

EXECUTIVE SESSION

each year in the State. That is why we need this bill. Promoting tourism, bringing in travelers to visit Illinois and the Nation creates job opportunities, tax revenues and, frankly, gives us a chance to show off a great nation.

I could go through the long list of wonderful things to see in Illinois—and it is long—but trust me, it is a story that can be told in virtually every State in the Nation, and certainly here in our capital.

There are those who argue about the \$10 promotion fee, which is a small price to pay to promote people coming from overseas, who will spend much more than that to visit our country and join in the wonderful opportunities we have to offer.

As we come to a conclusion on the bill, I want to spend a moment to acknowledge the work of the majority leader, HARRY REID, who worked tirelessly with Senators DORGAN and ENSIGN. He was an early and strong supporter of the Travel Promotion Act, recognizing how important travel is to the United States and to our economy. He worked hard to make sure there was a place on the crowded legislative calendar for us to take up this bill.

Travel and tourism are a major industry in Senator REID's home State of Nevada, and enacting this legislation will save and create thousands of jobs in Nevada and help generate millions of dollars in revenue and tax receipts. Senator REID has been committed to this legislation since it was introduced, and he will shepherd this legislation to the President's desk. With his leadership, we have another chance to move this bill on the floor of the Senate. We failed to reach cloture in June, and some people gave up, but HARRY REID never gave up. He worked with the sponsors to move this forward. He recognizes that the travel sector is a major driver in economic growth in Nevada and across America. He found a way to rescue this bill, bring it back to life, and bring it up for today's vote. For his vision, his tenacity, and his leadership, we all owe a great debt of gratitude to Senator HARRY REID of Nevada.

This Travel Promotion Act is a major part of his work in the Senate, not only to help America, but his home State of Nevada.

I yield the floor, suggest the absence of a quorum, and I ask that the time be divided equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF CASS R. SUNSTEIN TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, as chairman of the Committee on Homeland Security and Governmental Affairs, I am pleased to both express my unqualified support for the nomination of Cass Sunstein to lead the Office of Information and Regulatory Affairs, which is known in government circles as OIRA, and also to favorably report the nomination out from our Homeland Security Committee.

This nomination was considered and reported out by the committee on May 20. That was almost 3½ months ago. But unfortunately, Professor Sunstein's nomination has been the subject of unnecessary holds and delays. This is an important position that needs to be filled.

I thank Majority Leader REID for bringing this important nomination to a vote. Obviously, there was a filibuster, and we will now need to invoke cloture so Professor Sunstein can get on with the important job that President Obama has nominated him to do for our country and each one of us.

OIRA is one of those governmental agencies that has a low public profile but exerts high influence over the workings of government and therefore the daily lives of most Americans.

In Congress, we pass laws that express our values, that draw lines between what is right and wrong, what is desirable and undesirable for our society. But because we cannot ever foresee every permutation of the law or its effect, we must leave many of the details to the executive branch and its regulatory actions or implementation of the laws we pass.

For over a quarter of a century now, Presidents of the United States have asked OIRA to help oversee and coordinate this critical regulatory process. Thus, OIRA has a huge impact on the widest range of problems, as wide as the purview of our government itself, including the health and safety of every American and the health and stability of the American economy.

In Professor Cass Sunstein, the President has found someone with exceptional qualifications and talent, capable of leading OIRA in a positive direction to fulfill Congress's intention in the adoption of laws.

When he began teaching at Harvard Law School in 2008, after a distinguished career teaching and residing in the city of Chicago, which is ably represented by the occupant of the chair, his new employers at Harvard announced that they had secured for their faculty "the preeminent legal

scholar of our time, the most wide-ranging, the most prolific, the most cited, and the most influential." As a graduate of Yale Law School, I was initially quite suspect of those superlatives. The truth is that those words of Elena Kagan, then dean of Harvard, now Solicitor General of the United States, are validated by the extraordinary record of Professor Cass Sunstein. He has taught and written about many subjects, including particularly regulation, the management of risk, and, in fact, OIRA itself.

Our committee conducted a thorough review of Professor Sunstein's writings and his background, and he has met individually with me, Senator COLLINS, our ranking member, and most other members of the committee. We held a confirmation hearing on this nomination on May 12 of this year, at which the members of our committee thoroughly questioned Professor Sunstein about his views on several important matters. And I believe he responded directly, sincerely, and addressed each of the members' concerns.

For example, I wanted to be sure his previous advocacy for a rigorous implementation of cost-benefit analysis to regulations did not mean that OIRA under his leadership would interfere with the agency's issuing of regulations necessary to protect public health and safety. Professor Sunstein convinced me in his answer that he would diligently support the purposes of laws to protect public health and safety as adopted by Congress and signed by the President.

Because Professor Sunstein is brilliant, creative, and prolific, he has written some things that are unconventional and, for some, controversial. I believe when asked about each of those matters he answered sincerely and fully and reassuringly.

For example, hunters were concerned about Professor Sunstein's views on gun rights. He made very clear he believes the second amendment creates an individual right to possess guns for hunting and self-defense. To farmers and others concerned with his previous writings and comments on cruelty to animals, Professor Sunstein has said he would take no steps to promote litigation on behalf of animals, which some concluded was his position based on a provocative article he wrote, and that he has no plans, certainly, to regulate animal husbandry.

So this is a bright, thoughtful, creative man who, as a professor, has written some provocative, unconventional ideas. I suppose if one wanted to take advantage of them for one's own purposes, to politicize, in some sense, or ideologize, in some sense, this nomination, one might seize on those. But at bottom, this is a person extraordinarily well qualified for this position.

I will say he has been endorsed by the American Farm Bureau Federation, insofar as concerns of the agricultural community are concerned. He met with them, and he answered their questions. They said:

. . . we hope the Senate can take up this nomination in the near future and all Senators will vote to confirm him in this post.

Professor Sunstein has also won the public endorsement of a variety of groups, including the U.S. Chamber of Commerce and the National Association of Manufacturers which has concluded, based on his writings and their meetings with him, that he will be fair and not antibusiness, anti-economic growth in this important position.

As for myself, after meeting with this distinguished, thoughtful, and very gentlemanly individual, listening to him at our hearings, seeing how he has responded thoroughly and forthrightly to those who have approached him with their concerns, I am convinced Professor Sunstein has superior qualifications for this office and a strong commitment, if concerned, to guide OIRA in conformity with the law and the public interest above all. That is why I urge my colleagues to support cloture and to support this nomination.

Mr. President, I am pleased to see the senior Senator from Minnesota. I yield to her at this time.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today to talk about Cass Sunstein and his qualifications to be Administrator of the Office of Information and Regulatory Affairs. I thank Senator LIEBERMAN for his leadership. I am going to try not to say the word "OIRA" in my remarks because it is a very difficult agency, and no one is quite sure what it does. But I can tell you it does something very important, which is to cut through the redtape for citizens and to try to get some sensible rules for this country.

How do I know Cass Sunstein? Back in the 1980s I was privileged to have him as my law professor at the University of Chicago. I took his administrative law class, and he was also my adviser on the law review.

His career as a legal scholar was just beginning to take off, but he was already making a very strong impression as a teacher. I think many of my fellow classmates believed he was, in fact, their favorite teacher.

When we first saw Cass Sunstein in class, he looked like a boy in a man's suit. He was so thin but with such enthusiasm. These were the days before white boards, and he would always get a lot of white chalk on his black suits, which he seemed oblivious to, but he was far from an absent-minded professor. He would race along a mile a minute in his lecture, a fountain with a never-ending stream of ideas. He was never boring, which is a tough standard for law students.

Today Professor Sunstein is one of the Nation's most thoughtful and respected legal scholars with a distinguished record of accomplishments. He is a graduate of Harvard Law School, a law clerk to Supreme Court Justice Thurgood Marshall, a professor at the

University of Chicago for 27 years, the author and coauthor of more than 15 books and hundreds of scholarly articles.

By a large margin, Cass Sunstein is the most cited scholar on any law faculty in the United States of America. One envious observer said:

If you look at what he's written and done, he should be 900 years old.

What are the concerns of his academic work? The overriding concern is we have smart, science-based, cost-effective policies to protect public health and safety, to promote energy security, and to strengthen our economy and financial system.

In a recent book Professor Sunstein coauthored called "Nudge," he wrote that by knowing how people think, we can design rules and policies that make it easier for Americans to choose what is best for themselves and their families. In other words, Cass Sunstein believes the best types of rules and regulations are the ones that encourage American consumers and businesses to make good decisions without demanding that they do so.

I thought a lot about his work when Congress debated the first-time home buyers tax credit which helped spur home sales after months of decline again. Again, if you shape policies and programs that are easy to understand, that provide incentives, that give Americans control over their fate, you get the right results.

That is why it is so important we confirm Cass Sunstein to this critical post. His pragmatic, sensible approach to policy and regulation will help make our Federal agencies work smarter and ensure that our government works better for our citizens and for our businesses.

It is no surprise to me, as Senator LIEBERMAN just discussed, the kind of support that Cass Sunstein has gathered. The Wall Street Journal editorial board has been positive about his nomination. You have heard the support from the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Farm Bureau Federation, 13 Nobel Prize winners, and C. Boyden Gray, who served as White House Counsel under both Presidents Bush.

While all these individuals and organizations are supportive, what they say about Cass Sunstein is what I have always known about him. He is a pragmatist. He cares about ideas, but ultimately he cares about the right results.

I have heard time and time again from the people in my State office about the redtape and regulations citizens run into on an everyday basis with the U.S. Government. It is time to put someone in this job who actually sees that connection, is able to connect human behavior with what those rules are, and make those rules make some sense. He has the intellect, the ability, and the force to get this done, and I am proud to support his nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, first, I thank Senator KLOBUCHAR for those very thoughtful and, I thought, compelling words in support of Professor Sunstein's nomination. They were both thoughtful and personal, and that matters a lot. I thank her for taking the time to come and speak on this important nomination.

I thought it might be helpful if I read from a few of the letters of endorsement of Professor Sunstein because this is one of those nominations that I think has become unnecessarily controversial. A rule I have always tried to apply—I think I have done it pretty well over the years, playing it uniformly—is when, as a Senator, we exercise our authority to advise and consent, the judgment for us to make is not whether we would have nominated that person to that office but whether on due consideration we conclude that nominee is within an acceptable range and capable of fulfilling that job. That is quite a different situation.

One might agree or disagree, let's put it that way, with Professor Sunstein on one or another thing he has written in a remarkably productive, prolific career, but one would have to decide if he is unqualified for this position, not just that he wouldn't be your first choice but seems to be he is unqualified or there is a level of risk in fulfilling it that even if he was qualified, one would vote against it.

I want to reassure my colleagues. I mentioned the American Farm Bureau Federation because there had been concern in the Agriculture Committee. I read a letter from Bob Stallman, president of the American Farm Bureau Federation:

Like others in the agriculture community, we were concerned about reports related to Mr. Sunstein's views on animal rights and the impact that could occur should such views be reflected in Federal regulations. We have, however, had the opportunity to discuss this subject in person with Mr. Sunstein. He has been candid, forthright and very open about how he views his role in OIRA. He has shared his perspective on the issues in question and stressed that he would not use his position to undermine further law or further policies inconsistent with congressional directives.

I quoted in my opening statement of the president of the American Farm Bureau Federation:

. . . we hope the Senate can take up this nomination in the near future and that all Senators will vote to confirm him in this post.

Second, a very different association and important one in our country is the Chamber of Commerce of the United States of America, and in a letter from R. Bruce Josten, the first paragraph says:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations—

He says about the nominee—

Over the course of an impressive career as a legal academic, Professor Sunstein has made important contributions in such diverse areas as environmental law, behavioral economics, and consumer safety. Through his work, he has improved our understanding of the law and public policy in a continuing effort to improve the ability of government to beneficially impact the lives of its citizens.

As OIRA Administrator, Professor Sunstein is almost certain to apply a thoughtful approach to regulatory oversight and review. His extensive writings and teachings provide a useful blueprint of his pragmatic approach to regulation, including his continued defense of cost-benefit analysis as a tool for developing rational regulation. His approach is not influenced by an ideological predisposition.

I repeat, from Bruce Josten, executive VP of the Chamber of Commerce:

His approach is not influenced by an ideological predisposition—to the contrary, his writings show a strong commitment to a balanced review that is biased neither in favor of nor against regulation.

By all accounts, Professor Sunstein is a man of personal integrity and formidable intellectual prowess, and the Chamber applauds his willingness to suspend an exceptional academic career in order to serve his country.

Mr. Josten concludes by saying:

The Chamber urges you to expeditiously confirm Professor Sunstein as Administrator of OIRA.

I need not tell my colleagues in the Senate that the Chamber of Commerce is a probusiness group, and if they believed Cass Sunstein as OIRA Administrator would harm business entrepreneurship, economic growth, and the free market in our country, they would say so, loudly and clearly. But they did not say so. They did not just remain silent. The Chamber of Commerce of the United States said Cass Sunstein is qualified by his writings, he is fair, and they urge us to confirm this nomination.

I have a similar letter from the National Association of Manufacturers, Rosario Palmieri, vice president of NAM, writing to Senator COLLINS and me:

. . . I am writing to offer our support for the confirmation of Cass Sunstein to be Administrator of the Office of Information & Regulatory Affairs in the Office of Management & Budget. . . .

The NAM [National Association of Manufacturers] has supported nominees to OIRA under both Republican and Democratic presidents. The office plays a crucial role in agency prioritization, paperwork reduction, and regulatory review. Cass Sunstein, in particular, is deserving of confirmation because of his keen intellect, expertise in the fields—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I thank the Chair.

The bottom line is that Professor Sunstein is supported by many groups, including those who some might think would have opposed him. I hope my colleagues will support this nomination in the vote to come and on final passage.

I thank the Chair, and I yield the floor.

Ms. COLLINS. Mr. President, I rise to discuss the nomination of Professor Cass Sunstein to be Administrator of the Office of Information and Regulatory Affairs, OIRA.

Professor Sunstein's nomination has been endorsed by a number of groups, including the Farm Bureau, the Chamber of Commerce, and the National Association of Manufacturers.

I will ask consent to have letters of support from these organizations printed in the RECORD following my remarks.

While many people outside of Washington have never heard of this office, it can have an enormous influence on our everyday lives. Through the process of regulatory review, OIRA—as it is known in Washington—plays an integral role in the rulemaking process. The office advises agencies as rules are developed and then reviews the methodologies used to develop and justify these rules.

Professor Sunstein has extensively studied government regulation and the various methods that can be used to evaluate regulatory effectiveness. During his confirmation hearings, I noted several core principles that seem to underpin Professor Sunstein's work.

He advocates greater transparency in the regulatory process. One of his recommendations is that agencies be required to better justify decisions to regulate, particularly when the costs of regulations appear to exceed the benefits. That makes sense to me.

Professor Sunstein strongly supports the use of cost-benefit analysis as a tool for evaluating regulation. At the same time, he recognizes that such analysis has limitations when it comes to considering intangible costs and benefits.

Recently, Professor Sunstein has proposed an alternative to more draconian "command-and-control" regulation. In his book "Nudge," he makes a compelling case for regulation that does not dictate actions but instead encourages certain behavior without limiting personal freedoms. This "nudging" can promote societal goals without depriving individuals or organizations of other choices.

As with many nominees who make the transition from academia to government service, Professor Sunstein will find that as he steps from the world of theory into the realm of practice, not every idea discussed in the classroom can be easily converted into government policy—nor should it be. During his confirmation hearing, Professor Sunstein and I discussed several provocative statements he has made in the course of his career, statements that are troubling on their face.

I was deeply concerned, for example, by his past comment that hunting

should be banned. When I questioned Professor Sunstein on this statement, he responded as follows:

Hunters are among the strongest environmentalists and conservationists in the United States. And it would be preposterous for anyone in a position like mine to take steps to affect their rights or their interests.

In a July 14, 2009, letter to Senator CHAMBLISS, Professor Sunstein promised to respect second amendment rights if confirmed as OIRA Administrator. Professor Sunstein explained:

I strongly believe that the Second Amendment creates an individual right to possess and use guns for purposes of both hunting and self-defense. I agree with the Supreme Court's decision in the Heller case, clearly recognizing the individual right to have guns for hunting and self-defense. If confirmed, I would respect the Second Amendment and the individual right that it recognizes.

I was also concerned by several law review articles in which Professor Sunstein made the bizarre statement that animals be given standing to sue in court—allowing "representatives" to sue on an animal's behalf. In response to questions on this subject during his confirmation hearing, Professor Sunstein clarified that he was suggesting this as a means by which existing animal cruelty laws could be enforced by civil suits. In a letter to me on this issue, Professor Sunstein further stated:

I have no personal plans to regulate farm animal husbandry in any way. If confirmed, and if the Department of Agriculture were to propose any regulations in that domain, I would work with the Department to ensure that any proposed regulations follow the law and fit with the priorities of the President—and that they take full account of the pressing needs of America's farmers and ranchers and the countless consumers who benefit, every day, from their remarkable efforts.

I will consent to have Professor Sunstein's letter printed in the RECORD following my remarks.

I know that a number of my colleagues have shared these concerns or raised other concerns based on Professor Sunstein's extensive bibliography. I understand that Professor Sunstein has made himself available to meet with Senators to discuss those concerns and has in some cases provided written clarifications of his positions. I expect that when confirmed as OIRA Administrator, he will continue to be as accessible and responsive to this Congress.

On balance, I support Professor Cass Sunstein as Administrator of the Office of Information and Regulatory Affairs.

Mr. President, I ask unanimous consent to have letters of support and Professor Sunstein's letter, to which I referred, printed in the RECORD.

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

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, June 23, 2009.

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

Hon. MITCH MCCONNELL,
*Republican Leader, U.S. Senate,
Washington, DC.*

Hon. JOSEPH LIEBERMAN,
*Chairman, Committee on Homeland Security
and Government Affairs, U.S. Senate,
Washington, DC.*

Hon. SUSAN COLLINS,
*Ranking Member, Committee on Homeland Security
and Government Affairs, U.S. Senate,
Washington, DC.*

DEAR LEADERS REID AND MCCONNELL,
CHAIRMAN LIEBERMAN AND RANKING MEMBER
COLLINS: The U.S. Chamber of Commerce,
the world's largest business federation representing
more than three million businesses and organizations
of every size, sector, and region, urges you to confirm
Professor Cass Sunstein as Administrator of the Office
of Information and Regulatory Affairs (OIRA) within
the Office of Management and Budget.

Over the course of an impressive career as a legal
academic, Professor Sunstein has made important
contributions in such diverse areas as environmental
law, behavioral economics, and consumer safety. Through
his work, he has improved our understanding of the
law and public policy in a continuing effort to
improve the ability of government to beneficially
impact the lives of its citizens.

As OIRA Administrator, Professor Sunstein is
almost certain to apply a thoughtful approach to
regulatory oversight and review. His extensive
writings and teachings provide a useful blueprint
of his pragmatic approach to regulation, including
his continued defense of cost-benefit analysis as a
tool for developing rational regulation. His approach
is not influenced by an ideological predisposition—
to the contrary, his writings show a strong
commitment to a balanced review that is biased
neither in favor of nor against regulation.

By all accounts, Professor Sunstein is a man of
personal integrity and formidable intellectual
prowess, and the Chamber applauds his willingness
to suspend an exceptional academic career in order
to serve his country. The Chamber urges you to
expeditiously confirm Professor Sunstein as
Administrator of OIRA.

Sincerely,

R. BRUCE JOSTEN,
*Executive Vice President,
Government Affairs.*

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, June 22, 2009.

Hon. JOSEPH LIEBERMAN,
*Chairman, Senate Committee on Homeland Security
and Government Affairs, Dirksen Building,
Washington, DC.*

Hon. SUSAN COLLINS,
*Ranking Member, Senate Committee on Homeland
Security and Government Affairs,
Dirksen Building, Washington, DC.*

DEAR CHAIRMAN LIEBERMAN AND RANKING
MEMBER COLLINS: On behalf of the National
Association of Manufacturers (NAM) and the
millions of Americans our members employ,
I am writing to offer our support for the
confirmation of Cass Sunstein to be Administrator
of the Office of Information & Regulatory
Affairs (OIRA) in the Office of Management
& Budget. Thank you for the swift
work of your Committee to report Professor
Sunstein favorably to the full Senate.

The NAM has supported nominees to OIRA
under both Republican and Democratic presi-

dents. The office plays a crucial role in agency
prioritization, paperwork reduction, and
regulatory review. President Obama said
that the office offers a "dispassionate and
analytical 'second opinion' on agency actions."
We believe that function is especially crucial
during the economic crisis we face and to
preserve high wage jobs from being lost
due to unnecessary or thoughtless government
action.

Cass Sunstein, in particular, is deserving
of confirmation because of his keen intellect,
expertise in the fields of administrative and
environmental law, and his commitment to
fair and reasoned deliberation of issues that
will come before him. Under an Administrator
Sunstein, all sides will be given a fair
hearing and a real opportunity to impact the
final analysis of an issue.

We stand ready to assist in ensuring
confirmation by the full Senate of Cass
Sunstein.

Sincerely,

ROSARIO PALMIERI,
*Vice President,
Infrastructure, Legal & Regulatory Policy.*

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, September 1, 2009.

TO ALL U.S. SENATORS

DEAR SENATOR: Earlier this year, the Senate
received the nomination of Cass Sunstein to
serve as administrator of the Office of Information
and Regulatory Affairs (OIRA) within the Office
of Management and Budget. This office plays a
vital role in determining the final disposition
of regulations, in particular environmental and
natural resource proposals that have a direct
impact on the agricultural community. Accordingly,
Farm Bureau has a strong interest in the
individual that will fill the role of administrator
of that office.

Like others in the agricultural community,
we were concerned about reports related to
Mr. Sunstein's views on animal rights and the
impact that could occur should such views be
reflected in federal regulations. We have,
however, had the opportunity to discuss this
subject in person with Mr. Sunstein. He has
been candid, forthright and very open about
how he views his role in OIRA. He has shared
his perspective on the issues in question and
stressed that he would not use his position to
undermine federal law or further policies
inconsistent with congressional directives.

Based on our discussions with Mr. Sunstein,
Farm Bureau has no objection to his confirmation
to the position of administrator of OIRA and
we hope the Senate can take up this nomination
in the near future and that all senators will
vote to confirm him to this post.

Sincerely,

BOB STALLMAN,
*President,
American Farm Bureau Federation.*

MAY 20, 2009.

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

DEAR SENATOR COLLINS: Thank you for your
support and the work of your staff throughout
the confirmation process. I am honored by the
Committee's vote today and the opportunity to
serve the Nation as the Administrator of the
Office of Information and Regulatory Affairs.

I understand that a question may have
arisen recently about my views on the regulation
of farming and farm animals. I have no
personal plans to regulate farm animal
husbandry in any way. If confirmed, and if the
Department of Agriculture were to pro-

pose any regulations in that domain, I would
work with the Department to ensure that any
proposed regulations follow the law and fit
with the priorities of the President—and that
they take full account of the pressing needs
of America's farmers and ranchers and the
countless consumers who benefit, every day,
from their remarkable efforts. The focus of
my academic work on animal welfare is not
regulation of agriculture, but existing state
anticruelty laws (over which OIRA has no
authority). My work as Administrator, if I
am confirmed, would reflect the law and the
President's priorities.

Thank you again for your support throughout
this process.

Sincerely,

CASS R. SUNSTEIN.

Mr. BUNNING. Mr. President, I rise today to
speak on the nomination of Mr. Cass Sunstein
to the Office of Management and Budget's Office
of Information and Regulatory Affairs, OIRA. Most
Americans have never heard of OIRA, but it has
great influence on the daily lives of all
Americans. OIRA is responsible for the execution
of a wide range of government policies and
regulations with its oversight of the executive
branch rulemaking. In other words, the OIRA
can heavily influence or change the intended
purpose of any regulatory proposal. Therefore,
it is important for the head of OIRA to be a
rational thinker who has every American's best
interest at heart.

After reviewing Mr. Sunstein's opinions and
past comments, it is very clear that his views
are far outside of the mainstream. For example,
Mr. Sunstein believes that animals should be
given the same rights as humans. In 2004, he
wrote, "We could even grant animals a right to
bring suit without insisting that animals are
persons, or that they are not property." According
to Mr. Sunstein's logic, your dog could sue you
for putting its collar on a little too tight.
Furthermore, Mr. Sunstein is against hunting
and compares it to the "mass extermination of
human beings." Whether it is for population
control or for food consumption, hunting plays
a vital role in the lives of many Americans,
especially in Kentucky. It is irresponsible for
Mr. Sunstein to compare a person who kills a
deer which can provide food for his or her family
for several weeks, to the likes of Stalin. He
has also been very hostile to second amendment
rights and has publically stated his resistance
to an individual's right to keep and bear arms.

Any regulation that comes out of the
Department of Agriculture could negatively
impact farmers across the Nation if Mr. Sunstein
is the person responsible for implementing that
regulation. Livestock farmers across Kentucky
could potentially be forced out of business if
Cass Sunstein had his way. Additionally, vague
rulemaking by the Bureau of Alcohol, Tobacco,
Firearms, and Explosives could result in Mr.
Sunstein filling in the gaps to push his and the
President's radical agenda. There are plenty of
other qualified people whom President

Obama could have chosen for this very significant position. I cannot support this nomination, and I urge my colleagues to vote against this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

TRAVEL PROMOTION ACT OF 2009—Continued

The PRESIDING OFFICER. All committee amendments except the Dorgan amendment, No. 1347, are withdrawn. The question is on agreeing to the amendment.

The amendment (No. 1347) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DORGAN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is, Shall the bill pass, as amended?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—79

Akaka	Feinstein	Murray
Alexander	Franken	Nelson (NE)
Barraso	Gillibrand	Nelson (FL)
Baucus	Graham	Pryor
Bayh	Hagan	Reed
Begich	Harkin	Reid
Bennet	Hatch	Rockefeller
Bennett	Inouye	Sanders
Bingaman	Isakson	Schumer
Bond	Johanns	Shaheen
Boxer	Johnson	Shelby
Brown	Kaufman	Snowe
Burr	Kerry	Specter
Byrd	Klobuchar	Stabenow
Cantwell	Kohl	Tester
Cardin	Lautenberg	Thune
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Vitter
Collins	Lincoln	Voivovich
Conrad	Lugar	Warner
Dodd	Martinez	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wicker
Ensign	Merkley	Wyden
Enzi	Mikulski	
Feingold	Murkowski	

NAYS—19

Brownback	Corker	Gregg
Bunning	Cornyn	Hutchison
Burr	Crapo	Inhofe
Chambliss	DeMint	
Coburn	Grassley	

Kyl	McConnell	Roberts
McCain	Risch	Sessions

NOT VOTING—1

Landrieu

The bill (S. 1023), as amended, was passed, as follows.

S. 1023

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Travel Promotion Act of 2009”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. The Corporation for Travel Promotion.
- Sec. 3. Accountability measures.
- Sec. 4. Matching public and private funding.
- Sec. 5. Travel promotion fund fees.
- Sec. 6. Assessment authority.
- Sec. 7. Office of Travel Promotion.
- Sec. 8. Research program.

SEC. 2. THE CORPORATION FOR TRAVEL PROMOTION.

(a) ESTABLISHMENT.—The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–1001 et seq.), to the extent that such provisions are consistent with this section, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Corporation shall have a board of directors of 11 members with knowledge of international travel promotion and marketing, broadly representing various regions of the United States, who are United States citizens. Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(A) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(B) 1 shall have appropriate expertise and experience in the restaurant sector;

(C) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(D) 1 shall have appropriate expertise and experience in the travel distribution services sector;

(E) 1 shall have appropriate expertise and experience in the attractions or recreations sector;

(F) 1 shall have appropriate expertise and experience as officials of a city convention and visitors’ bureau;

(G) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(H) 1 shall have appropriate expertise and experience in the passenger air sector;

(I) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(J) 1 shall have appropriate expertise in the intercity passenger railroad business.

(2) INCORPORATION.—The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–301.01 et seq.).

(3) TERM OF OFFICE.—The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(A) 3 shall be appointed for terms of 1 year;

(B) 4 shall be appointed for terms of 2 years; and

(C) 4 shall be appointed for terms of 3 years.

(4) REMOVAL FOR CAUSE.—The Secretary of Commerce may remove any member of the board for good cause.

(5) VACANCIES.—Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this section. Any member whose term has expired may serve until the member’s successor has taken office, or until the end of the calendar year in which the member’s term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member’s predecessor was appointed shall be appointed for the remainder of the predecessor’s term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(6) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(7) STATUS AS FEDERAL EMPLOYEES.—Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(8) COMPENSATION; EXPENSES.—No member shall receive any compensation from the Federal government for serving on the Board. Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(c) OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation’s Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(2) NONPOLITICAL NATURE OF APPOINTMENT.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) NONPROFIT AND NONPOLITICAL NATURE OF CORPORATION.—

(1) STOCK.—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.