and detailing rosy visions of the future, made just one ritual nod to the Hamas rockets of the here-and-now: “These attacks must stop.” Expect more rockets.

As for the financial safeguards—somewhere in Gaza, or maybe Damascus or Tehran, members of Hamas must be smiling. As long as Gaza is controlled by Hamas, any aid funneled into the enclave is one dollar less that Hamas might be impelled to spend on upkeep of its turf, and one dollar more available for terrorist activities.

On the matter of how exactly the “safeguards” will work, the State Department has been stunningly vague. At a State Department press briefing on Monday, while Clinton was in Egypt making her pledge, a spokesman said that up to \$300 million would go for Gaza’s “urgent humanitarian needs” as identified by the U.N. and the Palestinian Authority. Those funds, he said, would flow via United States Agency for International Development “in coordination with U.N. agencies, international organizations and USAID grantees” and “through the State Department for the U.N. agencies, [International Committee of the Red Cross] and other humanitarian organizations.”

That’s just the U.S. agenda, before we get to the even less transparent donations, such as the \$1.65 billion pledged by the Gulf Arab States, to be handled out of the Saudi capital. To explore every rabbit hole on this list could be the work of an entire career. But let’s go down just one of the big ones.

Looking for further hints about what this three-ring aid circus might entail, I pulled up the Web site on Tuesday of the U.N.’s lead agency in Gaza, the U.N. Relief and Works Agency for Palestine Refugees in the Near East, best known as UNRWA. There, on UNRWA’s home page, as of this writing, is a photo of the U.N.’s Ban Ki-moon, standing in a damaged UNRWA warehouse, backlit by what appear to be rays of the sun, during his

visit in January to Gaza. Next to Ban's photo is a blurb about his appeal for "crucial funds needed for Gaza's reconstruction after the recent Israeli offensive."

But just below Ban's photo is where it gets interesting. The same Web page lists several banks, complete with Society for Worldwide Interbank Financial Telecommunication (SWIFT) codes and account numbers through which benefactors are invited to send money to UNRWA for its "Special Gaza Appeal."

One of them is the state-owned Commercial Bank of Syria, headquartered in Damascus, which is an intriguing choice for Ban and UNRWA to condone, because for the past five years this bank has been under sanctions by the U.S. Treasury as an institution of "primary money-laundering concern."

In 2004, Treasury imposed sanctions on the Commercial Bank of Syria alleging it had laundered illicit proceeds from the U.N.'s Oil-for-Food program in Iraq, and had also handled "numerous transactions that may be indicative of terrorist financing and money laundering." According to Treasury, this included two accounts "that reference a reputed financier for Usama bin Laden."

In 2006, Treasury finalized its rule, which is still current, against the Commercial Bank of Syria. Under-Secretary Stuart Levey alleged that the bank had been used by terrorists to move money, and "as a state-owned entity with inadequate money laundering and terrorist financing controls, the Commercial Bank of Syria poses a significant risk of being used to further the Syrian Government's continuing support for international terrorist groups." Among the terrorist groups cited as examples of such clients were Hezbollah in Lebanon, and such denizens of Gaza as Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine and Hamas.

UNRWA's choice of this bank is all the more curious in light of the lifestyle choices of a number of Hamas leaders, such as Khaled Meshal, who are based not in Gaza, but work "in exile" in Damascus. According to a Council on Foreign Relations backgrounder released in 2006, Meshal has served Hamas from Damascus as head of the terrorist group's politburo, and as chief strategist and fundraiser. In 2006 he was alleged by Israeli then-Vice Premier Shimon Peres to have ordered the kidnapping into Gaza of Israeli soldier Gilad Shalit, who has not been released.

It's hard to know whether it is of any concern to UNRWA that one of the conduits headlined by Ban Ki-moon for its Gaza relief appeal is a U.S.-censured bank, headquartered in a country that hosts Hamas leaders such as Meshal, and is designated by the U.S. as a state sponsor of terrorism. The U.N. has no definition of terrorism. UNRWA, which employs mostly local Palestinian staff, and has never had an independent outside audit, is not bound by U.S. sanctions. My queries to UNRWA about this Syrian banking connection were answered evasively by a spokesperson, who stated in an email that "UNRWA's strict financial regulations, and its close oversight of all resources contributed to it, serve to ensure that funds are used appropriately in our humanitarian relief activities."

It's likewise hard to say whether the U.S. State Department cares that U.S. funds might mingle via UNRWA with money flowing to Gaza through the Commercial Bank of Syria. My queries to the State Department received no reply.

These are, of course, busy times for American diplomacy in the Middle East. There are slows of new envoys setting out, and the new administration is stepping up "engagement" already begun during the final years of President Bush, by courting Syria as a po-

tential U.S. partner. But if President Obama wants to try banking on multi-tiered diplomacy and massive aid to turn terrorist-infested, Iranian-armed Gaza into a place of peace, it looks like someone in his administration needs to be keeping a closer eye on who, exactly, might be cashing in on the largesse.

Mr. KYL. Madam President, I also ask that a press release from the ranking member on the House Foreign Affairs Committee and members of the House Republican leadership also be printed in the RECORD.

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

ROS-LEHTINEN, BOEHNER, CANTOR, MCCOTTER, PENCE QUESTION OMNIBUS FUNDING FOR UN PALESTINIAN AGENCY PARTNERING WITH BANKS TARGETED BY U.S.

(WASHINGTON).—U.S. Rep. Ileana Ros-Lehtinen (R-FL), Ranking Republican on the House Foreign Affairs Committee, Republican Leader John Boehner, Republican Whip Eric Cantor, Republican Conference Chairman Mike Pence, and Republican Policy Committee Chairman Thaddeus McCotter called on the Senate to pull funding for UNRWA and the Palestinian Authority from a \$410 billion spending bill. Statement follows:

"The Administration should withdraw its pledge to provide \$900 million in bonus funding to the Palestinian Authority and Gaza reconstruction. These funds are proposed in addition to what is already included in the Omnibus appropriations bill pending in the Senate. And some of the funds will be going through UNRWA at a time when this UN agency is partnering with banks targeted by the U.S. for their roles in financing violent Islamist militants.

"We need to protect taxpayer funds from finding their way to the Commercial Bank of Syria, an UNRWA partner subject to U.S. sanctions and run by the Syrian regime. Another UNRWA partner is the Arab Bank, which is under investigation for financing Palestinian militants and suicide bombers responsible for the deaths of Israelis and Americans in Israel.

"Yet, the Senate is poised to allow millions of taxpayer dollars to go to UNRWA, which also fails to vet its own staff and aid recipients for ties to violent Islamist groups. The bailouts and spending sprees have become so vast that even violent extremists and their enabling UN agencies are getting a 'piece of the pie.'

BACKGROUND: UNRWA's website solicits donations for its "Special Gaza Appeal," and directs donors to send money to accounts with the Commercial Bank of Syria, which the U.S. Department of the Treasury has designated as a "primary money laundering concern," and with the Arab Bank, which is reportedly under investigation by the U.S. government for financing Palestinian militant groups. Treasury also states that the Commercial Bank "has been used by terrorists to move their money and it continues to afford direct opportunities for the Syrian government to facilitate international terrorist activity and money laundering." The Arab Bank was reportedly fined \$24 million for extremist financing in 2005.

Mr. KYL. Madam President, what these all point out is that in addition to ensuring that money that goes to the Palestinian Authority doesn't get into the hands of Hamas, which is assured by the legislation, we need to make sure that other funds that go to the United Nations or the NGOs also

are not diverted to Hamas. That is what we have provided by this amendment.

Incidentally, I would say this: One of my colleagues said: Well, isn't a secretarial certification a little bit much? My response is: Well, if the Secretary can't certify it, we probably shouldn't be sending taxpayer money. But I had also suggested language such as the following: That all possible steps have been taken to ensure that no such funds have been diverted by Hamas or entities controlled by Hamas. If there is any objection to the exact language of my amendment, I would be happy to amend the language to include the language I indicated.

So I hope my colleagues, when we vote at 5:30 this afternoon, will consider the arguments I have made with respect to these two amendments: to make sure that, first of all, our Egyptian friends have all the support they need to ensure that smuggling does not occur in the future and threaten the people of Israel; secondly, that no American taxpayer money is spent either through the Palestinian Authority or—and this is not controlled in the bill—through the United Nations or other NGOs to provide support to any terrorist groups, including Hamas, and my amendment would prevent that from happening.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, my friend from Arizona's amendment No. 630 would require the Secretary of State to report on whether additional foreign military financing assistance provided for Egypt could be used to improve Egypt's efforts to counter illegal smuggling and intercept weapons into Gaza.

We all want Egypt to intercept those weapons. So on the face of it, it appears this amendment is very appealing. But I note for my friend from Arizona that the omnibus bill already explicitly authorizes the use of FMF assistance provided to Egypt "for border security programs and activities in the Sinai."

That was language put in by the distinguished ranking Republican member on the Appropriations Subcommittee, Senator GREGG, precisely for the purpose of the Kyl amendment—to enable those funds to be used to help police the border and reduce the smuggling into Gaza.

Now, I understand there is a concern about adding amendments to this bill and sending it back to the other body. All this does, if passed, is send the bill back to the other body because what the Senator from Arizona is asking for is already in the bill. Egypt is already cooperating with Israel and the United States to reduce smuggling of weapons into Gaza. We need Egypt's continued help. The Egyptian Government will—in fact, they already do—regard this amendment requiring a report by the Secretary of State as a public slap in the face. The distinguished Secretary

of State has just come back from the region. The State Department says the bill gives them the authority and the money they want to do precisely what the Kyl amendment asks for. Why pass something that is a public humiliation of an ally in the area?

Egypt could undoubtedly do more. Everybody could. But publicly shaming them as they are trying to negotiate a lasting cease-fire between Hamas and Israel is in no one's interest. It is not in our interest or Egypt's interest, and it is certainly not in Israel's interest. Maybe some think this makes a good talking point.

I am more interested not in what makes great talking points, but in stopping the smuggling of weapons into Gaza. That is why Senator GREGG put the language into the foreign aid bill in the first place.

There is no question that the money can be used. We don't need a report from the State Department telling us what we already know. We wrote the law. We know what it says. We don't need the State Department to tell us what it says.

The key point is this: You can vote against the Kyl amendment and still be on record voting for everything in the Kyl amendment simply by voting for final passage of the omnibus bill.

Also, the Senator from Arizona has offered amendment No. 629, which would prohibit the use of any funds in the omnibus to resettle Palestinians from Gaza into the United States. We are going to vote on that tomorrow.

Frankly, it is unnecessary and for the United States, a Nation of immigrants, it goes against everything we stand for.

We don't resettle anybody from Gaza, nor do we resettle anybody from Gaza who is living in the U.N. refugee camps in the West Bank, Lebanon, Syria, or Jordan. The amendment is a solution looking for a problem. If a Palestinian from Gaza gets to a place like Italy, or somewhere in Europe, the amendment would prevent the State Department from even considering that person for resettlement to the United States. We would have to tell them sorry, you can't come in, because you are from a place that has terrorists.

I think back to my family who came to Vermont about 150 years ago. On my father's side, they were Irish. If we had a law like this in place then, it is questionable whether they could have entered this country. If the Irish were fighting to keep their land, if they were fighting to keep their rights, if they were fighting for the ability to vote, and they lived in what is now the Republic of Ireland, they were considered terrorists. We have gone back through the record and found when they left Ireland, even though they had been offered free room and board for the rest of their lives. They were very small rooms, with bars on the windows, and they didn't know that the rest of their lives would come very soon. But they left for Canada, the United States, or Australia.

I was thinking about the birthday party for Senator KENNEDY the other night at the Kennedy Center. There were a number of Irish-Americans there who could speak about their roots, when their families came here, and why they had to leave Ireland to come here. They were hunted because they fought to practice their own religion. They were hunted because they spoke Irish. They were hunted because they wanted to keep their land. They were hunted because they would not renounce their religion. Thank goodness the United States had open arms for them.

We have very strict rules about who can come into this country. This, again, is an unnecessary amendment, saying that we in the Congress are going to pick and choose which groups of people can resettle here.

When my maternal grandparents came from Italy, a country that had numerous wars at that time, thank goodness they weren't blocked from coming here. My grandmother lived long enough to see her grandson run for the U.S. Senate. They came to this country not speaking English, not reading or writing it, learning English and raising six children. We could all tell stories like that.

I hope we don't start doing things that label whole groups of people as terrorists, no matter who they are as individuals.

The Senator from Arizona has also offered amendment No. 631 which prohibits funds for reconstruction efforts in Gaza until the Secretary of State certifies that none of the funds will be diverted to Hamas or entities controlled by Hamas. Again, it is an appealing amendment. We all want to be sure no funds are diverted to Hamas. But, of course, that is already in the bill. I don't know how many times we have to vote on it. We voted on that; all Republicans and Democrats voted on that in committee. It is already in the bill.

There is also permanent law in this country that prohibits any funds going to Hamas or entities controlled by Hamas. So the amendment is unnecessary—unless the intent of the amendment is simply to send the bill back to the other body and further delay its passage.

Anybody can read the bill. Section 7040(f) of the bill, on page 861, bans funding to Hamas and any entity effectively controlled by Hamas or a power sharing government.

Section 7039 of the bill, on page 856, requires that the Secretary of State take all appropriate steps to ensure that assistance doesn't go to any individual or entity in the West Bank or Gaza that advocates, plans, sponsors, engages in, or has engaged in terrorist activity. It cannot be any clearer than that.

Maybe every one of us should introduce our own amendment to say the same thing over and over again and have 100 of us saying we don't want any

money to go to Hamas. The easy way to do that is to vote for the bill the way it was when the Senator from New Hampshire and I presented it to the committee, which adopted it with only one dissenting vote. It prohibits that.

The Palestinian Antiterrorist Act of 2006 prohibits money going to a Hamas-controlled Palestinian Authority. That is section 620(k) of the Foreign Assistance Act.

So we prohibited assistance to Hamas at least three times already. And there are undoubtedly other laws on the books that prohibit funding going to terrorist organizations, which Hamas is. Do we get extra political points for doing this? Why don't we all stand and say: I am against any assistance for Hamas? I have not heard a single Senator—Republican, Democrat, or Independent—say they do want to support Hamas. That is probably why we have all voted overwhelmingly in favor of laws to prohibit it.

It appears to me some of these amendments are intended simply to try to make a point, or to send the bill back to the other body.

Mr. GREGG. Will the Senator yield for a question?

Mr. LEAHY. Yes, without losing my right to the floor.

Mr. GREGG. I want to associate myself with the Senator's concern. I think a proper explanation of how the bill is structured is in order. As I understand it, as the bill left the subcommittee, and then the full committee, it made it unalterably clear no money that goes into Gaza can be used for Hamas. That doesn't need to be restated in an amendment. In fact, doing that might imply that the language in the bill isn't as strong as it should be. Also, on the issue of resettlement of Palestinian refugees, there may be many we would want to come to the United States—maybe physicists and other folks. This blanket approach that nobody can enter the country is really over the top and far too broad a brush to paint on the entire population of an area.

Obviously, we don't want terrorists or anybody who is sympathetic to the Hamas to come. But there are others we may wish to come to the United States because maybe they were opposition leaders to Hamas.

Thirdly, the issue of the language relative to Egypt concerns me, and I guess it concerned the Senator from Vermont. I will put this in the form of a question.

To complete my inquiry of the chairman of the subcommittee, the language relative to Egypt in using funds from the money that was allocated to Egypt, approximately \$1.3 billion for the purpose of making sure the border entries into Gaza and other entries that might affect Israel are adequately monitored, that language truly is not necessary because we have language in the bill that says it can be used for the purpose of limiting access on the borders.

There is an ongoing, good-faith effort, as I understand it, by the Government of Egypt to police those borders,

using our resources to some degree. Further, Egypt has worked very hard to be an ally to us in the region. It is one of our key allies in the sense that it has always been reasonably supportive of what we have tried to do. I think we have a responsibility to be equally supportive of them when they make a legitimate request, which is that we not be overly officious in directing them under this language.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, the senior Senator from New Hampshire is correct on every one of the points he has made. He and I worked closely together on this so all of these issues we have been discussing came out of our subcommittee with strong bipartisan support.

Both of us were sensitive to a number of things: One, we did not want money going to Hamas; two, we wanted to help Egypt because Egypt has, with some peril to itself, been cooperating with us. Obviously, we are committed to the security of Israel. We put all that in here. So it becomes, in some ways, worse than redundancy.

The Senator from New Hampshire put his finger on it. It appears to be an officious way of telling Egypt: We don't trust you. I would rather continue as the Secretary of State has, as her predecessors in the past administration did, working cooperatively with Egypt to try to address this problem.

The last point about saying nobody should be allowed into the U.S. from Gaza, there are tens of thousands of Palestinians in Gaza who are victims of Hamas every day. Are we going to say that a Palestinian child cannot be considered for resettlement, because of his or her place or origin? Are we going to say to a child's parents, if they were being persecuted by Hamas, they are ineligible for resettlement? Are we going to say, as the distinguished Senator from New Hampshire suggested, to a scientist who has great skills, we cannot accept you because there are terrorists in Gaza? That is not what made this Nation great. We have that wonderful Statue of Liberty with the upraised torch in the New York Harbor—or the New Jersey Harbor, depending on where you live—saying we are a welcoming country. I trust our State Department and our intelligence agencies and others, that if somebody with an interest that is hostile toward the United States tries to come here, they will be barred. But let's not make a blanket rule against a whole group of people based solely on their ethnicity or place of origin.

I thank the distinguished senior Senator from New Hampshire for coming down here and pointing these things out. He and I worked hard to get a bipartisan bill that reflects the best interests of the United States no matter who the administration might be.

Madam President, I yield the floor.

Mr. REID. Madam President, I ask unanimous consent that at 5:30 p.m.

today the Senate proceed to vote in relation to the following amendments in the order listed; provided that prior to each vote, there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote, the vote time be limited to 10 minutes each, with provisions of the previous order regarding intervening amendments remaining in effect: McCain amendment No. 593, Kyl amendment No. 630, Kyl amendment No. 631, Enzi amendment No. 668.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 665

Mr. BUNNING. Madam President, I call up Bunning amendment No. 665 and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 665.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of State to issue a report on investments by foreign companies in the energy sector of Iran)

On page 942, between lines 14 and 15, insert the following:

INVESTMENTS IN ENERGY SECTOR OF IRAN

SEC. 7093. (a) None of the amounts appropriated or otherwise made available by this Act may be made available for the Department of State until the Secretary of State, in consultation with the Secretary of the Treasury, submits to Congress a report on investments by foreign companies in the energy sector of Iran since the date of the enactment of the Iran Sanctions Act (Public Law 104-172; 50 U.S.C. 1701 note), including information compiled from credible media reports. The report shall include the status of any United States investigations of companies that may have violated the Iran Sanctions Act, including explanations of why the Department of State has not made a determination of whether any such investment constitutes a violation of such Act.

(b) In this section, the term "investment" has the meaning given the term in section 14 of the Iran Sanctions Act (Public Law 104-172; 50 U.S.C. 1701 note).

Mr. BUNNING. Madam President, I would like to send a modification to the desk, if possible.

The PRESIDING OFFICER. Is there objection? The Senator from Vermont.

Mr. LEAHY. I will have to object. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BUNNING. Then I will speak on the original amendment No. 665.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Madam President, we have had sanctions against Iran on our

books since 1987. They, along with other multilateral efforts, have served to put a financial chokehold on Iran's rogue behavior. Now is the time to enforce these sanctions and deny Iran the financial capital it needs to fund its nuclear proliferation and support for international terrorism. This is why I have offered an amendment requiring the State Department to provide Congress with the report of potential violations of existing Iranian sanctions under the Iran Sanctions Act of 1996.

Under the act, a company is found in violation of our sanctions if it invests more than \$20 million in 1 year in Iran's energy sector. Since enactment, companies have invested more than \$29 billion in Iran's energy sector. This does not include the \$70 billion in pending transactions that are known about, most of which are long-term contracts to purchase Iranian gas and oil.

As it stands, the State Department is not required to provide any type of report to Congress or publish in the Federal Registry a list of potential violations of our sanctions against Iran. Time and time again, I have asked the State Department for transparency on this issue, as well as imposing some sort of timeline on ruling on pending investigations of existing sanctions. The State Department has no enforceable guidelines on these sanctions and, thus, gives them little or no teeth. As it stands, pending investigations of companies in violation of our sanctions laws have gone on as long as 10 years. Furthermore, since enactment, there has only been one found violation of the Iran Sanctions Act by a French company. Through the use of a Presidential waiver, this violation was totally waived.

My amendment is in no way seeking to change or remove this flexibility. It simply asks the State Department for a report on pending violations of our existing sanctions laws against Iran.

I have long said that the danger of a nuclear Iran poses one of if not the greatest threat to our national security. As this rogue nation continues to ignore three U.N. Security Council resolutions, the time for Congress to act is now. I ask my colleagues to join me and support the Bunning amendment. Now more than ever, we need to tighten our economic chokehold on Iran.

I ask for the yeas and nays in a timely fashion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BUNNING. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 593

Mr. INOUYE. Madam President, I wish to speak on amendment No. 593, an amendment submitted by the Senator from Arizona.

This amendment limits the flexibility of the executive branch. It has no impact on Government spending and

will not add to congressional oversight. It is an amendment which will serve no useful purpose to either the Congress or the executive branch.

The amendment of the Senator from Arizona states that no funds for congressionally directed spending programs could be spent unless the items were included in bill language. The Senator seems to believe that the inclusion of the items in bill language affords the Congress greater oversight over the items. This is not correct. The Senate has the ability to review, debate, and vote in relation to any item, whether it is included in this measure as bill language or just identified in report language.

The Senator apparently believes that putting items in the bill language offers better control over spending. The opposite is true. When items are contained in bill language, the executive branch is afforded less opportunity to exercise management over use of the funds. For example, if the Congress appropriates \$1 million for an item in bill language, the funding can be used only for that purpose. Under current law, funds must be spent for the purpose for which the funds were appropriated unless the Congress has provided agencies additional authority to transfer funds. While most agencies have some ability to transfer funds, the rules are more often restrictive. The only other recourse an agency has is to propose the funding for rescission.

The effect of this amendment would be to require that every item specified in bill language could not be altered without either the use of authorized transfer authority or the passage of a new law governing the use of funds. If a product is allocated \$1 million in report language but only costs \$800,000 to complete, in most cases agencies are afforded some flexibility to reapply the remaining funds for other authorized purposes. However, once the items are included in bill language, unless additional legal authority has been enacted, they cannot be allocated for another purpose. If a Government program manager has an additional and unneeded \$200,000 but which can only be used for that one purpose, what incentive does he or she have to make certain all the funds that are approved for spending are really necessary? The unintended consequence of this amendment is to limit the ability of agencies to adjust to changing circumstances, such as reduced costs or resolution of environmental issues. This amendment needlessly ties the hands of agencies.

This amendment will not save funding. If it were to be enacted, the Congress would simply move items that currently appear in report language to bill language.

We shouldn't see this amendment as a way to reduce spending. It would probably necessitate the adding of an additional 1,000 pages to the bill, but it would not save a dime.

I am not sure what useful purpose this amendment is thought to have. Its

enactment would limit the flexibility of our agencies to manage funds. The amendment provides no additional congressional oversight of funding. It would have no impact on spending. Its adoption would, however, force the Senate to send the bill back to the House, further delaying the passage of this important legislation. Therefore, I urge my colleagues to vote no on this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Arizona.

AMENDMENT NO. 593

Mr. McCAIN. Mr. President, I have come to the floor today to discuss my pending amendment which would prohibit funds to be spent on thousands of earmarks that are listed in the statement of managers but are not included in the bill text.

Most Americans would say: Why don't you have what you want to spend in the bill itself? So far, obviously, the answer has been that this has just grown and grown over the years, as earmarks have grown over the years. And let me just also point out, there is an attempt to say: Look, we have always done this. This has always been the case. So we are just doing what we have always done. You know, the fact is, Mr. President, we haven't always done this. The fact is this porkbarrel and earmark spending has grown and grown and grown and grown over the years.

One of the people I admired most when I served in the other body was a Congressman from Tennessee, Congressman Natcher, who would not allow a single earmark in his appropriations bills, not a single one. He was proud of that, and he continued to get reelected.

I did a little research. It is a little hard to get the information, but up until the 1960s or the 1970s there was no such thing as earmarks. There was no such thing. Citizens Against Government Waste have tracked the growth of earmarks, and in 1991, according to that organization, there were 546 earmarks—546 earmarks in 1991. In this bill, we have nearly 9,000.

Now, that is how evil grows. That is what happens when this kind of activity continues to be allowed. There were 546 earmarks. In 2008, there were 11,610 earmarks. That is an increase of 337 percent in 17 years. The numbers for fiscal 2009: with the three bills already enacted, there were nearly 3,000, and this is another 9,000.

I don't enjoy bringing this up all the time, but the fact is, there is another article this morning in RollCall with the headline "Abramoff Case Keeps On Going." Quoting from the article, it says:

Disgraced former lobbyist Jack Abramoff may one day see an end to the scandal that he largely created—at least in his scheduled release from prison in 2011—but the complex criminal investigation spurred by his activities shows no sign of winding down any time soon.

It talks about former Senate aides who are either under indictment or in prison or, according to this article, going to be indicted. But that is what happens when you are able to put in an earmark without anybody knowing about it, without any scrutiny, without any oversight, but directly related to the influence of the individual Member or staff member.

You can't make up these stories. You can't make them up. We have various staff members who became lobbyists, and obviously, as we know, we have former Members of Congress now residing in Federal prison. So I come to my opposition to these earmarks because it makes good people do bad things. A colleague from the other body, who was a great American hero, ended up making a list of the appropriations that he would get and the money that he would get in return, and now he resides in Federal prison.

May I also say we continue to hear that the President will do something about this. Last week Mr. Gibbs said we will see and hear the President outline a process of dealing with this problem in a different way and that the rules of the road going forward for those many appropriations bills that will go through Congress and come to his desk will be done differently. There is an easy way of doing that, Mr. President. Just authorize them. Just send these requests through the authorizing committees and have them authorized and you will never see the Senator from Arizona on the Senate floor again complaining about earmarks because then they will have done what we did for most of this Nation's history, and that is to authorize projects and then have the appropriators fund the projects. It is the way that the Congress should do business and the way we have gotten away from in recent years.

So I say to the President, if you really want to see something different, veto this bill. Just simply veto this bill and say: I am sending it back to you. Authorize those earmarks, don't put them in, all 9,000 of them.

I don't know if they are good or bad projects. I continuously see Members come to the floor on both sides of the aisle saying: This is a good project. This is a good project.

As you know, Mr. President, we are twittering over the top 10 every day—the top 10—and the responses we get are from local authorities to Members of Congress saying: This is a good, worthwhile project. Fine, get it authorized. Get it authorized and you will not hear a word of criticism from me.

Here we are, unemployment at 8.1 percent in February, the highest since late 1983—when we didn't do earmarks, 25 years ago—and employers having cut another 65,000 jobs. The Labor Department also reported that job losses in December were the biggest monthly decline in jobs since October 1949. So we are going to spend \$1.7 million for pig odor research—that has been bandied

about a lot—and \$6.6 million for termite research, \$1.9 million for the Pleasure Beach Water Taxi Service Project in Connecticut, \$951,000 for Sustainable Las Vegas. And the list goes on and on. I have talked about many of them.

The message is this: As we are in the most dire economic times since the Great Depression, in the view of many experts we are going to continue business here as usual with 9,000 earmarks for things which certainly do not have a priority for the American people at this time. So if the President really wants to change Washington, as soon as this bill reaches his desk he should veto it and send it back and say: Clean it up. Clean it up. Then let's fix the system, which is obviously badly broken.

I would remind my colleagues that back in January of 2007 we passed a pretty tough reform bill through the Senate, and then 7 months later, I believe it was, we then finally passed a much watered-down effort to bring in the porkbarrel earmark spending under control.

In the last week or so, the Senator from Wisconsin and I have introduced legislation which we call a line-item veto, which is more understandable but, frankly, is really an enhanced rescission. The President would issue a rescission and then the Congress would have to vote in order for it to take place.

There is another aspect of this, because I see my colleague from Alabama is here: policy changes. Policy changes have been enacted in an appropriations bill. Appropriations, as is the title, is funding for the Government. So what have we done? We have made changes in health care in both the stimulus package and in the omnibus bill; welfare changes, a number of changes that have been made in Government policy. There are several provisions that would weaken U.S. sanctions against the Castro regime in Cuba. That is a legitimate subject of debate. Why should it be put in an appropriations bill? The DC school vouchers, why should the vouchers for the District of Columbia schools, which provide financial assistance to 1,800 students in the District of Columbia who want to attend private elementary and secondary schools, why should that policy be changed under this bill?

NAFTA and trucking—you can argue whether we should allow Mexican trucks into the United States of America or not. It was part of the North American Free Trade Agreement many years ago. You could have that debate. But how can you rationalize a process that puts it into what is supposed to be an appropriations bill without debate or anything else?

We need to end this earmarking practice. We don't have the votes probably. I can count fairly well, not as well as some, but I can count fairly well. But I can tell you that this week's debate has aroused a lot of Americans. We

have heard from them. We have heard from them. They voted for change. They voted for change, and they are not getting change. They are getting business as usual. They are getting 9,000 porkbarrel earmark projects that have not received scrutiny nor authorization nor what they deserve if we are going to spend nearly \$8 billion of the taxpayers' money.

I would also like to respond to what one of my colleagues said—little porky projects. Another one said: Well, that is the way business is done. I would argue that it is time to do business differently.

An article appeared in the Chicago Tribune today entitled "Some Odor." The article said:

The bill may still pass this week and if it does, President Barack Obama is likely to sign it. But maybe, with the benefit of a few more days to digest how much this thing smacks of Washington business as usual, Democrats in Congress and the White House will feel some pangs of responsibility.

I ask unanimous consent to have printed in the RECORD this morning's Chicago Tribune article entitled "Some Odor," along with the Washington Post editorial this morning entitled "Truck Stop."

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

[From the Chicago Tribune, Mar. 9, 2009]

SOME ODOR

Democrats were pushing full speed ahead last week for the \$410 billion bill to finance the government for the rest of the year. That's the one that increases discretionary spending by 8 percent and is loaded with 8,570 earmarks worth \$7.7 billion. It's the one the White House has dismissed as "last year's business."

But Senate Majority Leader Harry Reid had to acknowledge Thursday night that he couldn't rustle up enough votes to break a Republican filibuster. He had to pull the bill.

And suddenly, \$1.7 million to study pig odor was in jeopardy. New Orleans might not get \$6.6 million to study termites. New York could have to forgo \$2.1 million to study grape genetics. California might have to struggle without \$200,000 for gang tattoo removal. Arkansas? No \$1.75 million for a fish hatchery visitors center. Texas? It could still study honeybees, but without \$1.7 million in federal money to do it.

All are earmarks in this spending bill.

The bill may still pass this week and if it does, President Barack Obama is likely to sign it. But maybe, with the benefit of a few more days to digest how much this thing smacks of Washington business as usual, Democrats in Congress and the White House will feel some pangs of responsibility.

[From the Washington Post, Mar. 6, 2009]

TRUCK STOP: CONGRESS FLASHES A YELLOW LIGHT ON FREE TRADE WITH MEXICO

PRESIDENT OBAMA seems to have resolved, for now, an incipient dispute with Canada over "Buy American" rules in the stimulus package. The law would have hurt Canadian steel exports to the United States, but, at the White House's insistence, Congress appended language that blunted the worst protectionist consequences. Now, however, Congress has turned on Mexico, the United States' other partner in the North American Free Trade Agreement. A \$410 bil-

lion omnibus spending bill contains a provision that would pretty much kill any chance that long-haul freight trucks from Mexico could operate in the United States, as had been promised under NAFTA.

Economically, giving U.S. and Mexican trucks reciprocal access to each other's markets makes a lot of sense. Currently, Mexican rigs can drive in only a small zone on the U.S. side of the border, where they must offload their goods onto U.S. trucks. The process wastes time, money and fuel, harming the U.S. environment and raising the cost of Mexican goods to U.S. consumers. Yet access for Mexican trucks has been bitterly resisted by U.S. interests, most notably the Teamsters union—which claims that poorly regulated trucks from south of the border would be a menace on U.S. highways.

In an effort to disprove that, the Bush administration promoted a pilot project under which Mexican trucks, screened by U.S. personnel, could operate freely within the United States. The Mexican trucks compiled a safety record comparable to that of American rigs. Mexican participation was limited, however, because of the political uncertainty. And safety was always a smokescreen for the Teamsters' real concern—economic turf—anyway. Now the Democratic majority on the Hill has slipped into the omnibus bill a provision killing the program. The provision seems certain to survive, given that the president supported such a measure when he was a senator; his transportation secretary, Ray LaHood, backed it as a member of the House.

When the U.S. economy needs all the help it can get, this legislation perpetuates inefficiency and invites Mexican retaliation against U.S. exports. To a world looking for signs that Democratic rule in Washington would not mean revived protectionism, this can only be a disappointment.

Mr. MCCAIN. The Washington Post article I just referred to states:

When the U.S. economy needs all the help it can get, this legislation perpetuates inefficiency and invites Mexican retaliation against U.S. exports. To a world looking for signs that Democratic rule in Washington would not mean revived protectionism, this can only be a disappointment.

So I object to this legislation on grounds that there are fundamental policy changes which should be debated and be the subject of separate legislation. I also object to the 9,000 earmarks that are in this legislation, which sends the message to the American people that we are doing business as usual.

I am encouraged to continue to hear the news that the President will issue rescissions. He will say we are not going to do business like this anymore. Well, the best way that the President can send the message is, after we pass this legislation, to veto it and send it back and ask for clean legislation.

I urge my colleagues to vote for my amendment, which separates this 1,844 pages, which was supposed to be originally just a statement of the managers but is now full of thousands of earmark projects, and at least not have those have the force of law.

I yield the floor.

Mr. LEVIN. Mr. President, there are many reasons to oppose the amendment offered by the Senator from Arizona, but a principal reason is that passage would not reduce Federal spending

by one dollar. The amendment would prohibit spending on specific programs mentioned in the statement of managers but not included in the statutory bill language. But the money would be appropriated and available to be spent as the executive branch sees fit. So voting for this amendment thinking it will reduce spending would be a vote cast on a false assumption.

I ask unanimous consent to have printed in the RECORD a memo to me by the Congressional Research Service. Part of that memo reads that prohibiting the use of funds for "projects referred to in the McCain amendment number 593 would not have the effect of reducing the spending provided in the measure." This is also true for the amendment which had been offered by the Senator from Oklahoma, Senate amendment No. 610. According to Congressional Research Service, "[t]he funds that might have been set aside for these projects could not be used to fund the projects, but would be available for other activities funded within the pertinent account."

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 9, 2009.
MEMORANDUM

To: Honorable Carl Levin, Attention: Jack Danielson
From: Sandy Streeter, 7-8653, Analyst on the Congress and Legislative Process
Subject: Spending Effect of Two Specified Senate Amendments

This memorandum responds to your request for the spending effect of S. Amdt. 610 and S. Amdt. 593 to the Omnibus Appropriations Act, 2009 (H.R. 1105).

The texts of the two amendments are provided below. Senate amendment 610 stated:

At the appropriate place, insert the following:

Sec. . Notwithstanding any other provision of this Act, none of the funds made available under this Act may be obligated or otherwise expended for any congressionally directed spending item for—

(1) the Pleasure Beach Water Taxi Service Project of Connecticut;

(2) the Old Tiger Stadium Conservancy of Michigan;

(3) the Polynesian Voyaging Society of Hawaii;

(4) the American Lighthouse Foundation of Maine;

(5) the commemoration of the 150th anniversary of John Brown's raid on the arsenal at Harpers Ferry National Historic Park in West Virginia;

(6) the Orange County Great Park Corporation in California;

(7) odor and manure management research in Iowa;

(8) tattoo removal in California;

(9) the California National Historic Trail Interpretive Center in Nevada;

(10) the Iowa Department of Education for the Harkin grant program; and

(11) the construction of recreation and fairgrounds in Kotzebue, Alaska.

On March 4, 2009, the Senate rejected the amendment by a vote of 34-61.

Senate amendment 593 would have a broader impact; it states:

At the appropriate place, insert the following:

SEC X PROHIBITION ON THE USE OF FUNDS.

None of the funds in this Act may be used for any project listed in the statement of

managers [joint explanatory statement] that is not listed and specifically provided for in this Act.

No Senate action has occurred on this amendment.

Total spending provided in the Omnibus Appropriations Act, 2009, generally equals the sum of numerous separate appropriations and obligation limitations as well as rescissions. The funding levels are provided in the text of the measure for individual accounts and would have statutory effect. The House and Senate Appropriations Committees provided more detailed instructions to agencies in a "joint explanatory statement" accompanying the bill. For example, the committees provided direction allocating funds within certain accounts for a variety of activities and projects. Such statements do not have any statutory effect and as a result, do not reduce spending provided in the accompanying bill. An amendment that would prohibit the use of funds for projects identified solely in a joint explanatory statement (including the 11 projects listed in S. Amdt. 610 and the projects referred to in S. Amdt. 593) would not have the effect of reducing the spending provided in the measure. The funds that might have been set aside for these projects could not be used to fund the projects, but would be available for other activities funded within the pertinent account.

If the provisions included in S. Amdt. 610 and/or S. Amdt. 593 become law, they would not have a direct effect on the spending provided in the Omnibus Appropriations Act, 2009.

If I can be of further assistance, please contact me.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Alabama.

AMENDMENT NO. 604

Mr. SESSIONS. Madam President, I ask unanimous consent to call up amendment No. 604, the E-Verify amendment. I believe it has been agreed to by the leaders.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 604.

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

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

The amendment is as follows:

(Purpose: To extend the pilot program for employment eligibility confirmation established in title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 for 6 years)

On page 1121, line 5, strike "143, 144," and insert "144".

On page 1121, between lines 10 and 11, insert the following

SEC. 102. Section 143 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329; 122 Stat. 3580) is amended by striking "shall" and all that follows through the end and inserting "is amended by striking '11-year' and inserting '17-year'".

Mr. SESSIONS. Madam President, when we recently worked on the stimulus package, I attempted, on three different occasions, to get a vote on my amendment which incorporated E-Verify provisions that were included in

the House version of the bill. I was extremely disappointed that all of my attempts were blocked by Democrats. The provisions I refer to were both unanimously accepted without a vote by the House Appropriations Committee. The provision that extended the E-Verify Program for another 4 years had, in addition to being included in the House-passed stimulus bill, overwhelmingly passed the House last July by a vote of 407 to 2.

The E-Verify system is the system that about 2,000 businesses a week are voluntarily signing up to use. Over 112,000 businesses are now using it voluntarily. They simply check a person's Social Security number when they make employment applications to verify they are lawfully in the country, and not here illegally.

The main purpose of the stimulus package was to put Americans back to work. It is common sense, therefore, to include a simple requirement that the people hired to fill stimulus-related jobs be lawful American citizens or residents. They could be here lawfully and obtain a job, whether through a green card or otherwise. The actions of the majority in blocking that amendment seems to be a clear signal that they are indifferent to the utilization of American tax money to hire people who are unlawfully in the country and indifferent to the fact that would deny an American citizen that job.

So I tried to offer the amendment that incorporated both the House provision to the Senate bill. But it was blocked. That was interesting, because the House had it in their bill, we did not have it in ours. We could not get a vote on it. Had we had a vote on it, I am certain it would have passed. But we did not get a vote on it.

When they went to conference, it was not in the Senate bill, but it was in the House bill. So one side or the other had to give. So what happened? The House gave. Speaker PELOSI and her team gave in and they took the language out.

So I did not think that was good. I am pleased now that at least we will get a vote, apparently, on that portion of the amendment that would reauthorize the E-Verify Program for an additional 5 years. I will be introducing soon a bill to make the E-Verify system permanent and make it mandatory for contractors who get contracts with the U.S. Government, get money from the U.S. taxpayers. Every one of them should be using this program. In fact, it should have been law already. That would include the TARP spending or other bills we are passing that spend taxpayers' money. At a minimum what employers should do is take the 2 minutes it takes to use E-Verify and determine whether a job applicant is legally authorized to work in the country.

Short-term extensions, such as the 6 month extension included in the underlying bill, are not the right way to go. It is baffling to me that we would go through the process of wanting to extend this program for 6 months. Why 6

months? If you are committed to it, if you understand, as almost every top official who has dealt with it understands, the E-Verify central component of creating a lawful system of immigration, a short term extension is simply unsatisfactory. E-Verify is a central component of eliminating the jobs magnet that draws people into our country illegally.

E-Verify is an on-line system operated by the Department of Homeland Security and the Social Security Administration. Participating employers can check the work status of new hires on line by comparing information from their I-9 form against the Social Security Administration and DHS databases. It is free and voluntary. It is the best means available for determining employment eligibility of new hires.

According to Homeland Security, 96 percent of employees are cleared automatically, and growth continues throughout the country voluntarily by businesses. As of February 2 of this year, there have been over 2 million inquiries run. In 2008, there were more than 6 million inquiries run. So we can see that those numbers are going up exponentially, since more than one-third of the number of inquiries made last year were already made from January 1 through February 2 of this year.

An employer who verifies work authorization under the E-Verify system will have established a rebuttable presumption that it did not knowingly hire an unauthorized alien. In other words, if law enforcement says you illegally hired someone knowing they were illegal and wants to prosecute, companies using E-Verify have a defense. That is one of the reasons people like to use it.

I was most disappointed to learn that on January 28 of this year, President Obama pushed back the implementation of Executive Order 12989 which would require all Federal contractors and subcontractors to use E-Verify. It was supposed to take effect on February 20, but now it has been pushed back to May 21.

Congress needs to act on this. My amendment that I called up today only incorporates one part of what we need to do, that is, a short 5-year extension. Though I do plan to offer the other provisions at some point later, it is imperative that we reauthorize this successful program which is currently set to expire when the CR runs.

It is important, particularly because of the economic downturn. The Bureau of Labor Statistics reported that the unemployment rate in February jumped to 8.1 percent, 651,000 jobs lost in January, which equates to roughly 12 million workers without jobs. This is the highest unemployment rate since the mid 1980s.

Immigration by illegal immigrants and other poorly educated aliens has had a depressing effect on the standard of living of lower skilled American workers. This is a matter of very little dispute. The U.S. Commission on Im-

migration Reform, chaired by the late civil rights pioneer Barbara Jordan, found that immigration of unskilled immigrants "comes at a cost to U.S. workers."

The Center for Immigration Studies has estimated that such immigration has reduced the wage of average native-born workers in a low-skilled occupation by 12 percent or almost \$2,000 annually. Is there any doubt about that? I do not think so.

In addition, Harvard economist George Borjas, himself a Cuban refugee, an immigrant who came here as a young man, has estimated that immigration in recent decades has reduced wages of native-born workers with a high school degree by 8.2 percent.

It also takes jobs. A report in today's USA Today cites to studies by the Heritage Foundation and the Center for Immigration Studies which found that according to their estimate, out of the 2.5 million jobs projected to be created by the stimulus plan, 300,000 would be going to people illegally here. That is approximately 15 percent.

Doris Meissner, in February of this year, former head of the INS under President Clinton, said this.

"Mandatory," this amendment does not make anything mandatory, but she said:

Mandatory employer verification must be at the center of legislation to combat illegal immigration . . . the E-Verify system provides a valuable tool for employers who are trying to comply with the law. E-Verify also provides an opportunity to determine the best electronic means to implement verification requirements. The Administration should support reauthorization of E-Verify and expand the program . . .

This is an expert in this. She knows that E-Verify is the cornerstone of the entire effort to clear a lawful system of immigration.

Mr. Alexander Aleinikoff, the Clinton administration INS official and President Obama's transition team member, called it a "myth" that "there is little or no competition between undocumented workers and American workers."

It is a myth. Of course it does. Of course it pulls down the wages of lower hard-working American citizens. They are competition.

Even the distinguished majority leader, Senator REID, has indicated he supports the program. In a time of increased unemployment, our focus should be on creating jobs for American citizens. It is critical that we extend the E-Verify Program in order to protect American jobs and to create a system we can be proud of.

Some critics have argued, the program is too cumbersome and costly. But in a recent letter to the Wall Street Journal, Mark Powell, a human resources officer executive for a Fortune 500 company, wrote this:

The E-Verify program is free, only takes a few minutes, and is less work than a car dealership would do in checking a credit score.

Well, that is correct. How else can you explain so many employers signing

up voluntarily. Recent improvements have also made the system more accurate. The USCIS has begun to incorporate Department of State passport information into the E-Verify program. This allows the system to check passport numbers for citizens providing a U.S. passport as Form I-9. Additionally, foreign born workers who receive a tentative nonconfirmation can now directly call USCIS instead of visiting a Social Security Administration office to resolve the case. Both of these measures are steps toward greater accuracy by eliminating any unforeseen delays in this system.

I will conclude by saying I hope our colleagues will consider this amendment and will all vote for it. It would represent, in my view, a statement that the fundamental electronic system that will help businesses, particularly those that are doing business with the Government, to ensure the applicant who applies with them for a job is lawfully in the country. That system would continue, and it would give encouragement for other businesses to voluntarily sign up for the program. There are 12 States that have made it mandatory. I think this is a good amendment. My amendment is not as far as we should go; it simply reauthorizes the program. It is time to do that. I believe our colleagues are prepared to vote for it. I certainly hope so. I think it would send a very bad message were we not to do so.

We need to make it clear this foundational system will be continued and will remain a part of our enforcement mechanism and we will continue to enhance it, improve it in the years to come.

I would note, of course, if someone shows up as not being lawful, and they cannot be hired, we do not have investigators or police or arrest warrants or jail for them. The employer simply denies their employment eligibility; they are not hired. That is not too much to ask. I think it is the right thing. It is good policy.

I urge my colleagues to support it. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, how much time remains?

The PRESIDING OFFICER. One minute remains prior to the debate on the McCain amendment.

AMENDMENT NO. 668

Mr. INOUYE. Madam President, I realize time is of the essence, so I will simply say I wish to oppose amendment No. 668, which was submitted by Senator ENZI, which would strip a hold-harmless provision enacted last year in the Ryan White Act, an act we passed several years ago to combat the spread of HIV/AIDS. It is an amendment that will cause some problems to the cities that are helping in this fight, and I hope my colleagues will oppose this amendment.

In 2006, the Ryan White Care Act programs were reauthorized, enacting

some dramatic shifts in the formula by which funds are disbursed to municipalities. Without increased funding, some cities were slated to have more than 25 percent of their funding cut.

To reduce the impact of these extreme cuts, the Labor HHS Appropriations bill has included provisions since 2006 that accomplish two things.

First, the bill has provided increases in the formula funds to offset the cuts.

Second, the bill included language in Part A providing a fully funded partial hold-harmless account.

As the formula funding is increased every year, the funding needed for the hold harmless is decreased. The fiscal year 2009 Omnibus Appropriations bill ensures that no municipality receives more than a 6.3 percent cut from fiscal year 2006 funding levels.

The fiscal year 2009 Omnibus Appropriations bill includes a \$35 million increase for Part A grants, of which \$10.8 million is used specifically to hold cities to no more than a 6.3 percent cut in their funding level.

The remaining \$25 million is used to increase the formula allotments as the second part of efforts to reduce the impact of the authorized shift in the formula.

The Enzi amendment seeks to stop the efforts to soften the blow to those geographical regions negatively impacted from the authorized shift in formula.

When the reauthorization was debated, the best information out there was that there were 40,000 new cases of HIV per year in the U.S.

In 2007, just after that reauthorization passed, we learned that number is really more than 56,000. Between 2004 and 2007, we saw a 15 percent increase in HIV diagnoses. We knew none of this when the reauthorization passed.

With this many new infections happening, we cannot afford to cut HIV treatment funding to any one area so drastically.

We are not overriding the formula. All we are doing is ramping down the funding gradually. As the formula funding increases, the need for the hold harmless decreases.

The Enzi amendment seeks to stop the ramp down approach and impose draconian cuts when our cities simply cannot afford to keep up.

I urge my colleagues to agree to the modest adjustment included in the underlying bill and vote no on the Enzi amendment.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 593

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to

a vote on amendment No. 593, offered by the Senator from Arizona, Mr. McCAIN.

Mr. INOUYE. I yield back the remainder of my time and ask for the yeas and nays.

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

Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Nebraska (Mr. JOHANNS).

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

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—32

Barrasso	DeMint	Lugar
Bayh	Ensign	Martinez
Brownback	Enzi	McCain
Bunning	Feingold	McCaskill
Burr	Graham	McConnell
Cantwell	Grassley	Risch
Chambliss	Gregg	Sessions
Coburn	Hatch	Thune
Corker	Inhofe	Vitter
Cornyn	Isakson	Voinovich
Crapo	Kyl	

NAYS—63

Akaka	Gillibrand	Nelson (NE)
Alexander	Hagan	Pryor
Baucus	Harkin	Reed
Begich	Inouye	Reid
Bennet	Johnson	Roberts
Bingaman	Kaufman	Rockefeller
Bond	Kerry	Sanders
Boxer	Klobuchar	Schumer
Brown	Kohl	Shaheen
Burris	Landrieu	Shelby
Byrd	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Cochran	Lincoln	Udall (CO)
Collins	Menendez	Udall (NM)
Conrad	Merkley	Warner
Dodd	Mikulski	Webb
Dorgan	Murkowski	Whitehouse
Durbin	Murray	Wicker
Feinstein	Nelson (FL)	Wyden

NOT VOTING—4

Bennett	Johanns
Hutchison	Kennedy

The amendment (No. 593) was rejected.

Mrs. BOXER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 630

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote on amendment No. 630, offered by the Senator from Arizona, Mr. KYL.

Mr. KYL. Colleagues, this amendment is very simple. It simply calls for a study by the Secretary of State and the DNI about whether additional U.S. taxpayer support out of the annual ap-

propriation for Egypt would aid in stopping smuggling activity from the Sinai into Gaza.

Egypt has been helpful to the United States but much more could be done. I put in the RECORD during my earlier remarks articles that demonstrate the degree to which Egypt is not helping. I think, therefore, those who argue this is a slap in the face at Egypt miss the point. Egypt has been recognized for its support, but it can do much more, and a mere study asking to identify what else it could do would be very appropriate when we are talking about spending U.S. taxpayer dollars.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, this amendment is unnecessary. As the senior Senator from New Hampshire and I both said on the floor this afternoon, the omnibus bill already explicitly authorizes the use of foreign military financing assistance to Egypt for border security programs and activities in the Sinai. Senator GREGG and I put that language in to help them police the border and reduce the smuggling into Gaza. Egypt is cooperating with Israel and the United States to do this. If we were to pass this it would be seen in Egypt as though we do not acknowledge their cooperation, it would be seen as publicly shaming Egypt.

Senators can vote against the Kyl amendment and still be on record supporting additional funds to stop smuggling into Gaza. That is already in the omnibus bill. This is an unnecessary roiling of the waters. Both Senator GREGG and I said this afternoon that it should be opposed.

Madam 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 the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Nebraska (Mr. JOHANNS).

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

The result was announced—yeas 34, nays 61, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—34

Alexander	Crapo	Kyl
Barrasso	DeMint	Martinez
Bayh	Ensign	McCain
Brownback	Enzi	McConnell
Bunning	Feingold	Murkowski
Burr	Graham	Nelson (NE)
Chambliss	Grassley	Risch
Coburn	Hatch	Roberts
Collins	Inhofe	
Cornyn	Isakson	

Sessions	Snowe	Thune
Shelby	Specter	Vitter
NAYS—61		
Akaka	Gillibrand	Murray
Baucus	Gregg	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Stabenow
Cantwell	Landrieu	Tester
Cardin	Lautenberg	Udall (CO)
Carper	Leahy	Udall (NM)
Casey	Levin	Voinovich
Cochran	Lieberman	Warner
Conrad	Lincoln	Webb
Corker	Lugar	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	Menendez	
Durbin	Merkley	Wyden
Feinstein	Mikulski	

NOT VOTING—4

Bennett
Hutchison

Johanns
Kennedy

The amendment (No. 630) was rejected.

AMENDMENT NO. 631

The PRESIDING OFFICER. There is 2 minutes of debate, equally divided, prior to a vote on amendment No. 631, offered by the Senator from Arizona, Mr. KYL.

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, this amendment deals with \$300 million in this bill that Secretary of State Clinton announced at the donors conference at Sharm el-Sheikh would go to support efforts of the Palestinians in Gaza.

The point of the amendment is to keep the money out of the hands of Hamas. Recognizing that this was important, there is a section of the bill that explicitly puts limitations on the money that flows to the Palestinian Authority to make sure it goes to the Palestinian Authority and not to Hamas or other terrorists.

The problem is, according to a State Department spokesman, other parts of the money are going to go to NGOs and through the U.N. including potentially to a bank in Syria, which launders money to get to Hamas.

The point of this amendment is to provide that the Secretary certify that none of this money goes to Hamas, whether it is through the Palestinian Authority or the U.N. or these NGOs. This amendment is necessary to protect American taxpayer money from getting to terrorist organizations such as Hamas.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am in complete agreement with the Senator from Arizona that no money should be diverted to Hamas. That is why the omnibus bill already does that. When Senator GREGG and I wrote this bill we included specific provisions. Section 7040(f) of the bill prohibits funding to Hamas, to any entity effectively controlled by Hamas, or to any power-sharing government.

When it comes to what the State Department might do, the State Depart-

ment lawyers have said they would not do anything differently if the Kyl amendment were adopted, because laws that protect against the diversion of funds to Hamas are already in the bill. You can vote against the Kyl amendment and still be on record as voting for blocking funds to Hamas. Nobody in this body, Republican or Democrat, wants any funds to go to Hamas. This is an unnecessary amendment. I oppose it.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Nebraska (Mr. JOHANNS).

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

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—39

Alexander	Ensign	McConnell
Barrasso	Enzi	Murkowski
Bond	Feingold	Nelson (FL)
Brownback	Graham	Nelson (NE)
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Casey	Inhofe	Sessions
Chambliss	Isakson	Shelby
Coburn	Klobuchar	Snowe
Collins	Kyl	Specter
Cornyn	Lieberman	Thune
Crapo	Martinez	Vitter
DeMint	McCain	Wicker

NAYS—56

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Gregg	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown	Kaufman	Schumer
Burris	Kerry	Shaheen
Byrd	Kohl	Stabenow
Cantwell	Landrieu	Tester
Cardin	Lautenberg	Udall (CO)
Carper	Leahy	Udall (NM)
Cochran	Levin	Voinovich
Conrad	Lincoln	Warner
Corker	Lugar	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	
Durbin	Merkley	Wyden

NOT VOTING—4

Bennett
Hutchison

Johanns
Kennedy

The amendment (No. 631) was rejected.

Mr. INOUYE. 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. 668

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote on amendment No. 668 offered by the Senator from Wyoming, Mr. ENZI.

Mr. ENZI. Mr. President, this amendment is an issue of the fairness of HIV/AIDS funding on which most of my colleagues who were here last year voted with me. With just those votes again, my amendment would be adopted.

When we passed the last reauthorization of Ryan White 3 years ago, we changed the formula to follow the HIV/AIDS patients. We did not just keep increasing the amounts the cities got. The amount had to relate to HIV or AIDS patients who were still living. We even put in a hold harmless clause so no one would lose more than 5 percent over the 3-year period. The reauthorization passed unanimously with the House agreeing with our changes.

This amendment does not affect Wyoming, but I am sensitive as chairman of the committee when we passed the reauthorization. The omnibus has a provision which, according to the GAO, only four States gain money. Of the \$10 million being redistributed, San Francisco gets \$6.7 million. New York, New Jersey, Connecticut, and California are the only States that gain. This is redistributed money, which means it is not new money. This is money being taken from those with an increasing problem to pay for those with a decreasing problem.

This language is an attempt to change a formula for which most of my colleagues voted. I ask my colleagues to vote for the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, when the reauthorization of the Ryan White legislation came through, the best scientists who testified before us said there were about 40,000 new cases of HIV in the United States. In 2007, just after the reauthorization passed, the number was more like 56,000.

Between 2004 and 2007, we saw a 15-percent increase in HIV diagnoses. So we put this formula in without knowing this information. Some of the cities, such as San Francisco and New York—I know Senator DODD told me about a couple cities in Connecticut that will get up to a 25-percent cut in Ryan White.

What we did was we put in this bill a \$35 million increase for Ryan White. Mr. President, \$25 million goes for the Enzi formula. About \$10.8 million goes to help hold harmless those largest cities that will be facing a 25-percent cut. We cannot afford to have these cities take that 25-percent cut.

If we want to go after the HIV/AIDS, we have to go where the people are diagnosed with HIV/AIDS. That is what this bill does.

I urge the defeat of the Enzi amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Nebraska (Mr. JOHANNS).

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

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—42

Alexander	DeMint	McConnell
Barrasso	Ensign	Murkowski
Bond	Enzi	Nelson (FL)
Brownback	Graham	Nelson (NE)
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Carper	Hatch	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Kyl	Specter
Collins	Lugar	Thune
Corker	Martinez	Vitter
Cornyn	McCain	Voinovich
Crapo	McCaskill	Wicker

NAYS—53

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Stabenow
Cantwell	Landrieu	Tester
Cardin	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Conrad	Levin	Warner
Dodd	Lieberman	Webb
Dorgan	Lincoln	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NOT VOTING—4

Bennett	Johanns
Hutchison	Kennedy

The amendment (No. 668) was rejected.

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

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

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

AMENDMENT NO. 637

Mr. BARRASSO. Mr. President, I call up amendment No. 637 and ask for its immediate consideration.

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

The clerk will report the amendment. The legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for himself, and Mr. ENZI, proposes an amendment numbered 637.

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

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

The amendment is as follows:

(Purpose: To remove the new application fee for a permit to drill)

On page 426, lines 18 through 22, strike “to be reduced” and all that follows through “each new application.”

Mr. BARRASSO. Mr. President, I would like to talk a minute, if I could, on my amendment.

Imagine you run a small company, a small, independent oil-and-gas operation in Wyoming, and you have about a dozen people you employ—people who are getting good benefits, people who have health insurance, people who have retirement benefits—and you are applying for a permit to explore for energy. As a result, people are going to be put to work, your business is going to grow, and the economy of your community is going to prosper.

Well, the success of your business strategy relies on the Government, unfortunately. It relies on the Government to process your application and to provide you with a response—is it OK to explore or is it not OK? The law says the Government has to let you know in 30 days up or down, yes or no, is it OK. Well, you have 30 days to get geared up. You are waiting for your response.

Now, Mr. President, when you put in that application, you also had to send in \$4,000—\$4,000 for each well. So if you are applying to do 10, that is \$40,000, but you know you are going to get your response in 30 days. Well, the calendar proceeds and the clock winds down and you begin checking your mail every day. Nothing arrives. Each day for 30 days you check your mail. Nothing. You have called the agency but no permit. They say they are deferring a decision. Another 30 days passes. Nothing. You wait another 90 days and still no permit. You have paid your \$4,000 but no permit.

Half a year has passed—as has happened to many people in Wyoming—and what do you have? Nothing. You have sent in \$4,000, you have waited 6 months, the Government has promised you an answer in 30 days, and you have nothing—not a yes, not a no, nothing.

That is the situation that small business owners in my State are facing every day. It is a sad state of affairs when the Government can't meet its own deadline.

Meanwhile, the backlog of these permits at the Bureau of Land Management continues to grow. As of February 14 of this year, in the field office in Buffalo, WY, Johnson County, the Bureau of Land Management has over 2,600 applications for permits that are still pending—2,609 permits still pending. For those applications in Buffalo, WY, Washington has collected \$4,000 per permit. That is over \$10 million. The energy producers in Wyoming continue to wait for an answer.

America's independent producers drill and manage 90 percent of America's wells. They produce 82 percent of America's natural gas and 62 percent of American oil. There are approximately 5,000 of these independent producers in the United States, and on average they have about a dozen employees. These are small businesses. These small business men and women create jobs in the United States. These folks are entre-

preneurs whose hard work and innovative skills are integral to meeting our Nation's energy needs.

The fees to apply for a permit place an especially heavy burden on small independent producers without any tangible benefit whatsoever. Congress should be focused on promoting job growth not on imposing additional fees on U.S. energy investment and production. Unfortunately, the fee is just the beginning of what these independent producers are facing. The administration has already moved to restrict oil-and-gas exploration and development in the United States. The administration is proposing more fees, more taxes, and more restrictions on these activities. None of this will make the United States more energy independent. None of the administration's proposals will make the Federal Government operate more efficiently.

I have talked to a number of these folks who are in this business, and they tell me if the money that was collected from this application fee—this \$4,000 per permit—were actually used to hire more people to help process the permits, then they could actually understand there is some purpose in this fee, that it is being used to help with studying this, looking at this, getting more people to work through these 2,600 applications for permits, for which they still have no answer.

Unfortunately, that is still not the case. The fee doesn't go to the Bureau of Land Management to reduce the permit backlog. It doesn't go to hire more people to look at these permits, to say if we should give them a yes or a no.

At the very least, all of the revenue should be spent on reducing this permit backlog so that the Government can keep its word to let people know in 30 days yes or no, up or down. Instead, this money is going into the Washington black hole.

So I urge my colleagues to support this amendment. We should not be rewarding the inefficiency of Washington and the way this Government is currently working.

Mr. President, I yield the floor.

Mr. WARNER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 637) was rejected.

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

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

The motion to lay the table was agreed to.

PROJECT ATTRIBUTION CORRECTION

Mr. BOND. Mr. President, I rise today to join with our chair, Senator MURRAY, in a colloquy to correct a clerical error in the attribution table accompanying division I of H.R. 1105. Senator BARRASSO is listed as having requested the “Casper Civic Auditorium” project under HUD Economic Development Initiatives. My staff has confirmed that this project was not requested by Senator BARRASSO and, as

such, Senator BARRASSO's name should not be listed as a requestor.

Mrs. MURRAY. My colleague and subcommittee ranking member, Senator BOND, is correct. This resulted from a clerical error involving confusion between two different projects in the city of Casper. Senator BARRASSO should not be listed as a sponsor of the Civic Auditorium project.

Mr. BOND. I thank the chair for her assistance in this matter.

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, March 10, tomorrow, after the opening of the Senate, the Senate resume consideration of H.R. 1105; that the remaining amendments be considered, debated, and that after all debate is concluded on the remaining amendments, the Senate then proceed to vote in relation to the amendments in the sequence established under a subsequent order, with 2 minutes of debate equally divided and controlled in the usual fashion prior to a vote in relation to each; and that after the first vote in the sequence, remaining votes be limited to 10 minutes each; that upon the disposition of all remaining amendments, there be 30 minutes of debate prior to a vote on the motion to invoke cloture on H.R. 1105 that will be equally divided and controlled between the leaders or their designees, with the remaining provisions of the order of March 6, 2009, remaining in effect.

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

Mr. REID. What this means is we will tomorrow debate all of the amendments. I think there are seven left. A number of those may not be brought to a vote. After the debate is completed, we will set a time to start voting, and we will go right through the sequence as indicated in the unanimous consent order.

It should work out very well. Everyone has had an opportunity to offer the amendments they want that are on the list.

EXECUTIVE SESSION

NOMINATION OF DAVID W. OGDEN TO BE DEPUTY ATTORNEY GENERAL

Mr. REID. I now move to executive session to consider Calendar No. 21, the nomination of David Ogden to be Deputy Attorney General.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of David W. Ogden, of Virginia, to be Deputy Attorney General.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 nomination of David W. Ogden, of Virginia, to be Deputy Attorney General.

Harry Reid, Patrick J. Leahy, Sheldon Whitehouse, Richard Durbin, Charles E. Schumer, Ron Wyden, Patty Murray, Amy Klobuchar, Debbie Stabenow, Bernard Sanders, Russell D. Feingold, Benjamin L. Cardin, Dianne Feinstein, Daniel K. Akaka, Herb Kohl, Jon Tester, Edward E. Kaufman.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. I regret that we need to file cloture on the nomination of David Ogden to be the Deputy Attorney General.

Mr. Ogden is eminently qualified for this job. He is a graduate of Harvard Law School and clerked on the Supreme Court for Justice Harry Blackmun. During the Clinton Administration, he served as the Assistant Attorney General for the Civil Division and as Chief of Staff to the Attorney General. He is currently a partner in a major Washington law firm.

His nomination was reported favorably by the Judiciary Committee by a vote of 14-5, with 3 Republicans including Ranking Member SPECTER supporting him. So there is little doubt cloture will be invoked and he will be confirmed.

As I understand it, the argument of those who oppose him is that he took positions on behalf of law firm clients that some members do not agree with. In my view, that is an unfair basis for opposing a nominee.

In any event, it is unfortunate we could not enter into a unanimous consent agreement to debate the nomination and have a simple up/down vote. President Obama deserves to have his advisors, especially members of his national security team, in place as quickly as possible. If we are forced to file cloture on nominees who are obviously going to be confirmed, we are wasting up valuable time that should be used to address the pressing problems facing the nation.

LEGISLATIVE SESSION

Mr. REID. I now move that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF AUSTAN DEAN GOOLSSEE TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS

Mr. REID. Mr. President, I now move to executive session to consider Cal-

endar No. 15, the nomination of Austan Dean Goolsbee to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Austan Dean Goolsbee, of Illinois, to be a member of the Council of Economic Advisers.

CLOTURE MOTION

Mr. REID. I now send a cloture petition to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 nomination of Austan Dean Goolsbee, of Illinois, to be a Member of the Council of Economic Advisers.

Harry Reid, Christopher J. Dodd, Patrick J. Leahy, Sherrod Brown, Byron L. Dorgan, Jack Reed, Jeff Merkley, Michael F. Bennet, Charles E. Schumer, Amy Klobuchar, Richard Durbin, Patty Murray, John F. Kerry, Sheldon Whitehouse, Ben Nelson, Jeff Bingaman, Herb Kohl.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

LEGISLATIVE SESSION

Mr. REID. Mr. President, I now move that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF CECILIA ELENA ROUSE TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS

Mr. REID. I now move to executive session to consider Calendar No. 16, the nomination of Cecilia Elena Rouse, of California, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Cecilia Elena Rouse, of California, to be a member of the Council of Economic Advisers.

CLOTURE MOTION

Mr. REID. I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been filed pursuant to rule XXII, the clerk will report the motion.

The assistant legislative clerk read as follows: