

Mrs. FEINSTEIN. Obviously that is for the purpose of the Senate photograph.

Madam President, I note that 12 o'clock has arrived. We will have a vote on the Feinstein-Alexander amendment No. 2460. I will take a brief moment to describe it.

This is an amendment cosponsored by Senators ALEXANDER, LEVIN, SCHUMER, COCHRAN, BENNETT, WARNER, and I ask unanimous consent to add the name of Senator BOXER.

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

Mrs. FEINSTEIN. Madam President, this amendment simply makes \$250,000 available so the Smithsonian can carry out activities under the Civil Rights History Project Act of 2009. Obviously this means this has been authorized. It is also paid for.

This is a joint project between the Library of Congress and the Smithsonian, which aims to collect video and audio recordings of the personal histories and testimonials of individuals who participated in the civil rights movement.

By coordinating the effort at the national level, the project will build upon and complement previous and ongoing documentary work on the American civil rights movement. I think it is a very special effort because it essentially will mean that youngsters who are present in 20, 30, 40, or 50 years, will be able to have audios and videos that contain the actual photographs and actual wording of people who participated themselves in the great civil rights movement of this country.

I urge my colleagues to support the amendment.

If there are no other comments by the ranking member—would the ranking member like to make a comment? Then we will ask for the yeas and nays.

Mr. ALEXANDER. Madam President, I congratulate the Senator from California for her leadership. We Americans are united by our founding documents and our language and our history, not by our race or ethnicity or where we come from, so therefore we are very hungry for stories about ourselves. The great writers of American history, such as David McCullough, whose books are sold out immediately, would wish we had the same sort of documentation the Senator from California has proposed here about the writing of the Constitution or the American Revolution or the Civil War or the great world wars. Ken Burns would like to have more of it for his upcoming series on the national parks. This will mean we will have more of it for the great civil rights struggles of the 1950s and 1960s and 1970s. Alex Haley, the author of "Roots," said an older person dying is like a library burning down. This will help to make sure we keep those libraries.

Mrs. FEINSTEIN. Madam 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

I also announce that the Senator from Arkansas (Mrs. LINCOLN) is absent due to a death in the family.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—95

Akaka	Enzi	Merkley
Alexander	Feingold	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (NE)
Begich	Graham	Nelson (FL)
Bennet	Grassley	Pryor
Bennett	Gregg	Reed
Bingaman	Hagan	Reid
Bond	Harkin	Risch
Boxer	Hatch	Roberts
Brown	Hutchison	Rockefeller
Brownback	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burr	Johanns	Shaheen
Cantwell	Johnson	Shelby
Cardin	Kaufman	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	LeMieux	Udall (NM)
Corker	Leahy	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lugar	Webb
Dodd	McCain	Whitehouse
Dorgan	McCaskey	Wicker
Durbin	McConnell	Wyden
Ensign	Menendez	

NOT VOTING—4

Byrd  
Coburn

Kohl  
Lincoln

The amendment (No. 2460), as modified, was agreed to.

## RECESS

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

Thereupon, at 12:34 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB.)

## RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess subject to the call of the Chair.

Thereupon, the Senate, at 2:16 p.m., recessed subject to the call of the Chair and reassembled at 2:35 p.m. when called to order by the Presiding Officer.

DEPARTMENT OF THE INTERIOR, ENVIRONMENTAL, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010—Continued

Mr. REID. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. Amendment No. 2456 offered by Senator CARPER.

AMENDMENT NO. 2494

Mr. REID. I ask unanimous consent that the amendment be set aside, and at this time I call up amendment No. 2494.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2494.

Mr. REID. 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 provide for an evaluation of the aquifers in the area of the Jungo Disposal Site in Humboldt County, Nevada)

On page 240, between lines 13 and 14, insert the following:

### SEC. 423. JUNGLO DISPOSAL SITE EVALUATION.

Using funds made available under this Act, the Director of the United States Geological Survey shall conduct an evaluation of the aquifers in the area of the Jungo Disposal Site in Humboldt County, Nevada (referred to in this section as the "site"), to evaluate—

(1) how long it would take waste seepage (including asbestos, discarded tires, and sludge from water treatment plants) from the site to contaminate local underground water resources;

(2) the distance that contamination from the site would travel in each of—

(A) 95 years; and

(B) 190 years;

(3) the potential impact of expected waste seepage from the site on nearby surface water resources, including Rye Patch Reservoir and the Humboldt River;

(4) the size and elevation of the aquifers; and

(5) any impact that the waste seepage from the site would have on the municipal water resources of Winnemucca, Nevada.

Mr. REID. Mr. President, I offer this amendment to address a crisis affecting Native Americans served by the Indian Health Service's Schurz Service Unit in Nevada.

This amendment to H.R. 2996, the Interior, Environment and Related Agencies Appropriations Act, would direct the Indian Health Service to use any unobligated contract health service funds from fiscal year 2009 to pay the Service's obligations to private health providers who have treated Nevadans. The Service's Schurz Service Unit administers contract health funds for thousands of eligible Indian beneficiaries who receive care from the Fallon Tribal Health Center, Reno-Sparks Health Center, Pyramid Lake Health Center, Walker River Paiute Health Clinic, and other tribal health clinics and stations.

I understand that it may difficult to coordinate care and referrals where the

Indian Health Service administers contract health funds and the tribes enter Federal contracts or compacts to provide all other health services. But this arrangement does not relieve the Indian Health Service of its responsibilities—to provide timely responses and communications between patients, primary physicians, private health providers and specialists; to ensure that proper procedures and payment schedules are followed at the Indian Health Service Unit or the Phoenix Area Office or by the State of Nevada and private providers; and to complete payments and reimbursements in a timely and business-like manner. At the Schurz Service Unit, these responsibilities have not been fulfilled, and individuals have suffered because they have been denied care or decided not to seek care because they could not pay for the service.

This amendment would provide immediate relief for some of the problems identified by the Indian Health Board of Nevada, tribal leaders, and private health providers. It would direct the Indian Health Service to pay outstanding contract health obligations incurred by the Schurz Service within 90 days of enactment of this bill. Briefly, these obligations cover debts that the Indian Health Service has approved and date from fiscal years 2000, 2005, 2006, 2007, 2008 and 2009. The oldest obligations, those before October 1, 2008, total less than \$1.4 million, while the current fiscal year includes more than \$5 million in outstanding bills. There are hundreds of providers who have not been paid for services rendered—services that the Indian Health Service has determined should be paid.

In my home State, Native Americans rely on private and community health providers for a range of services. These providers are critical components in our Indian communities' network of health care. And, unlike other Indian Health Service Units in the Phoenix Area Office, there are no Indian Health Service hospitals in Nevada and Nevada's Indians are expected to travel to the Phoenix Indian Medical Center to be treated for serious health care problems. We must work with private providers so they continue to serve IHS-eligible patients and prevent further erosion of the health care network serving some of our most vulnerable citizens.

I will continue to fight for our Native Nevadans and health providers who are valued members of Indian country's health care team. This amendment does both, by helping the Indian Health Service deal with a critical problem at the federally operated service unit in Schurz and by honoring its obligations with our private care providers. And I believe that by directing this one-time payment, the Indian Health Service, working with tribes and health providers, will be able to implement necessary procedural and structural changes to better coordinate care and manage contract health funds for fiscal year 2010.

Mr. President, I ask unanimous consent to set aside the amendment for Senator McCain.

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

The Senator from Arizona.

AMENDMENT NO. 2461

Mr. McCain. Mr. President, I ask unanimous consent that amendment No. 2461 be called up and the pending business be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows: The Senator from Arizona [Mr. McCain] proposes an amendment numbered 2461.

Mr. McCain. 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 prohibit the use of appropriated funds for the Des Moines Art Center in the State of Iowa)

On page 135, line 2, insert before the period at the end the following: “: *Provided*, That none of the funds made available under this Act may be used for the Des Moines Art Center in the State of Iowa”.

Mr. McCain. Mr. President, this amendment would simply prohibit the use of funds for the Des Moines Art Center in Des Moines, IA—just one of the 308 earmarks contained in this bill which total \$246 million. This earmark is like most other earmarks posing as a national spending priority. Many of these earmarks were not authorized and were not competitively bid in any way, and no hearing was held to judge whether these are worthy of scarce taxpayers' dollars.

Every summer we hear news of major wildfires destroying people's homes and businesses across the country. According to the National Interagency Fire Center, over 5.5 million acres of land were scorched this year so far. Spending bills such as this one are vitally necessary for fire suppression activities and forest health programs—programs that save lives and property. As we look for ways to pay for the escalating cost of wildfires, we must also address the mixed messages we are sending to taxpayers about our spending priorities.

Buried in the committee report, as usual, is a \$200,000 earmark for historic preservation needs at the Des Moines Art Center in Iowa. I am all for preserving our Nation's historic buildings, but good intentions or not, the process of earmarking is how appropriators steer taxpayers' dollars to pet projects that wouldn't otherwise win a grant competition or pass a prioritization formula. They are placed above more deserving projects simply because of their “connections” in Washington.

According to an article in the Des Moines Register dated August 27, 2009, entitled “Look Out Below: Des Moines Art Center is Adding Space Underground,” the Art Center is embarking

on a \$7.5 million capital improvement project which includes building a \$3.5 million basement level “storage addition and a new glass elevator.” The Art Center raised this money as part of its ongoing \$34 million fundraising campaign launched in 2005.

The multimillion dollar underground addition will double as a ground level “green roof,” says the art center's director Jeff Fleming: “People can walk on it without even knowing it's a roof . . . a great space for outdoor gatherings.”

The article also notes that the art center will gladly name the new addition to whichever benefactor closes out their \$34 million fundraising campaign.

Americans are hurting. The unemployment rate is nearly 10 percent. The deficit is estimated to be \$1.6 trillion for this year, and the projected 10-year deficit jumped from \$7.1 trillion to \$9 trillion, et cetera, et cetera. Obviously, it might be nice if we started thinking about the future of America and the future generations who are going to pay the tab for our continued spending.

I am offering this amendment on behalf of taxpayers who will rightfully question what makes the Des Moines Art Center a national spending priority. Why is the Des Moines Art Center allowed to bypass the proper procedures for determining historic preservation spending? Why can't the Des Moines Art Center cough up \$200,000 from its \$7.5 million capital improvement project? Why can't they address this \$200,000 need in their \$34 million fundraising campaign?

I urge my colleagues to support this amendment.

I spent, as did many of my colleagues, the last few days at home in Arizona, traveling around my State. When this issue of earmarking and porkbarrel spending is brought up, there is a visible reaction. Americans are sick and tired of it. Sooner or later, while those who continue to vote for and support this unnecessary, unneeded porkbarrel spending while we have a 10-year \$9 trillion deficit, Americans are going to rise up in an even more vociferous fashion than they are today.

I believe what is going on around the country is not just the issue of health care. What is going on around the country is people are sick and tired of this unbridled spending in porkbarrel and earmark projects which have bred corruption here in our Nation's Capital. They figured it out. They have had enough of it.

I ask my colleagues to vote in support of this amendment, being aware that those on the Appropriations Committee will probably vote to turn down this amendment even though it is only a \$200,000 unnecessary spending project. So do so. You have done it in the past. I am going to continue, and the American people are going to continue, to demand some kind of accountability for this outrageous, out-of-control spending which has mortgaged future

generations of Americans and, believe me, at least in the State of Arizona, they are sick and tired of it.

Mr. President, I ask for the yeas and nays on this amendment at a time to be determined by the majority leader.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays are ordered.

The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I ask unanimous consent to proceed as in morning business.

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

#### HEALTH CARE REFORM

Mr. McCONNELL. Mr. President, I rise to call my colleagues' attention to a truly disturbing development in the health care debate. A colleague of ours—a colleague of ours—has called for an investigation into a major health care company because this company informed its customers of its concerns about health care legislation that this colleague of ours introduced. Let me say that again. A colleague of ours has called for an investigation of a major health care company because this company disagreed with a bill our colleague introduced.

As a result, the Federal Government has now told all companies that provide Medicare Advantage to stop communicating with their clients about the effects of that legislation. Let me say that again. The Federal Government has now told these companies to stop communicating with their clients about the effects of a piece of legislation that is before us, even telling them what they can and cannot post on their Web sites. This gag order, enforced through an agency of the Federal Government at the request of a Senator, is wrong.

It started when a company based in my hometown of Louisville, KY—Humana—had the temerity in the eyes of some of our colleagues to explain to its customers that if Medicare Advantage is cut, as the chairman's mark requires, it may reduce benefits which, of course, is a commonsense conclusion.

This is America, the United States of America. Citizens, either as individuals or grouped together in companies, have a fundamental right—a fundamental right—to talk about legislation they favor or oppose in this country.

This is the core of the first amendment's protections of speech. Unfortunately, this is part of a troubling trend of efforts to dismiss the concerns raised by the American people over the past few months.

Over the summer, we saw American citizens who raised concerns about the health care proposals before Congress dismissed—utterly dismissed—as somehow un-American by leaders in Congress. That is bad enough, but using the full weight of the Federal Government's enforcement powers to stifle free speech should trouble all Americans—and all of us—even more. We cannot allow government officials to

target individuals or companies because they do not like what they say.

The latest effort to squelch free speech raises several serious questions.

Is this what we have come to as a country; that an individual or company can no longer factually advocate their position on an incredibly important public policy issue? Is this what we have come to in America?

Shouldn't customers have a right to know the potential impact of a congressional action?

Is this what we believe as a Senate; that this body should debate a trillion-dollar health care bill that affects every single American while using the powerful arm of the government to shut down speech?

Is this how citizens and companies can expect to be treated if health care reform passes; that any health provider that disagrees with a powerful Senator will be subject to an investigation and a gag order for disagreeing with a powerful Senator?

How is this any different than what the Washington Post and the New York Times have done in lobbying for a reporter shield law? Would we stand by if the Judiciary Committee asked the FBI to investigate the media for taking positions on pending legislation with which we do not agree? Of course not.

Humana is headquartered in my hometown of Louisville, and, yes, I care deeply about its 8,000 employees in Kentucky. But this gag order now applies to all Medicare Advantage providers. Shut up, the government says. Don't communicate with your customers. Be quiet and get in line.

I remind my colleagues that I have spent a good part of my career defending the first amendment rights of people to criticize their elected officials, including me. I would make the same argument if this were a company based in San Francisco or Helena, MT, or Chicago.

The right to free speech is at the core of our democracy. Free citizens have a first amendment right to petition their government for a redress of grievances. This gag order on companies such as Humana and those in all our States, in my view, is a clear violation of that right and it is wrong.

Employers who warn their customers about the effects of legislation are not the ones who should be getting warnings. They are not the ones who ought to be getting warnings. Senators who threaten first amendment rights are the ones who should be getting the warnings.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, before the Republican leader leaves, I congratulate him for his statement. Over the years, he has been a consistent defender of first amendment rights, even for a great many Americans with whom he disagreed. Senator BYRD, who is the constitutional conscience of the Senate, often encourages

Senators to carry with us a little pocket version of the Constitution.

I am reading the first amendment to the Constitution, which the Senator from Kentucky spent a great deal of his career defending:

Congress shall make no law—

No law—

respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of people peaceably to assemble, and to petition the Government for a redress of grievances.

I ask the Senator through the Chair whether, as he understands the first amendment to the Constitution, it would be clearly unconstitutional for us to pass a law that would tell a major health care company that if they objected to a piece of legislation by informing their customers of its consequences that there would be some penalty?

Mr. McCONNELL. Mr. President, I say to my friend from Tennessee, he is absolutely correct. There are two obvious violations of the first amendment here. One is the right to speak freely and the other is the right to petition Congress for a redress of grievances.

Here you have an industry, the health insurance industry, at least one company of which is communicating with its customers the truth about this legislation and being threatened by a powerful Senator and a government agency to shut up.

Mr. ALEXANDER. Mr. President, as I understand it from reading it in the newspapers some of the big drug companies are lined up with the Obama administration with the Democratic health care bill. I wonder what the Republican leader would think if some Republican Senator called one of the big drug companies and said: You are going to suffer serious consequences or even went to one of the agencies of government and caused them to tell a big drug company that because of their speeches and remarks, they were going to suffer some consequences.

Mr. McCONNELL. Mr. President, once again, I say to my friend from Tennessee, to call an agency of the government for the purpose of implementing a gag order against a company that is speaking freely about the impact of legislation on its business and its employees is an astonishing thing to behold in the United States of America.

I assume the particular industry the Senator from Tennessee is talking about, which has been out running millions of ads in support of what the administration is trying to do, is not getting such threats.

Mr. ALEXANDER. I assume, Mr. President, that the big drug companies that are running ads against Republican Senators for questioning the health care reform bill, they have a right to do that. I know what is happening in Memphis is people are seeing the ads and calling me and telling me: Continue to oppose what is going on. But that is part of our system.

I congratulate the Republican leader for bringing to the attention of all his colleagues this action.

Mr. MCCONNELL. I thank my friend from Tennessee. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senator from Delaware be permitted to speak in morning business not to exceed 5 minutes.

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

The Senator from Delaware is recognized.

#### FIRST STATE ROBOTICS

Mr. KAUFMAN. Mr. President, imagine a robot that could play ball. Imagine a robot that could actually pick up a ball from the ground, hold on to it, and then, when the time is right, successfully toss it to another robot. Finally, imagine that this robot was built by a group of high school students.

I recently met an extraordinary group of students who turned this vision into reality. As part of Delaware's Miracle Workers robotics team, students designed and built this robot to compete in the For Inspiration and Recognition of Science and Technology, for FIRST, national robotics competition.

The FIRST Program was founded in 1989 by inventor Dean Kamen to inspire young people to pursue careers in science, technology, engineering, and math, or STEM. Since that time, FIRST has grown significantly. In 2008, drawing from the support of thousands of volunteers and mentors, sponsorships from some of the world's largest and smallest companies, educational institutions, and the Federal Government, FIRST introduced nearly 160,000 students from all 50 States and 37 countries to the joys of problem solving and engineering.

In Delaware, participating students spent an entire school year building their robot, which is taller than some humans, decorated in green and black, and even wearing a bow tie. The first half of the year the team was dedicated to learning the basics of engineering, programming, and project management. The remainder of the year was slated for designing, building, testing, and refining the robot for competition. Students worked in specific subteams, including electrical, programming, mechanical, fundraising, publicity, scouting, 3-D animation, Web team, and more. Students engaged with adult volunteers—many of them engineering professionals—who helped train and mentor the team.

Incredibly, these types of programs are not just for those in high school. Delaware's First State Robotics organization oversees several other programs and provides engineering experience for students from prekindergarten through college. First State Robotics aims to inspire in young people, schools, and communities an appreciation for science, engineering, and technology.

The results are remarkable. Ninety-seven percent of First State Robotics participants have attended college, with 82 percent pursuing degrees in science and engineering. Many have earned credits at a local community college for their participation in the program, and several have earned scholarships applicable toward higher education.

Communities also benefit from these programs. Participating students take part in book drives, blood drives, and mentoring. They give robot demonstrations in local schools and community events to promote recruitment and education.

It is clear that First State Robotics is having an incredible impact on students. Alumni of the program are more interested in pursuing careers in the sciences and engineering, and they are involved with their communities as volunteers. Many graduates say that participating in First State Robotics was the most positive and rewarding experience of their lives, and through these experiences they decided to pursue further study of engineering.

We must continue to encourage today's students to become tomorrow's engineers by highlighting and promoting programs such as First State Robotics. It is through comprehensive programs such as these that students learn that engineering can be a path to making a difference.

Through hands-on activities, students participating in First State Robotics are given the opportunity to learn that engineers, such as the Presiding Officer, are the world's problem solvers, do make a difference in people's lives and quality of life, and can help us reach the goal of clean water, lifesaving cures for cancer and disease, clean renewable energy, affordable health care, and environmental sustainability.

The national FIRST Program shows how important it is that the American people, the Federal Government, and industries united to support STEM initiatives. These educational programs will lead us not only to new frontiers in health, energy, technology, and security but to new jobs and, ultimately, a sustainable economic recovery.

I know that if given the opportunity, a new generation of engineers and scientists will lead us into the new frontiers, and many FIRST alumni have already done so.

I commend the students of First State Robotics and dedicated mentors for their shining examples of the miracles of engineering.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I compliment the Senator from Delaware. He did go 5 minutes.

I believe Senator BARRASSO has an amendment he wishes to offer.

The PRESIDING OFFICER. The Senator from Wyoming.

#### AMENDMENT NO. 2471

Mr. BARRASSO. Mr. President, I wish to speak on amendment No. 2471.

On Friday, September 11, the Washington Times ran a front-page story on an issue titled "Forest Fire Aid Allotted to DC, Western States Feel Burned."

That is about right. The story talks about the U.S. Forest Service plans to spend \$2.8 million of wildland fire management funds in the District of Columbia. This is ridiculous, it is outrageous, and we should not stand for it.

Mr. President, just to read the first paragraph:

Even with forest fires raging out west, the U.S. Forest Service this week announced it will spend nearly \$2.8 million of forest fire-fighting money in Washington—a city with no national forests and where the last major fire was probably lit by British troops in 1814.

The article continued:

The vast majority of the money—\$2.7 million—is going to Washington Parks & People, which sponsors park festivals and refurbishes urban parks in the Washington area.

Mr. President, in Wyoming, we have over 9 million acres of national forest land. There are seven national forests in our State. We face many management challenges in those forests. The agency struggles to meet its basic responsibilities. Over 1 million acres are infested with mountain pine beetle in Wyoming. That is just one species of beetle—a species that has killed over 1 million acres of trees. The devastation stretches well beyond the horizon in many places. And where the beetle infestation is at its worst—in the Medicine-Bow National Forest—the affected acres have doubled between 2007 and 2008. The problem is severe. It is growing exponentially, and we are facing extreme risk of wildland fire in Wyoming.

So when the U.S. Forest Service recommended \$500 million and received that amount of money for Wildland Fire Management in the stimulus package, one would think maybe the agency would use those funds to combat threats to forest health in its lands nationwide. One would think that maybe we would see some real results on the ground in Wyoming and in the State of Colorado. Instead, Wyoming was awarded zero dollars in the first round of U.S. Forest Service projects under the stimulus, and only after the congressional delegation and the Governor of Wyoming appealed to the Department of Agriculture were funds awarded for forest projects in Wyoming. Meanwhile, the agency wants to spend \$2.8 million on wildland fire in Washington, DC?

The people and forest communities in my State deserve better, and the people of America demand better. Wyoming boasts incredible wildlife populations, unique ecosystems, and breathtaking views. Over half the land in Wyoming is public land. One can see rangelands, alpine forests, glacial basins, and desert landscapes in Wyoming. We host millions of visitors every year who will enjoy Wyoming's wilderness.

The District of Columbia is not under threat of wildland fire. In fact, the government's National Interagency Fire Center defines what qualifies as a wildland fire—and DC does not qualify. Clearly, the District should not receive wildland fire management funds. The U.S. Forest Service should not spend vital funds for wildfire fighting and for prevention in Washington, DC.

I have introduced this amendment with a number of other Senators from the West. Senator KYL and Senator ENSIGN and Senator MCCAIN are cosponsoring, and we want to make sure the U.S. Forest Service is not wasting management opportunities. We will not stand by and watch our State's burn when resources are available to prevent that, and I would ask all Senators to support this amendment.

Mr. President, at this time, I ask unanimous consent to set aside the pending business and call up amendment No. 2471.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for himself, Mr. KYL, Mr. ENSIGN, Mr. MCCAIN, Mr. RISCH, and Mr. CRAPO, proposes an amendment numbered 2471.

The amendment is as follows:

(Purpose: To prohibit the use of wildland fire management stimulus funds in the District of Columbia)

On page 240, between lines 13 and 14, insert the following:

**SEC. 423. PROHIBITION ON USE OF WILDLAND FIRE MANAGEMENT STIMULUS FUNDS IN THE DISTRICT OF COLUMBIA.**

Notwithstanding any other provision of law, none of the funds made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115) for wildland fire management shall be used in the District of Columbia.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Wyoming. He has a very good point and a very good amendment. This was not the intention of the Interior part of the stimulus bill. It is not the intention of this bill. Therefore, I think the amendment of the Senator from Wyoming is completely in order. It has been called up, and our side is prepared to accept it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I want to congratulate the Senator from Wyoming on his vigilance. There is no

Senator—certainly on this side of the aisle, and I suspect not in this Chamber—who gets up earlier, works harder, or keeps in closer touch with what is going on in Wyoming and in this country than Senator BARRASSO, and he is exactly right on this issue.

The chairman, Mrs. FEINSTEIN, the Senator from California, has made fighting wildfires a major part of her effort this year. She and the administration have included within this appropriations bill the firefighting money that usually is set aside for emergency appropriations. So that money needs to be spent correctly, as it should be. I think Senator BARRASSO and the other Senators who cosponsored it are exactly right, and I agree with the chairman of the subcommittee that it is a good amendment.

Mrs. FEINSTEIN. So we will accept it, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

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

The amendment (No. 2471) was agreed to.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I thank the chairman and Senator ALEXANDER for their gracious reception and acceptance of this amendment in the Chamber with that resounding voice vote in support of the amendment.

AMENDMENT NO. 2472

Mr. President, I also filed amendment No. 2472, and I wish to speak on that amendment at this time.

Mrs. FEINSTEIN. Mr. President, is the Senator calling up that amendment?

Mr. BARRASSO. I am not at this point.

Mr. President, I have serious concerns about the recent Interior Secretarial Order No. 3289. This order will incorporate climate change into all decisionmaking at the Department of the Interior.

Although I commend the Secretary for attempting to address this issue, I have concerns that we are getting the cart before the horse. Congress has not passed a climate change bill. Yet sweeping regulations are being proposed by the Secretary of the Interior. These regulations put into question the future and past land management agreements regarding oil and gas development, renewable energy development, recreational use, and wildlife protection.

Under these rules, a dark cloud is placed over all existing agreements regarding these activities. In addition, all pending decisions regarding both energy development and recreational use will also be put on hold indefinitely. All this will occur through regulations that did not have the approval or the consent of the American people.

I would ask my colleagues, no matter where they stand on the issue of climate change, to vote for this amend-

ment. We need to get the order right. First, a climate change bill that has the public's approval; then after that is voted upon, and if approved, let the regulatory process at the agency level begin. That is what my colleagues are voting on if they vote for this amendment.

So I urge adoption of the amendment at the point when it is called up.

AMENDMENT NO. 2473

Mr. President, I also filed amendment No. 2473, and I will also speak on that at this time. That amendment would prevent the Environmental Protection Agency's endangerment finding from going into effect until the EPA grants the petition of the U.S. Chamber of Commerce to have an on-the-record, trial-like hearing on the scientific data behind the EPA's endangerment finding.

The chamber petitioned the EPA for a trial-like hearing on the scientific data behind the endangerment finding before an administrative judge or EPA official. The chamber stated in their petition that:

An endangerment finding would give rise to the most far-reaching rulemaking in American history. Before embarking on that long, costly process, the EPA ought to do everything possible to assure the American people of the ultimate scientific accuracy of its decision.

The on-the-record proceeding would be a great opportunity for EPA to ensure transparency. This administration claims to be the most transparent administration in history. What better opportunity to demonstrate this by authorizing the chamber's petition. The administrative proceeding is allowed by law. It will be a short on-the-record proceeding. To deny this request is an admission by the EPA that their work on endangerment can't stand scrutiny. This should be a concern for all Americans at this point.

AMENDMENT NO. 2474

Mr. President, I would like to move on to another amendment which I have filed—amendment No. 2474—and I will speak on it at this point.

This amendment would require the Environmental Protection Agency inspector general to complete an investigation into the treatment of Dr. Alan Carlin by his superiors at the Environmental Protection Agency. Under this amendment, the endangerment finding could not proceed until the investigation is completed.

Dr. Alan Carlin and a colleague prepared a 98-page analysis arguing that the EPA should "take another look" at the EPA's scientific data behind the endangerment finding that carbon dioxide is a threat to public health. According to a report by Kimberly Strassel with the Wall Street Journal, a senior EPA official suppressed this detailed account of the most up-to-date science on climate change.

These reports raise serious questions about the process behind and the substance of the EPA's proposed finding that greenhouse gases endanger public

health and welfare. On August 21, Inside Washington Publishers reported that the EPA is considering scrapping the National Center for Environmental Economics' role in scientific analysis. Well, this would essentially eliminate the EPA office that Dr. Carlin has worked in for years.

In an editorial in the Washington Times, the paper stated:

This attempt to marginalize a true whistleblower smacks of insincerity . . . and . . . its implications for economic and environmental policy are dangerous.

This is an administration that claims to put a premium on transparency and openness. Their actions to date have demonstrated neither. My colleague, Senator THUNE, has requested an inspector general's investigation into this matter. I believe the investigation should be conducted and completed before the EPA proceeds further with endangerment.

So, Mr. President, at this time I ask unanimous consent to set aside the pending business and call up amendment No. 2474.

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARRASSO. Mr. President, I am very concerned by what I am seeing today. My effort in offering this amendment is to promote transparency and good government. Dr. Carlin, a 38-year veteran of the EPA, wrote a report critical of the EPA's process behind the endangerment finding. He said the EPA relied solely on outside sources for their science. He also pointed out that the scientific data they are relying on is 3 years old.

The EPA tried to quash his report. Dr. Carlin's boss warned Carlin to drop the subject altogether. He was told:

With the endangerment finding nearly final, you need to move on to other issues and subjects. I don't want you to spend any additional EPA time on climate change. No papers, no research etcetera, at least until we see what EPA is going to do with climate.

Mr. Carlin was ordered not to have any direct communication with anyone outside his small group at EPA on the topic of climate change and was informed that his report would not be shared with the agency group working on that very topic. To not even allow the Senate to have a vote to decide whether to investigate this matter looks like political expediency. It is wrong and it should concern all of those who claim to care about transparency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I want to make clear that it would be my intent, should the other two climate change amendments be called up, to object to them. However, this has nothing to do with the distinguished Senator, whom I respect enormously. It does have something to do with putting climate change on this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DEMINT. Mr. President, I would like to talk about an issue that is very important to our country. It involves our food supply and it involves thousands of jobs. While it may appear to affect just one State, the input we are getting from around the country is that this is very much a national issue.

I have an amendment to address it which I would like to discuss. This amendment, I believe, if we would take the time, we could find agreement. It addresses a major problem in the State of the Senator from California, but it also addresses a problem that affects the Nation's food supply by allowing us to focus on balancing jobs, the economy, and food with environmental laws.

As the chairman knows, there is a major water problem in California's Central Valley. Some very narrowly interested environmental groups have used the Endangered Species Act to shut off water to a region that produces 13 percent of the Nation's food supply. The result has been devastating. The land is dry, crops have been destroyed, and tens of thousands of jobs—tens of thousands of people are out of work. A recent University of California, Davis, study found that up to 40,000 jobs will be lost by the end of this year. In one city, the unemployment rate has reached 40 percent.

This is certainly a local water crisis, but it has also become a national issue. The problem has been the subject of several national television programs, and people across the country are beginning to realize that this problem on the west coast could touch us all in the form of higher food prices if we don't address it. It is also another precedent that affects my State, as environmentalists have really swung the balance away from good economy and jobs to something that seems much more radical to us—the development of our port in South Carolina, the passage of ships. And you see development all over the country being affected. So we need to focus on this issue in this bill. This is a good place for the amendment.

It is almost impossible to overstate the value of California's agriculture to the Nation's economy, most of which is produced—most of the food supply we are talking about—right in the Central Valley. This region provides the lion's share of California's crops, which account for, and I want to stress this, 94 percent of America's tomatoes, 93 percent of our broccoli, 89 percent of our carrots, 86 percent of our garlic, 78 percent of our lettuce, 90 percent of our strawberries, and 88 percent of our grapes, just to name a few. We can

hardly say this is the issue of one State. This is a national issue that we need to address.

People are also coming to realize that if we do not begin to bring a measure of balance back to our environmental laws, special interest groups and activist courts will be able to use this statute and others to destroy thousands of jobs at a time when our country is in recession.

I thank the chairman of the subcommittee for her work on this issue. The senior Senator from California has been a leader. She has pledged to work with the Department of Interior to find a solution, and she recently called for an independent review of the science underlying the two biological opinions that created this manmade drought.

My amendment today is very simple and represents a modest and balanced approach. It turns the water back on for 1 year to provide time for all leaders at the local, State, and Federal levels to find a long-term solution.

It will also give farmers the predictability they need to plan for next year's crops. They can't make the loans and get the seeds and plow the fields if they know in December the water will be turned off again and won't be turned back on until after July. One cannot farm with that type of unpredictability.

I know there are those who say there is no problem because the pumps are currently on. But those pumps are set to shut off in December, leaving Central Valley farms dry as planting season comes around.

My amendment has precedent. In fact, the last time this environmental provision was waived was in 2003, when water was turned off in New Mexico. That time the Senate voted unanimously for a bill that included a complete waiver of ESA for 2 years, which was even more aggressive than what I am proposing today.

I know this is a very important issue to the Senator from California. I hope she will support my amendment. I know many people are working on long-term solutions, but we need to do something now. The provision in the bill to study this is likely to take 2 years. We are likely to lose another 2 years of farm products as well as thousands of jobs in the Central Valley. This is not something I have made up on my own. A number of groups, farm groups in California, as well as the National Cotton Council of America, the Tulare County Farm Bureau, Fresno County Farm Bureau, Kings County Farm Bureau, Families Protecting the Valley, Westland Water District—I have a whole page of large groups that involves many jobs and families in California and across the country supporting this amendment which won't cost taxpayers anything but will actually create jobs, put people back to work, and expand the Nation's food supply.

We cannot allow a judge or radical environmental group to cut off water



to people who are producing the Nation's food supply. My amendment would address this in a very reasonable way. I call on the Senator from California to work with me in support of this amendment.

I ask unanimous consent to set aside the pending amendment and send my amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. FEINSTEIN. After the Senator completes his remarks, I would like the opportunity to say why.

The PRESIDING OFFICER. The Senator from South Carolina.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2500

Mr. DEMINT. Mr. President, I am disappointed I was unable to offer the amendment. Certainly it relates to the underlying bill. Since there are so many people and jobs across the country depending on us doing something quickly, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] moves to recommit the bill H.R. 2996 to the Committee on Appropriations of the Senate with instructions to report the same back to the Senate forthwith with the following amendment No. 2500:

At the appropriate place, insert the following:

None of the funds made available by this Act may be used by the Secretary of the Interior to restrict, reduce, or reallocate any water, as determined in—

(1) the biological opinion published by the United States Fish and Wildlife Service and dated December 15, 2008; and

(2) the biological opinion published by the National Marine Fisheries Service and dated June 4, 2009.

Mr. DEMINT. Mr. President, I thank the Senator from California. I look forward to more discussion, because I know there are many people in the Senate concerned about the same issue. There may be better ways to resolve the problem. I am certainly open to work with anyone. This is an immediate problem. We cannot continue to spend trillions of dollars of taxpayer money to create jobs while we allow government agencies to shut down jobs and jeopardize food supply. We need to be able to act as a body to solve some small problems instead of what we are doing here, which is to totally revamp the health care system or major changes that do not address the problems right in front of our face. I encourage my colleagues to consider this. Let's debate it and discuss it. I believe we can come up with a solution.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I am rather surprised about this. I don't think anyone in my State or in this body has spent as much time as I have on water in the State of California. The motion offered by the Senator from South California surprises me since no

one from California has called, written, or indicated they wanted this on the calendar. No one has indicated to me, as chairman of the committee, in all of the time Senator ALEXANDER and I have been working on this bill that this is what they wanted. In fact, what this would do is prohibit the Secretary of Interior from expending appropriate funds to restrict, reduce, reallocate water supplies from the Central Valley Project and the California State Water Project under biological opinions issued by the Fish and Wildlife Service of the United States and the NOAA fisheries.

The Senator from South Carolina is venturing into a very complicated area. This would prohibit the approval on two gates. It would prohibit work on the intertie where water is now being transferred from one system, State-run, to Federal and back and forth based on need, water transfers in the hundreds of thousands of acre-feet. It would prohibit Interior from working on the Bay Delta Conservation Plan. It would prevent Federal agencies from working on water quality issues in the delta.

What is the delta? The delta is a large inland body of water in northern California. It is the drinking water for 16 million people. It is the source of water, some of which trickles down to southern California. The Metropolitan Water district, for example, in Los Angeles uses between 800,000 acre-feet and a million acre-feet a year of this water. Jurisdictions all over the State use some of this water. The agriculture community uses 80 percent of the water in the delta. There are enormous endangered species issues in the delta, the death of certain kinds of fish, the nonnative species of fish, deteriorating levees that when they deteriorate, the peat soil drifts into the water and creates all kinds of problems for treatment and would likely collapse in the instance of a major earthquake.

What is happening is a whole effort to restore the delta, to develop a management plan for the delta, how to rebuild it, how to shore it up, and also whether in fact there should be some conveyance around the delta to bring some of the water south. This is a very hot issue in California. It is not a hot issue in South Carolina, trust me.

It is interesting to me that groups go to the Senator from South Carolina instead of to the chairman of the committee for something which is preemptive and would handcuff the Secretary of Interior. The Secretary of the Interior has appointed his No. 2 person, David Hayes, to handle western water. David Hayes has been in California. He has solved many problems. He came with me in August to a meeting in the southern Central Valley to discuss these problems and say what the Department was prepared to do about them.

On September 30 of this month, the Interior Secretary is holding a meeting to announce what actions he is going

to take on 2 Gates, on the intertie, on water transfers. I don't understand why we would want to handcuff the Secretary of the Interior by saying no money can go for any of these things, that water has to be released to the Central Valley with no controls on it. This makes no sense to me.

I see a series of letters that have come in from people I have talked with. I know there is a problem with the biological opinions. There are 30 lawsuits against the biological opinions. I understand that. To that end, I have been asked to put \$750,000 in this bill to allow the National Academy of Sciences to come in and do an over-arching but quick, within 6 months, look at the biological opinions and either say the opinions are founded in sound science or they are not. That is in the heart of this bill.

The ranking member has agreed to put this money in this bill for that purpose. Along comes something now which would totally handcuff the Secretary of Interior, which would mean no permits to move water between the California aqueduct and the Central Valley Project and back and forth and no permits for 2 Gates, two of the emergency solutions that have been put forward.

If this passes, we can be sure there will be court action, and we will most likely be enjoined. To my view, it makes no sense. We need the help of Interior. I have asked the Department of Interior, in terms of Federal agencies, to take the lead in dealing with California water. A specific person has been designated, the No. 2 person in the Department, David Hayes. A whole process has been entered into now for the administration, through the Secretary of Interior, to begin to put its hands on the problem and deal with it.

I cannot support legislation that says: Go ahead and release water, regardless of endangered species, regardless of any court that might come down on top of you and say stop. I can't do that. It isn't responsible to do so.

It is interesting to me—and I am looking at some of the letters—the people who I meet with, whose phone calls I respond to, who have never called and said: Look, this is what we need.

I don't quite understand what is going on here. That is the reason for my objection. I am not going to put the State of California and the bay delta in the threat of another lawsuit. We have enough already. Water is a huge, complicated, and difficult issue. No one cares more about it than I do or has tried harder to sort out the problems.

In a way, this is a kind of Pearl Harbor on everything we are trying to do, which is to work together to put Interior in the lead, not to handcuff Interior. That is the reason I objected to the amendment.

I understand on the motion there will be a vote. I urge a no vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

#### AMENDMENT NO. 2461

Mr. HARKIN. Mr. President, I rise in opposition to the amendment offered by the senior Senator from Arizona. The amendment by Senator MCCAIN singles out one instance of congressionally directed funding that I had included in the bill now before us, fiscal year 2010 Interior appropriations. The Senator claims this earmark, which provides \$200,000 in funding for repair and renovation of the historic Des Moines Art Center, is somehow inappropriate and should be removed from the bill. Well, it comes as no surprise that I strenuously disagree.

First of all, as a constitutional matter, I take issue with the premise underlying the Senator's amendment—the idea that Congress has no business directing the expenditure of Federal moneys to earmarks, that there is something inherently wrong or evil in this traditional practice, and that only the executive branch should determine where Federal moneys are spent. Well, I beg to differ.

The Constitution, article I, section, 9, expressly gives Congress the power of the purse. The executive branch can't spend one nickel unless this Congress gives it the authority to do so. Over the centuries, over the last couple hundred years, we have given to the executive branch the authority to make budgets, spend money on different things through all the different departments and agencies, but if Congress wanted to, we could take it all back. We could take it all back because the Constitution gives Congress the sole power to spend money.

What is more, compared to executive branch individuals, Members of Congress have a much better understanding of where and how Federal funds can be spent most effectively in their respective districts and States, and that is certainly the case with the earmark in question.

I assume the Senator from Arizona doesn't know a lot about the Des Moines Art Center. Well, let me explain it for the RECORD. The Des Moines Art Center encompasses three nationally significant buildings, two of which have been listed on the National Register of Historic Places since 2004. One of these buildings was designed by the famous architect, Eliel Saarinen, and another by the world renowned I.M. Pei. These buildings are architectural gems but, unfortunately, they have suffered from deterioration over the years.

So I secured the modest funding in this earmark—\$200,000—for the specific purpose of replacing windows that were causing inconsistent temperatures and high condensation, resulting in damage

to the building's plaster, the wood paneling, and the floors. There is nothing the least bit wasteful or frivolous about these renovations. In fact, they will create jobs and put people to work.

I also wish to point out that this funding is awarded through an authorized program called Save America's Treasures. This program was established within the National Park Service to protect:

America's threatened cultural treasures, including historic structures, collections, works of art, maps and journals that document and illuminate the history and culture of the United States.

Money for the program is awarded both competitively through grants and through congressionally designated funding.

Over the years, the Save America's Treasures Program has helped to protect many important buildings and artifacts across our country. There is no question that the Des Moines Art Center is both worthy and in urgent need of this modest funding. The buildings of the center, as I said, are architectural masterpieces. They contribute mightily to making Iowa's capital city a livable, attractive urban center with a lively cultural scene.

Bear in mind that the Des Moines Art Center is a cultural institution in the State of Iowa, drawing hundreds of thousands of visitors not only from Iowa but from around the United States and from all over the world every year. In the last 12 months, the center has served nearly half a million people. School kids from all over our State come into Des Moines in buses from their schools out in the countryside, out in the small districts, to go to the art center to see these magnificent, wonderful works of art and the buildings themselves.

I wish to emphasize that in terms of fundraising for renovations and operations, the art center and the Des Moines community are more than pulling their own weight. The center currently is in the midst of a \$34 million fundraising campaign. However, only \$7.5 million of that is for capital and building improvement. The remaining \$26.5 million is for the center's operating endowment. That allows the art center to be free and open to the entire community all year-round. Moreover, the \$200,000 in Federal funds will leverage \$1.9 million in public and private challenge grants—not a bad leveraging of Federal dollars.

The fact is, the Des Moines Art Center is struggling to meet its fundraising targets in any and all ways possible, including in relatively modest increments. The center has received \$275,000 from Polk County—that is the county encompassing our capital city of Des Moines. They received \$25,000 from the city of Des Moines. At this point, the center has exhausted their private fundraising options. So the \$200,000 grant from the Federal Government, along with the additional \$1.9 million that it will leverage, is critical

to meeting the center's goal of renovation.

I appreciate this opportunity to share with our colleagues my reasons for including this earmark in the bill before us. I am proud of this congressionally directed funding. It would go to a worthy and urgent public purpose.

I believe the effort by Senator MCCAIN to remove this money from the bill is misguided, and I urge my colleagues to vote against the McCain amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, earlier while I was arguing the opposite side of the question of the DeMint amendment which is now before this body, I mentioned that there were 30 lawsuits pending against the biological opinions having to do with the bay delta. The number is actually 13. I apologize. I wish to have the record corrected. Thirteen is enough.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2498

Ms. COLLINS. Mr. President, I call up amendment No. 2498 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 2498.

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

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

The amendment is as follows:

(Purpose: To provide that no funds may be used for the administrative expenses of any official identified by the President to serve in a position without express statutory authorization and which is responsible for the interagency development or coordination of any rule, regulation, or policy unless the President certifies to Congress that such official will respond to all reasonable requests to testify before, or provide information to, any congressional committee with jurisdiction over such matters, and such official submits certain reports biannually to Congress)

At the appropriate place, insert the following:



## FUNDING LIMITATION

SEC. \_\_. None of the funds made available by this Act or any other Act may be used for the administrative expenses of any official identified by the President to serve in a position without express statutory authorization and which is responsible for the inter-agency development or coordination of any rule, regulation, or policy unless—

(1) the President certifies to Congress that such official will respond to all reasonable requests to testify before, or provide information to, any congressional committee with jurisdiction over such matters; and

(2) such official submits a report biannually to each congressional committee with jurisdiction over such matters, describing the activities of the official and the office of such official, any rule, regulation, or policy that the official or the office of such official participated or assisted in the development of, or any rule, regulation, or policy that the official or the office of such official directed be developed by the department or agency with statutory responsibility for the matter.

Ms. COLLINS. Mr. President, I rise today to call up an amendment to ensure that the so-called czars appointed by this administration can be held accountable to Congress and to the American people.

The effective functioning of our democracy is predicated on open government, on providing a transparent process for the people we serve. It cannot instill trust and confidence in its citizenry unless government fosters accountability. It is against that backdrop I raise my concerns regarding the administration's appointment of at least 18 new czars to manage some of the most complex issues facing our country.

I am not talking about traditional offices within the office of the President. I am not talking about, for example, the position of his Chief of Staff or the position of his press secretary. Similarly, I am not talking about officials who have responsibility to coordinate policy across agency lines that are specifically established in law. A good example of that is the Director of National Intelligence. That is a position that was established by Congress and whose head is nominated by the President and confirmed by Congress. So I am not talking about those officials either.

What I am talking about are new positions not created in law that have been established and which have significant policy responsibilities, or so it seems. Part of the problem here is we don't know exactly what the responsibilities are. As I, along with several of my colleagues, including the ranking member of this subcommittee, Senator ALEXANDER, recently expressed in a letter to the President, I am deeply troubled because these czars fail to provide the accountability, transparency, and oversight necessary for our constitutional democracy.

The creation of czars within the Executive Office of the President and elsewhere in the executive branch circumvents the constitutionally mandated advise and consent role our Founding Fathers assigned to the Sen-

ate. They greatly diminish the ability of Congress to conduct meaningful oversight to hold officials accountable for their actions, and it creates confusion about which officials are responsible for the government's policy decisions.

For example, Nancy-Ann DeParle, an individual for whom I have great respect, is the health policy czar within the White House. Kathleen Sebelius is the Secretary of Health and Human Services. So who is making policy when it comes to health care? Who do we hold accountable? Well, we know we can call the Secretary of Health and Human Services before us to testify in open session at public hearings, but most likely we cannot call Ms. DeParle before us to testify, even though she has been great about coming up for private meetings.

Senators ALEXANDER, BOND, CRAPO, ROBERTS, and BENNETT joined me in writing to the President to raise these important issues. We have identified at least 18 czar positions where reported responsibilities may be undermining the constitutional oversight responsibilities of Congress or the express statutory assignments of responsibility to other executive branch officials.

Again, to be clear, I do not consider every position identified in various media reports to be problematic. Positions that are established by law or are subject to Senate confirmation, such as the Director of National Intelligence, the Homeland Security Advisor, and the Chairman of the Recovery Accountability and Transparency Board do not raise the same concerns about accountability, transparency, and oversight.

Furthermore, we all recognize that Presidents are entitled to rely on experts to serve as senior advisers. But those czar positions within the Executive Office of the President and in some executive agencies are largely insulated from effective congressional oversight. Many of the czars appointed by this administration seem either to duplicate or dilute the statutory authority and responsibilities that Congress already has conferred upon Cabinet level officers and other senior executive branch officials.

Indeed, many of these new czars appear to occupy positions of greater responsibility and authority than some of the officials who come before us for Senate confirmation. Whether in the White House or elsewhere, these czar appointments are not subject to the Senate's constitutional advise and consent role. Little information is available concerning their responsibilities and authority. There is no careful Senate examination of their character and qualifications. We are speaking here of some of the most senior important positions within our government.

The appointment of so many czars has muddied the waters, causing confusion and risking miscommunication going forward. We need to know, with clarity: Who is responsible for what?

Who is in charge—the czar or the Cabinet official? Who can the Congress and the American people hold accountable for government policies that affect their lives?

For these reasons, I offer an amendment that would prevent any more Federal funds from being made available for the administrative expenses of czars until two key conditions are met. I don't think these conditions are unreasonable. I don't think they are difficult for the President to meet, but they would make a real difference.

First, the amendment I am proposing would require the President to certify to Congress that every one of these positions will respond to reasonable requests to testify before or provide information to any congressional committee with jurisdiction over the matters the President has assigned to that individual.

Second, our amendment would require every czar to issue a public written report twice a year to these same congressional committees. This report would include a description of the activities of the official and the office, any rule, regulation, or policy that the official participated in the development of, or any rule, regulation, or policy that the official directed be developed by the department or agency with statutory responsibility for the matter.

This amendment would represent a significant step toward establishing an oversight regime for these positions that would provide the transparency and accountability our Nation expects from its leaders.

Beyond the specific requirements of this amendment, in the letter we sent to the President we implored the President to consult carefully with Congress prior to establishing any additional czars or filling any existing vacancies for these positions.

We stand ready to work with the President to address the challenges facing our Nation and to provide our country's senior leaders with the authority, accountability, and legitimacy necessary to do their jobs. If there are problems, then the administration should come to us. We can work on re-vamping organizational structures to help eliminate those problems, but we must eliminate the serious problems with oversight, accountability, transparency, and vetting that are associated with the proliferation of these czars.

I urge my colleagues to support what I think is a very reasonable approach to this difficult issue.

Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I wish to congratulate the Senator from Maine for her leadership on this issue. She has shown great respect for the President's authority under the Constitution. We all respect that. He has the right to appoint his own advisers, period, and to take their advice and, as

a result, assert some executive privilege. And we don't inquire into that. He is entitled to that.

But under the Constitution, article II, section 2, states that the Cabinet officers and other appointments of significant policy positions should be appointed by the advice and consent of the Senate.

It is true a number of Republican Senators have raised a question about the 18 new czars appointed by President Obama who are not confirmed by the Senate, all of whom are new. They didn't exist before. This large number of new senior positions is of great concern.

Senator COLLINS, in her letter of September 14 to the President—written with great respect, signed by Senator BOND, Senator CRAPO, Senator ROBERTS, Senator BENNETT, and myself—basically made the argument she just made. She acknowledged the President's authority under article II to appoint his advisers and to be the leader of the country. But in terms of these specific responsibilities, the letter asks for information about the responsibilities of these 18 new czars; of how they were picked and how they were examined and whether they would be willing to testify before us.

In her remarks, Senator COLLINS pointed out if we have a Health Secretary and a health czar, who is in charge? If we have an Energy Secretary and an energy czar, who is in charge? Those are the big issues before us. Health care is nearly 20 percent of the economy. We have town meetings all over the country about it. Right after that comes energy and climate change, and those are going to be a massive issues for our country. So it is important for us to know who is in charge so they can testify before the Congress and so we can effect their appropriations if we should choose to do so.

The main point I want to underscore is the fact that this is not just a concern on the Republican side of the aisle. The senior Senator in the Senate, and the senior Democrat—the President pro tempore—is Robert C. Byrd. Sometimes we call him the constitutional conscience of the Senate. Senator BYRD was the first Member of this body to raise questions about the czars. I am sure he would have done it if there had been a Republican President—he probably has many times before—but he also did it even though there is now a Democratic President.

I think it is important to reflect upon what he said in his February 23 letter to President Obama. Senator BYRD said:

As presidential assistants and advisers, these White House staffers are not accountable for their actions to the Congress, to cabinet officials, and to virtually anyone but the President. They rarely testify before congressional committees, and often shield the information and decision-making process behind the assertion of executive privilege. In too many instances, White House staff have been allowed to inhibit openness and transparency, and reduce accountability.

In speaking about the lines of authority between these new White House positions—these czars—and their executive branch counterparts, the Secretaries, Senator BYRD said this to the President:

Too often, I have seen these lines of authority and responsibility become tangled and blurred, sometimes purposely, to shield information and to obscure the decision-making process.

Senator BYRD went on to say:

As you develop your White House organization, I hope you will favorably consider the following: that assertions of executive privilege will be made only by the President, or with the President's specific approval; that senior White House personnel will be limited from exercising authority over any person, any program, and any funding within the statutory responsibility of a Senate-confirmed department or agency head; that the President will be responsible for resolving any disagreement between a Senate-confirmed agency or department head and the White House staff; and that the lines of authority and responsibility in the administration will be transparent and open to the American public.

Not only Senator BYRD, but Senator LIEBERMAN, who is the chairman of the committee on which Senator COLLINS is the ranking Republican, has expressed his willingness to hold hearings on this issue. Senator FEINGOLD of Wisconsin, a Democratic chairman of the Subcommittee on the Constitution, has written to the President expressing his concern. Senator FEINGOLD says:

The Constitution gives the Senate the duty to oversee the appointment of Executive officers through the Appointments Clause in Article II, section 2. The Appointments Clause states that the President: "shall nominate and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other Officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law.

Senator FEINGOLD goes on to say:

This clause is an important part of the constitutional scheme of separation of powers, empowering the Senate to weigh in on the appropriateness of significant appointments and assisting in its oversight of the Executive branch.

Senator FEINGOLD and Senator BYRD and Senator COLLINS, and several of us who signed SENATOR COLLINS' letter, and Senator VITTER of Louisiana—we all respect the President's authority to be the President and to appoint his Cabinet members and other executive branch officers. But we expect that those officers, the people who are actually setting the policy and running the departments, should be accountable to those of us in the Senate because the Constitution says so.

As a practical matter, we all know in Washington most people in the executive branch measure their power by the number of inches they are from the President of the United States. In the White House, most of the scurrying around at the beginning of an administration is to see who can get the office closest to the Oval Office. So it is always an issue about the amount of

power that begins to accumulate in the White House. When it begins to take away accountability and authority and responsibility and create confusion about whether the Cabinet Secretaries have the authority, that is the time that we begin to cross the constitutional line.

That is what Senator BYRD talked about in February, what Senator FEINGOLD talked about last week, and what Senator COLLINS is talking about today. I congratulate her on her amendment. I think it is constructive. I think it is respectful to the President. It acknowledges his role in the Constitution, but it reiterates the importance of the role of the Senate in accountability and in transparency. I look forward to supporting her amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I listened to the comments of the ranking member, the Republican manager of the bill. I agree with everything he said. I have great respect for the Senator from Maine. I find this amendment reasonable and our side is prepared to accept it.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ISAKSON addressed the Chair.

Mrs. FEINSTEIN. Mr. President, we have one issue up right now, and then we will be happy to call on the Senator from Georgia. I know he has an amendment. I will ask unanimous consent that directly following disposal of the amendment of the Senator from Maine we turn to the Senator from Georgia.

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

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum for just one moment.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Georgia, Mr. ISAKSON, and the Senator from Louisiana, Mr. VITTER, be added as cosponsors of the amendment.

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

Ms. COLLINS. Mr. President, I thank the chairman of the subcommittee, the Senator from California, and the Senator from Tennessee for their kind comments.

I urge adoption of the amendment.

Mrs. FEINSTEIN. To understand this correctly, the intention is to take this by unanimous support. However, there is one thing that needs to be checked

on. The clerks will do that, if the Senator from Maine is agreeable. In the meantime, we will proceed with the Senator from Georgia? Hearing no objection, I yield to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

#### AMENDMENT NO. 2504

Mr. ISAKSON. I ask unanimous consent we set aside the pending amendment and call up amendment No. 2504.

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

The bill clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 2504.

Mr. ISAKSON. I ask further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To encourage the participation of the Smithsonian Institution in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights History Project Act of 2009)

On page 219, line 5, before "and including", insert the following: "of which \$5,000,000 may be made available to the Secretary of the Interior to develop, in conjunction with Morehouse College, a program to catalogue, preserve, provide public access to and research on, develop curriculum and courses based on, provide public access to, and conduct scholarly forums on the important works and papers of Dr. Martin Luther King, Jr. to provide a better understanding of the message and teachings of Dr. Martin Luther King, Jr.:"

Mr. ISAKSON. First, I thank the chairman for the courtesy of allowing me to call up the amendment at this time and appreciate the courtesy of the Senator from Maine. I have requested in appropriations the designation which is included in this amendment which says the Secretary may—underline the word "may"—appropriate \$5 million to Morehouse College for the purpose of the curation and the care of the Martin Luther King, Jr., papers in Atlanta, GA, for the civil rights museum of history.

Briefly, not to belabor the point, a number of years ago, as you may know, the family of Martin Luther King put up the King papers for auction to the highest bidder. A number of people in the State of Georgia and the city of Atlanta determined that those papers belonged to the world and raised \$32 million amongst themselves to buy the papers to protect them forever for posterity. An issue came up in the U.S. House of Representatives to appropriate that money, and it didn't happen. Without those bidders, those papers would have gone to the highest bidder. Whether or not it would have remained in the public purview for posterity no one knows. But we do know because of the people and the mayor of Atlanta, Shirley Franklin, the distinguished Representative of our State, had the courage and fortitude and foresight to raise the money, and those papers are now under protection for the people of the world.

The money is being raised to build the civil rights museum, and it will start in the not too distant future at Centennial Park in Atlanta. It will house the papers of Martin Luther King, but there are 10,000 exhibits within the papers of Dr. King. Therefore, Morehouse College has been designated to be the curator and protector of those papers, much as our archivists in the country do for the great historical documents of the United States. This money would go to assist Morehouse College as the curator to protect those papers, which will be in the public domain forever.

I appreciate very much the distinguished chairman allowing me to offer the amendment. I hope at the appropriate time it will be adopted. I think it is an important contribution to the history of our country and future of civil rights and the world.

I yield the remainder of my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2504, AS MODIFIED

Mrs. FEINSTEIN. I ask unanimous consent that Isakson amendment No. 2504 be modified with the changes that are at the desk, which are technical amendments.

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

The amendment as modified is as follows:

On page 219, line 5, before "and including", insert the following: "of which \$5,000,000 may be made available to the Secretary of the Interior to develop, in conjunction with Morehouse College, a program to catalogue, preserve, provide public access to and research on, develop curriculum and courses based on, provide public access to, and conduct scholarly forums on the important works and papers of Dr. Martin Luther King, Jr. to provide a better understanding of the message and teachings of Dr. Martin Luther King, Jr.:"

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that at 5:45 p.m. today, the Senate proceed to vote in relation to the following amendments and motion; that prior to each vote there be 2 minutes of debate, equally divided and controlled in the usual form; that no amendments be in order to the amendments or motion prior to the vote; that after the first

vote in the sequence, the succeeding votes be limited to 10 minutes each: McCain amendment No. 2461, DeMint motion to recommit, and Reid amendment No. 2494.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Mr. President, reserving the right to object, that would be the Reid amendment as modified?

Mrs. FEINSTEIN. Right.

Mr. ALEXANDER. No objection.

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

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AMENDMENT NO. 2494, AS MODIFIED

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Reid amendment No. 2494 be modified with the change at the desk and that once the amendment is modified, it be agreed to, as modified, and the motion to reconsider be made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to, as modified.

The amendment (No. 2494), as modified, was agreed to, as follows:

On page 240, between lines 13 and 14, insert the following:

#### SEC. 423. JUNGO DISPOSAL SITE EVALUATION.

Using funds made available under this Act, the Director of the United States Geological Survey may conduct an evaluation of the aquifers in the area of the Jungo Disposal Site in Humboldt County, Nevada (referred to in this section as the "site"), to evaluate—

(1) how long it would take waste seepage (including asbestos, discarded tires, and sludge from water treatment plants) from the site to contaminate local underground water resources;

(2) the distance that contamination from the site would travel in each of—

(A) 95 years; and

(B) 190 years;

(3) the potential impact of expected waste seepage from the site on nearby surface water resources, including Rye Patch Reservoir and the Humboldt River;

(4) the size and elevation of the aquifers; and

(5) any impact that the waste seepage from the site would have on the municipal water resources of Winnemucca, Nevada.

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2461

Mr. MCCAIN. Mr. President, I ask that we proceed to the regular order.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I believe the regular order is that I am allowed 1 minute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Thank you, Mr. President.

This amendment strikes an earmark of \$200,000 for the Des Moines Art Center in Iowa. The center just began a \$7.5 million capital improvement project. It is time we got serious.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I join Senator HARKIN in urging a “no” vote. I think he argued quite eloquently on the floor.

I yield my time, and we can go straight to the vote.

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

The yeas and nays have been previously ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

I also announce that the Senator from Arkansas (Mrs. LINCOLN) is absent due to a death in the family.

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

The result was announced—yeas 27, nays 70, as follows:

[Rollcall Vote No. 291 Leg.]

#### YEAS—27

Barrasso	Ensign	Kyl
Bunning	Enzi	LeMieux
Burr	Feingold	Lugar
Chambliss	Graham	McCain
Coburn	Gregg	McConnell
Corker	Hutchison	Risch
Cornyn	Inhofe	Sessions
Crapo	Isakson	Thune
DeMint	Johanns	Vitter

#### NAYS—70

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

#### NOT VOTING—2

Byrd Lincoln

The amendment (No. 2461) was rejected.

#### MOTION TO RECOMMIT

The PRESIDING OFFICER. There is now 2 minutes of debate prior to a vote

in relation to the DeMint motion to recommit.

The Senator from California.

Mrs. FEINSTEIN. Madam President, both Senators from California, as well as the managers of this bill, urge a “no” vote on the DeMint amendment.

What this amendment would do is essentially prohibit the Secretary of the Interior from expending appropriated funds to restrict, reduce or reallocate water supplies from the Central Valley Project and the California State Water Project. In essence, South Carolina is telling California how to handle its water issues.

To handcuff the Secretary of the Interior will essentially prohibit transfers between the State and the Federal water projects, which transfers are being done to facilitate additional water to go to a very needy farm belt in the great Central Valley of California. To put a prohibition on the Secretary to use any of the funds in this budget to reallocate or transfer this water is a mistake.

I urge a “no” vote, and I move to table.

The PRESIDING OFFICER. There is still time remaining. The Senator from South Carolina.

Mr. DEMINT. Madam President, this issue shines a spotlight on the utter stupidity of what this body does so often. Lawsuits cut off water to one of the most fertile farming communities in our country that supplies 13 percent of our food supply. About 40,000 people are now out of work because of this arbitrary lawsuit. Now President Obama has declared it a disaster area so we can spend more taxpayer money to bail out the small businesses we are putting out of business.

All this amendment does is restrict the use of funds to cut off water to the farmers in California that affect this whole Nation. It is not a California issue, it is an American issue. It makes no sense in a recession to put people out of work and to arbitrarily, with no good science involved here, cut off water from the farmers of America.

I have a list of farm bureaus throughout California, the National Cotton Council, and people all over this country who are saying enough is enough. Let us use some common sense. Please support this motion.

The PRESIDING OFFICER. Time has expired.

The majority leader.

Mr. REID. Madam President, this will be the last vote of the evening. I will file cloture tonight on this bill and, hopefully, we can move immediately to the Defense appropriations bill.

Mrs. FEINSTEIN. Madam President, I move to table this motion to recommit, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

I also announce that the Senator from Arkansas (Mrs. LINCOLN) is absent due to a death in the family.

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

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 292 Leg.]

#### YEAS—61

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

#### NAYS—36

Barrasso	DeMint	LeMieux
Bennett	Ensign	Lugar
Bond	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Murkowski
Burr	Gregg	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cochran	Inhofe	Shelby
Corker	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	Wicker

#### NOT VOTING—2

Byrd Lincoln

The motion to table was agreed to.

Mrs. FEINSTEIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2454.

Mrs. FEINSTEIN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2508

Mr. VITTER. Madam President, I find this very frustrating. As I understand it, the Chair who is handling the bill on the floor is not objecting personally but on behalf of Senator NELSON of Florida. I find it frustrating because this is a completely germane amendment to the bill. It is a limitation amendment which is completely germane to the bill. I don't think there is any reasonable argument that something so directly pertinent and germane should not be open for discussion and vote on the Senate floor.

I think, quite frankly, it is unreasonable for Senator NELSON to block an amendment in this way. Having been

forced to do this, I now send to the desk a motion to recommit with instructions so that this amendment can be considered and heard in that manner.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] moves to recommit the bill, H.R. 2996, to the Committee on Appropriations of the Senate with instructions to report back the same to the Senate forthwith with the following amendment No. 2508.

Mr. VITTER. 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 prohibit the use of funds to delay the implementation of the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010-2015)

On page 240, between lines 13 and 14, insert the following:

**SEC. 423. PROHIBITION ON USE OF FUND TO DELAY DRAFT PROPOSED OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM 2010-2015.**

None of the funds made available by this Act shall be used to delay the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

Mr. VITTER. Madam President, I will be happy to explain the substance of this amendment. Again, I am forced to file this motion to recommit simply to have this germane, relevant amendment heard and voted on with regard to the bill.

What does the amendment do? The amendment is very straightforward. It simply says:

None of the funds made available by this Act shall be used to delay the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program from 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.

We all know we face enormous energy needs in this country. That became particularly acute and particularly obvious last summer when the price at the pump went through the roof and rose to \$4 a gallon for gasoline. At that time, people rightly became enraged that we were not doing more to control our own destiny and our own energy future. People started demanding that Congress act, that Congress do something with regard to oil and gas and other energy resources we have right here at home.

That is when the petition began: Drill here, drill now. That is when every Member of this Congress was deluged with calls and e-mails and letters saying: Let's get ahold of our own destiny and produce that energy which we have right here at home.

In that time period last year, Congress heard that message loudly and clearly. So for the first time in years, the moratorium on offshore oil and gas production was lifted by Congress, and President Bush similarly lifted a more limited executive moratorium on off-

shore production. So those barriers and those hurdles were finally lifted because of the demands of the American people, when the American people said very loudly, very clearly: This is ridiculous. We have resources here at home. We have domestic energy. Let's use that domestic energy rather than being held hostage by foreign powers. That was real progress. That was moving, certainly, in the right direction.

The problem is, the new administration and the new Secretary of the Interior have made it clear that—despite all of those actions, despite all of that clear communication by the American people, despite Congress taking that historic action of lifting the moratorium, despite the previous administration lifting the executive moratorium—they are not in any hurry and they are not going to take any action in the near future to move forward with the 2010 to 2015 offshore planning area and lease sales.

So what, unfortunately, Secretary Salazar has said pretty clearly is he is not going to take action in the foreseeable future to actually move forward with that going after domestic production and domestic resources. That is really a shame because, while the price at the pump has stabilized somewhat from last summer, and that is a good thing, the need—particularly the medium- and long-term need—is still there. Over the next 20 years, U.S. demand for energy is only going to grow. It is particularly going to grow as we get out of this recession and come back into a more normal economy. Overall, it is expected to grow at an annual rate of 1.4 percent. That is going to demand more energy. We need to conserve. We need to develop new technology. We need to develop new energy sources. But that need is still going to grow, so that short term we will have increased demand for the types of energy we use.

We have enormous potential right here at home. The question which this amendment poses is, are we going to tap that potential or are we going to use the resources we have so that we cannot be held hostage any longer by hostile foreign powers.

According to conservative estimates from MMS, there are about 288 trillion cubic feet of natural gas and 52 billion barrels of oil in the OFC, off the lower 48 States. That is an enormous amount of energy as yet untapped. That is enough oil to maintain current production for 105 years. That is enough natural gas to maintain production for 71 years. That is enough oil to produce gasoline for 132 million cars and heating oil for 54 million homes for 15 years. It is enough natural gas to heat 72 million homes for 60 years or to supply current industrial and commercial needs for 28 years or to supply current electricity generating needs for 53 years. Further, the MMS reports that the waters off Alaska's coast hold about 27 billion barrels of oil and 132 trillion cubic feet of natural gas. That is in addition to all of the potential, all

of the resources I was just talking about.

Make no mistake about it, we need to move to a new energy future. We need to develop new technology. We need to develop new sources of energy. But we need a bridge to get to that future, and certainly current fuels—oil and natural gas, particularly natural gas, which is a relatively clean-burning fuel—are an absolutely vital bridge to get to that future.

The American people are scratching their heads. We have enormous needs, particularly the need to build an energy bridge to a new, exciting energy future. The good news is we have enormous domestic resources that can help get us there, particularly natural gas. So why are we not matching those two things that should match up so well? The American people demanded that last summer. Because of their loud and clear voice, they got dramatic action out of Congress, lifting the moratoria. The problem is, the new administration and the new Secretary of the Interior are simply saying: We are not in any hurry to get there. We are not going to lift a finger to actually move forward with the concrete work that needs to be done.

That is really inappropriate. That is ignoring the clear clarion call of the American people. So, again, that brings us to my amendment, amendment No. 2454, which my motion to recommit would add to the bill. It simply says:

None of the funds made available by this Act shall be used to delay the draft proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015 issued by the Secretary of the Interior under section 18 of the Outer Continental Shelf Lands Act.

The American people have spoken: Drill here, drill now; build an important bridge to the future. No, it is not the future, but it is a necessary bridge to get us there. Let's adopt that common sense of the American people. Let's respond to that clear call of the American people dating back to last summer. Let's pass this clear limitation amendment, perfectly germane to this bill, so we can move forward with developing our domestic energy resources right here at home to build a more stable energy future.

I yield my time.

Mr. THUNE. Madam President, last summer President Bush signed into law a \$50 billion foreign aid—HIV/AIDS—bill. Included as part of the PEPFAR bill was a \$2 billion authorization that I, and a bipartisan group of Senators, worked to include that focused on the critical public safety, health care, and water needs in Indian country. All of the Senators who worked to include this provision in the final package, including now Vice President BIDEN and Secretary of State Clinton, recognized that there are great needs internationally, but that we have equal or maybe even greater needs here at home on our Nation's reservations.

The final PEPFAR bill created a \$2 billion 5-year authorization, beginning

in fiscal year 2009, for the emergency fund for Indian safety and health. Over the 5-year authorization, \$750 million could be spent on public safety, \$250 million on health care, and \$1 billion for water settlements. The need for increased funding in these three areas cannot be underestimated.

Nationwide, 1 percent of the U.S. population does not have safe and adequate water for drinking and sanitation needs. On our Nation's reservations this number climbs to an average of 11 percent and in the worst parts of Indian country to 35 percent. The Indian Health Service estimates that in order to provide all Native Americans with safe drinking water and sewage systems in their home they would need over \$2.3 billion.

The health care statistics are just as startling. Nationally, Native Americans are three times as likely to die from diabetes compared to the rest of the population. In South Dakota, 13 percent of Native Americans suffer from diabetes. This is more than twice the rate of the general population, where only 6 percent suffer from diabetes. On the Oglala Sioux Reservation in my home State of South Dakota, the average life expectancy for males is 56 years old. In Iraq it is 58, in Haiti it is 59, and in Ghana it is 60—all higher than right here in America. In South Dakota, from 2000 to 2005, Native American infants were more than twice as likely to die as non-Native infants.

Tragically, there are also great needs in the area of public safety and justice. One out of every three Native American women will be raped in their lifetime. According to a recent Department of Interior report, tribal jails are so grossly insufficient when it comes to cell space, only half of the offenders who should be incarcerated are being put in jail. That same report found that constructing or rehabilitating only those detention centers that are most in need will cost \$8.4 billion.

The South Dakota attorney general released a study last year on tribal criminal justice statistics and found homicide rates on South Dakota reservations are almost 10 times higher than those found in the rest of South Dakota. Also, forcible rapes on South Dakota's reservations are seven times higher than those found in the rest of South Dakota.

There is no better example of these public safety issues as Standing Rock Sioux Tribe, which is located on the North and South Dakota border. In early 2008, the Standing Rock Sioux Reservation had six police officers to patrol a reservation the size of Connecticut. This meant that during any given shift there was only one officer on duty. One day, the only dispatcher on the reservation was out sick. This left only one police officer to act both as a first responder and also as the dispatcher. This directly impacted the officer's ability to patrol and respond to emergencies, and prevented him from appearing in tribal court to testify at a criminal trial.

Later in the year, I was able to work with my Senate colleagues and the Bureau of Indian Affairs to bring additional police officers to the Standing Rock Sioux Reservation through Operation Dakota Peacekeeper. This effort increased the number of officers working on the reservation from 12 to 37. This operation, which was a success, was only possible because the Bureau of Indian Affairs was able to dramatically increase the number of law enforcement officials on the reservation during the surge. And this dramatic increase in officers was only possible because the Bureau had been given additional public safety and justice funds in 2008.

Since its enactment last year, I have been working with my colleagues to ensure that the emergency fund for Indian safety and health is funded as quickly as possible. Earlier this spring, 13 of us sent a letter to the chairman and vice chairman of the Appropriations Committee asking that the committee increase the allocations in three different bills, including the Interior appropriations bill that we are debating today. As a result of that letter, the allocations in both the Energy and Water Development and Interior appropriations bills were increased by \$50 million each, for a total of \$100 million.

While this funding increase is a positive sign, neither subcommittee directed this additional funding into the emergency fund as requested. Instead, the Energy and Water Development Subcommittee divided the additional funding up between a variety of water settlement projects, and the Interior Subcommittee provided \$25 million for public safety construction and \$25 million for "public safety and justice programs as authorized by the PEPFAR Emergency Fund."

While I am pleased to see that there has been a \$100 million increase in funding for Native American public safety and water projects, I think more could be done if we deposited funds directly into the emergency fund, which would be allocated to the areas of greatest need. The emergency fund, unlike general appropriations, is needed because the fund allows the relevant Federal agencies to spend the additional resources in those places where there are actual emergencies. It would allow agencies, like the Bureau of Indian Affairs, to begin additional operations, like Operation Dakota Peacekeeper, and bring immediate solutions to parts of our nation that are most in need.

That is why I filed my amendment, amendment No. 2503, today. I have filed an amendment that would simply transfer the \$50 million increase in public safety and public safety construction funding into the emergency fund. While I do not intend to seek a vote on this amendment today, I am committed to continuing to work in a bipartisan manner for the much needed funding for the emergency fund. Toward that end, I am encouraged by the

discussions I have had with several of my colleagues who are willing to continue this effort.

Mr. CONRAD. Mr. President, I rise to offer for the RECORD the Budget Committee's official scoring of H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act for fiscal year 2010.

The bill, as reported by the Senate Committee on Appropriations, provides \$32.1 billion in discretionary budget authority for fiscal year 2010, which will result in new outlays of \$19.7 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the bill will total \$34.3 billion.

The Senate-reported bill matches its section 302(b) allocation for budget authority and is \$5 million below its allocation for outlays. No points of order lie against the committee-reported bill.

I ask unanimous consent to have printed in the RECORD a table displaying the Budget Committee scoring of the bill.

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

H.R. 2996, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

[Spending comparisons—Senate-reported bill (in millions of dollars)]

	General purpose
Senate-Reported Bill:	
Budget Authority .....	32,100
Outlays .....	34,273
Senate-Reported Bill Compared To:	
Senate 302(b) allocation:	
Budget Authority .....	0
Outlays .....	-5
House-Passed Bill:	
Budget Authority .....	-200
Outlays .....	85
President's Request:	
Budget Authority .....	-225
Outlays .....	35

NOTE: Table does not include 2010 outlays stemming from emergency budget authority provided in the 2009 Supplemental Appropriations Act (P.L. 111-32).

The PRESIDING OFFICER. The Senator from California is recognized.

#### MORNING BUSINESS

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each. I ask unanimous consent for the Senator from Oklahoma to proceed.

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

#### CLIMATE CHANGE

Mr. INHOFE. Madam President, let me thank the Senator from California for allowing me to go first in this group that I am sure will appear down here to talk in morning business.

As the cap and trade continues to languish in the Senate, President Obama is trying to salvage international climate change talks that are on the brink of collapse. So he gave a