

Brandon Mullins inherited a proud military tradition. He was the third generation in his family to wear the Nation's uniform. His father Thomas was a military police officer, and as a child Brandon and his brother Shaun used to love to play with his dad's old MP mementoes. They also loved to play on a World War II-era tank that was on display in a park near Brandon's childhood home.

As a kid, Brandon loved sports. Hockey was his favorite. He and his family enjoyed going to Nashville Predators games, but Brandon's favorite team was the Detroit Red Wings.

Brandon also played hockey in high school and was the MVP of his league. He thrived under pressure. One time, Brandon's team found itself in a shoot-out situation for victory in a high-stakes playoff game. Brandon asked his coach to put him in as the goalie. He wanted a chance to step up in a clutch moment for his teammates and, sure enough, his team won the game.

Brandon also enjoyed being outdoors. He was a hunter, a fisherman, and a hiker. His family described him as fearless when it came to physical challenges. He started rollerblading at the age of 4. He is remembered as high spirited, generous, and very popular.

Brandon's family was certainly not surprised when Brandon grew up and enlisted in the military. "He wanted the tough job," his mother Catherine said. "He wanted to fight. He was competitive."

Brandon's brother Shaun had enlisted before him, and so in February 2010 Brandon enlisted in the Army. He deployed to Afghanistan in May of 2011 with Company C, 3rd Battalion, 21st Infantry Regiment, 1st Stryker Brigade Combat Team, 25th Infantry Division, based out of Fort Wainright, AK. Once again, he thrived under pressure, this time in the demanding task of fighting for our country.

"Brandon matured very quickly," his father Thomas said.

From the time he entered basic training . . . you could see a big change in his life. He was headed in the right direction with his life.

Brandon loved being in the Army, and would send letters back home about how cool basic training was. Brandon's fellow soldiers quickly took to the new recruit from Owensboro.

"I can honestly say I've never met anyone like Mullins," said SSG Matthew Mills, Brandon's squad leader.

SPC Deroderick Jackson, another one of Brandon's fellow soldiers, said this:

He was just a big help to me. Every time he saw I had a hard time, he made me smile and told me to get it together. On a mission with the Afghan National Army, I was real tired and they were going real fast and [Brandon] said, "You've got this, brother!"

Another fellow soldier, COL Todd R. Wood, recalls that Brandon:

. . . was best described as the epitome of selfless service—he took on details others did not want, he did not complain, he just did it,

and usually with a smile. He carried the heaviest loads and helped out everyone he could. He was always concerned about others first.

Brandon's fellow soldiers also recall he had a fun side. "I remember he was really goofy," said Private First Class Adam Baldrige.

One time I remember we got in trouble and we were getting smoked until we almost had a tear rolling down our cheeks. He just turned and looked at me and said, "Just remember, they can't smoke rocks."

We are thinking of Brandon's loved ones today, as I recount his story for my colleagues in the Senate, including his parents Thomas and Catherine Mullins, his brother PFC Shaun Erik Mullins, his sister Bethany Rose Mullins, and many other beloved family members and friends.

This past September 11 was the tenth anniversary of the brutal terrorist attacks that ushered in a new era of military readiness and resolve for America. On that day, the Mullins family held a memorial service for Brandon. More than 800 people came to show their respects.

The funeral procession, led by 576 motorcycles, traveled from Good Shepherd Church to Owensboro Memorial Gardens at a slow, somber pace—taking 1 hour to drive 11 miles.

On that day, CPT Sean J. Allred of the 3rd Battalion, 21st Infantry Regiment, wrote Thomas and Catherine Mullins a letter.

I hope that through writing this letter you may know how your son lived as a warrior and will continue to live in our hearts and in our victories.

Know that your son was a brother to all men in his Platoon and all who knew him . . . Brandon was a credit to you and how you raised him. I am forever indebted to him and will honor his memory in future actions.

Captain Allred's sentiments are shared by this Senate. Our Nation can never repay the debt owed to Specialist Mullins or the sacrifice he made that weighs so heavily on his family. But we can honor his service and ensure that he will never be forgotten by his country. It is thanks to heroes such as SPC Brandon S. Mullins that America enjoys the freedoms we do today.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT OF 2012

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2112, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2112) making appropriations for Agriculture, Rural Development, Food

and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

Pending:

Reid (for Inouye) amendment No. 738, in the nature of a substitute.

Reid (for Webb) modified amendment No. 750 (to amendment No. 738), to establish the National Criminal Justice Commission.

Kohl amendment No. 755 (to amendment No. 738), to require a report on plans to implement reductions to certain salaries and expenses accounts.

Durbin (for Murray) amendment No. 772 (to amendment No. 738), to strike a section providing for certain exemptions from environmental requirements for the reconstruction of highway facilities damaged by natural disasters or emergencies.

Landrieu amendment No. 781 (to amendment No. 738), to prohibit the approval of certain farmer program loans.

Vitter modified amendment No. 769 (to amendment No. 738), to prohibit the Food and Drug Administration from preventing an individual not in the business of importing a prescription drug from importing an FDA-approved prescription drug from Canada.

Coburn amendment No. 791 (to amendment No. 738), to prohibit the use of funds to provide direct payments to persons or legal entities with an average adjusted gross income in excess of \$1,000,000.

Coburn modified amendment No. 792 (to amendment No. 738), to end payments to landlords who are endangering the lives of children and needy families.

Ayotte amendment No. 753 (to amendment No. 738), to prohibit the use of funds for the prosecution of enemy combatants in article III courts of the United States.

Crapo amendment No. 814 (to amendment No. 738), to provide for the orderly implementation of the provisions of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Merkley amendment No. 879 (to amendment No. 738), to prohibit amounts appropriated under this Act to carry out parts A and B of subtitle V of title 49, United States Code, from being expended unless all the steel, iron, and manufactured products used in the project are produced in the United States.

Moran amendment No. 815 (to amendment No. 738), to improve the bill.

Bingaman modified amendment No. 771 (to amendment No. 738), to provide an additional \$4,476,000, with an offset, for the Office of the United States Trade Representative to investigate trade violations committed by other countries and to enforce the trade laws of the United States and international trade agreements, which will fund the Office at the level requested in the President's budget and in H.R. 2596, as reported by the Committee on Appropriations of the House of Representatives.

Blunt (for Grassley) amendment No. 860 (to amendment No. 738), to ensure accountability in Federal grant programs administered by the Department of Justice.

Menendez amendment No. 857 (to amendment No. 738), to extend loan limits for programs of the government-sponsored enterprises, the Federal Housing Administration, and the Veterans Affairs' Administration.

Lee motion to recommit.

Sessions amendment No. 810 (to amendment No. 738), to prohibit the use of funds to allow categorical eligibility for the supplemental nutrition assistance program.

Blunt (for DeMint) amendment No. 763 (to amendment No. 738), to prohibit the use of funds to implement regulations regarding the removal of essential-use designation for epinephrine used in oral pressurized metered-dose inhalers.

Blunt (for DeMint) amendment No. 764 (to amendment No. 738), to eliminate a certain increase in funding.

Lautenberg amendment No. 836 (to amendment No. 738), to provide adequate funding for Economic Development Administration disaster relief grants pursuant to the agreement on disaster relief funding included in the Budget Control Act of 2011.

Gillibrand amendment No. 869 (to amendment No. 738), to increase funding for the emergency conservation program and the emergency watershed protection program.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BLUNT. I thank my colleagues for bringing amendments to the floor on the Agriculture bill and also on the other two bills we are dealing with, Transportation and Housing and Urban Development, and Commerce-Justice-State.

We have had a vigorous debate over the past few days. We will have further votes today, and I think we will have further amendments today. We look forward to our colleagues continuing to come to the floor to debate these amendments. I hope we can continue working together to produce a bipartisan piece of legislation that becomes the first appropriations bill, as such, that we hopefully will be able to complete with the House.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Gillibrand amendment is the pending amendment.

Mr. DURBIN. To H.R. 2112?

The ACTING PRESIDENT pro tempore. To H.R. 2112.

Mr. DURBIN. If there are no Members on the floor to offer amendments to speak to those amendments, I ask unanimous consent to speak as in morning business.

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

WALL STREET REFORM

Mr. DURBIN. Mr. President, our colleagues on the other side of the aisle have an interesting grasp of history. How else can you explain their choice of this week to push for the repeal of the most significant Wall Street reform since the Great Depression? For those who need a reminder, it was 24 years ago this week, October 19, 1987, that the Dow Jones Industrial Average suffered the largest 1-day percentage drop in history. It was known as Black Monday. The Dow Jones lost 508 points that day, more than 22 percent of its value, \$500 million in wealth destroyed in 1 day. It took the Dow Jones Average 2 years to recover from Black Monday. Financial markets had not experienced such a disastrous decline since the stock market crash of 1929 that set off the Great Depression.

Most of us thought we would never again see such an event. Then came the financial crisis of 2008. In between time, I might mention, there was a savings and loan crisis. But then came the 2008 financial crisis. And 3 years after the near collapse of AIG set off the 2008

financial crisis, big banks and big Wall Street investment firms are once again extremely profitable. Most of the banks reported their earnings this week, and the biggest names made the biggest profits ever.

Wall Street CEOs are still pulling down salaries and bonuses worth tens of millions of dollars a year, hundreds of times more than the average worker's income. Most Americans are still struggling. The financial crisis of 2008 wiped out millions of jobs.

I recall the month President Obama was sworn in as President. I stood there on that cold January day, and as he took his hand from the Bible, I realized we had lost 750,000 jobs the month he took office. And, unfortunately, it preceded him and continued for some time. There are now 24 million Americans unemployed or underemployed. Millions have lost their homes. Millions more are in danger of joining them.

Nearly one in every four mortgages in America is now underwater, which means that the owners owe more on the mortgage than the value of the home. In the last 4 years, many Americans have seen their home values plummet by nearly one-third since 2007, and their retirement savings cut in half. We are paying a heavy price for the perfidy of Wall Street.

Solid, well-run companies across America, many in business for decades, have been shaken to the core and cannot find credit to either continue in business, expand their business, or hire new employees. What do our Republican friends offer as a solution? They want to repeal—repeal—the reforms that Congress passed to reduce the reckless risk taking and deception on Wall Street. They want to repeal Wall Street reform.

They want to repeal the Sarbanes-Oxley reform that was put in place after the debacle of the Enron Corporation. They are offering the same mistaken policies of the last decade. They want us to repeat the same mistakes that led us to a near meltdown of the global economy.

This effort to repeal Wall Street reform is part of a larger Republican campaign to prevent government from passing and enforcing reasonable rules that protect our environment and safeguard America's food supply, pharmaceuticals, and consumer products. Cut taxes on millionaires and billionaires and get rid of government regulation, they argue, and the economy will make a dramatic return. That is what they believe.

But if that were true, the last administration would have been the most prosperous in history. Those were the hallmarks of the George W. Bush administration: wage two wars but do not pay for them, but cut taxes on the wealthy and try to diminish regulation, when it came to oversight on the largest corporations, banks and financial institutions.

Instead, the George W. Bush administration produced "the worst jobs record on record." Those are not my

words. This is a quote from the Wall Street Journal. They said: The Bush years produced the worst jobs record on record. And they followed the same playbook that the Republicans now offer as their idea for revitalizing the economy.

During the Bush administration, we saw the largest tax cut in our Nation's history with nearly all the benefits going to those at the top. It was the first time any President in the history of the United States cut taxes in the middle of a war. That is counterintuitive. A war is an added expense to government. Cutting revenue to government at that point invites deficits, which President Bush saw during his term—his 8 years.

The debt of the United States doubled during President George W. Bush's term in office. Regulatory agencies were underfunded, overwhelmed, and they were represented many times by people who had no interest in their mission. In the financial services industry, many Federal agencies turned a blind eye to activities that led to the global financial meltdown.

The Securities and Exchange Commission under the Bush administration allowed America's largest financial institutions to self-regulate, police themselves. The Federal Reserve declined to use its power to regulate subprime mortgages, which led to the terrible housing crisis which we still face today. The Comptroller of the Currency used that power to preempt State consumer laws on subprime mortgages, exactly the opposite of what they should have done.

Under the previous administration, unregulated mortgage brokers sold reckless loans, including infamous liar loans and ninja loans. Those are the no-income, no-asset loans. Major financial institutions packaged the bad loans as securities, which they then sold as investments. Credit agencies blessed those toxic assets with AAA ratings, while being paid by the very companies that were selling the loans. The fix was on.

Insurance companies such as AIG insured toxic assets against loss, turning junk into gold. Investors all over the world then bought those assets, sowing the seeds for the economic crisis we still suffer from today. It was a daisy chain of deregulation and disaster. And what do we hear from the Republican side of the aisle? Let's go back to those thrilling days of yesteryear. Let's repeal Wall Street reform. Let's let Wall Street, like 10,000 flowers, bloom and we will get back into a strong economy.

America knows better. We have seen this movie. We know how it ended in 2007, and we do not want to see it again. This was not the first time. In the 1980s, savings and loans were deregulated, made reckless investments, and eventually had to be bailed out by

taxpayers to the tune of \$130 billion. And \$130 billion is bad enough. It was almost \$800 billion for the TARP bailout of the big banks under the Bush administration.

The Dodd-Frank Wall Street reform bill requires institutions that sell non-standard mortgages to keep at least 5 percent of those mortgages on their books, reducing the risk that they will try to pass toxic assets off as solid investments. Under the new rules, banks have to make sure that borrowers can repay the loans. Lenders are forbidden from steering into expensive loans borrowers who cannot qualify for more affordable mortgages.

A new Consumer Financial Protection Bureau will look out for the interests of consumers and prohibit the sale of abusive mortgages and other risky and destructive financial products. I cannot think of another agency of government, not one, that the Republicans hate more than the Consumer Financial Protection Bureau. I want to tell you, I am proud that I introduced the first bill on this issue, working with Elizabeth Warren, a Harvard law professor. We put together a bill. I credit Senator Dodd and Congressman FRANK for rewriting provisions and including it in Wall Street reform.

I think it is about time we had one agency, just one in our Federal Government, that is designed to look out for and help consumers and families across America, to save them from the tricks and traps that are thrown at them which they could not possibly understand when they look at the fine print of their mortgage agreements and their credit card agreements and things that even lawyers struggle to understand.

This one agency, one single agency, with the limited power given to it and the limited resources given to it, is the target—it is ground zero for the Republican attack. They do not want to have even one agency of government focusing on protecting America's consumers. The new Wall Street reforms tackle the dangers of too big to fail. We saw what happened there—almost \$800 billion in bailout funds to the biggest banks in America. They, of course, had made some stupid decisions, greedy decisions, selfish decisions. We paid for it. Everybody paid for it, with savings that were lost and pension plans diminished. And then, when they were about to fail, in came the previous administration and said we have to save them or there will be a global meltdown.

I was persuaded. I didn't want to see a global meltdown. We gave some \$800 billion to these big banks. Did they send us a note of "thank you"? Yes. They sent us a note of "thank you" and put it on the back of the most recent bonuses they gave to their officers. They were giving officers bonuses after the bank virtually fails and they have to rely on hard-working taxpayers to bail them out. That was the ultimate irony, but it is the reality of what we faced when we passed Wall Street reform.

When Enron collapsed in 2002, shareholders lost between \$11 billion and \$16 billion, employees lost \$2.1 billion in pension plans, 5,600 jobs were destroyed, and Enron's top executives, whose recklessness and greed destroyed the company, received \$1.4 billion in compensation.

In 2007, after watching its stock value fall from \$300 billion to \$6 billion in 2 years, Citigroup pushed its CEO, Chuck Prince, out the door—and, incidentally, they gave him a \$38 million severance package.

In late 2008, with the financial system on the verge of collapse, 17 troubled banks that had just accepted billions of dollars in taxpayer assistance doled out more than \$2 billion in bonuses and other payments to their highest earners.

Dodd-Frank, the Wall Street reform bill, reduces the incentive for CEOs to place short-term gains above the long-term health of their companies by increasing transparency and giving shareholders a say over executive compensation. It is another way that the new Wall Street reforms can restore stability and integrity to our markets and sustainable growth to our economy.

Economists still debate the causes of Black Monday 4 years ago, but no one who looks honestly at our recent past can seriously debate what happens when you take the financial cops off the beat and let Wall Street and the big banks regulate themselves. Those who are calling for repeal of Wall Street reform are basically saying we are going to give free rein to Wall Street to make their own rules again. If they are successful, I predict—be prepared—it is coming at us again. Wall Street will overdo it, and their greed and excess will eventually cost average families and taxpayers who have no fault in the process.

We cannot afford to repeat these mistakes—mistakes that almost crashed the global economy. If our Republican colleagues want to join us in creating good, middle-class jobs for Americans, they can help us pass the American Jobs Act.

Let me say a word about that. I know the majority leader will give Republicans a chance to vote on one section of that today. Hopefully, they will join us. It is a section that takes part of the President's jobs act—some \$35 billion—and uses it to hire those who would otherwise be laid off if they are teachers, firefighters, and policemen.

Two-thirds of the school districts in Illinois have been laying off teachers. That is not good for the teachers, obviously, and it is not good for the students either. We are trying to make sure we save these jobs and give our students a good education across America in these difficult times.

When it comes to firefighters, we had a rally over in the Russell Caucus Room. A number of firefighters were there. They are asking, of course, for a helping hand to save their jobs in this tough economy.

I didn't know it at the time of the rally, but Tuesday night in Moline, IL, the city council looked at their tough budget and decided to lay off 12 firefighters who are responsible for ambulance service in Moline, IL. The fire chief, Ron Miller, said that he could not in good conscience continue to be fire chief if they are going to take 12 of his firefighters away, that it was not safe for the people of Moline. He resigned. It was an act of principle. It is an indication of how desperate people have become.

The amendment we will have today as part of the President's jobs package will give us a chance, on a competitive basis, to fill many of these jobs for firefighters, policemen, and teachers. I hope some of my Republican colleagues will join us in this effort.

How do we pay for it, incidentally? There is a tax. Let's put it right on the table. It is a tax of one-half of 1 percent on the incomes of people making over \$1 million a year. So the first million dollars is not subject to it; the next dollar is. It is one-half of 1 percent. The money that is brought in from that will spare hundreds of thousands of teachers, firefighters, and policemen from being laid off. I don't think it is too much to ask for the people who are wealthy and comfortable in America to share in the sacrifice with every other American family who sacrifices every day in this tough economy. We will vote on it, and I hope we get bipartisan support.

In the meantime, let's not repeal Wall Street reform. We learned a bitter lesson 24 years ago and just 4 years ago as well. Let's not repeat that bad history.

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

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

The legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, I compliment all Senators in the way they have worked cooperatively and expeditiously in moving these three very important appropriations bills forward. Every Senator who has had an amendment has worked with us constructively either to modify it or to comply with what the leadership wanted to do.

I compliment all the managers for their work in moving the bills forward. I think it shows that we can govern ourselves.

This is the first time in a couple of years that we are actually following the regular order on due deliberations of our appropriations bills. It is very important that we do this to meet our fiscal responsibility of funding annual appropriations; that is, actually putting money in the Federal checkbook.

We have followed the regular order by each subcommittee holding rigorous hearings, doing due diligence in terms of oversight, and being quiet guardians of the purse. If anybody has watched us over the last couple of days, we have moved expeditiously. The debate has had such rigor, civility, we have learned from each other, and we have modified amendments back and forth. I think this is so positive and so constructive.

I hope we can conclude deliberations on these three appropriations bills today. Again, Senators need to have their say. Better they have their say than have their day and we show we can govern in a manner that is civil, that has intellectual rigor and due diligence in terms of oversight but also looking at how we protect vital American interests.

The three bills we have today are agriculture, which is so important to the American economy—this is a jobs bill. It is also a food and drug safety bill. At the same time, there is transportation and housing.

People talk about an infrastructure bank. We don't know what we are going to do or how we are going to pay for it, but right here, today, we have transportation pending that will go to every State on a formula basis, and then to some very important special needs identified by Senators in this process, to really then create jobs and meet the kinds of needs our respective States have, to build and repair highways, bridges, and have mass transit to get people to work.

At the same time, housing is absolutely crucial to our economy. The Federal Government does own and operate housing. It is called public housing. The ranking member on the Transportation-HUD bill speaks eloquently about that. Maine is well known for its compassionate way of dealing with people in need, whether it is the elderly, the handicapped, or the poor. But it is also how we can work with local government in the Community Development Block Grant Program, where local people make local decisions on how best to invest Federal funds to have a multiplier effect in economic and community development. We don't only want to build housing, we want to build community and at the same time build jobs. This is fantastic.

Then there is my own bill, the Commerce-Justice-Science bill, which I have worked on in such a cooperative way with the Senator from Texas, KAY BAILEY HUTCHISON.

We also have the Commerce Committee. The Commerce Committee is supposed to be about American business, and we have put in money for the Trade Representative to make sure we not only import—we want to make sure we just don't export jobs but we export products made in America by Americans, helping the American economy.

We also have the Patent Office. We have just reformed the process. If we

want to out-innovate, we have to protect our intellectual property. There are those who would rather steal our ideas than invent their own. We have to have it where if you invent it, you get to keep it and profit from it.

The National Institute of Standards works with the private sector—a Federal agency to create the standards necessary so that products can go beyond the prototype and then be sold in America, but because there are certified standards they can be sold around the world.

Then we have the Justice Department. Aren't we proud of our Federal law enforcement? Sure, BATF had a big spill and cinders with the Fast and Furious Program. But look at the FBI, look at the DEA, and look at how they are intercepting everything from terrorists to organized crime to child molesters. And let's hear it for the Marshals Service, which is often overlooked and undervalued. They are out there every day protecting people who work in the courthouses and also serving the warrants and keeping an eye on sexual predators.

Then our subcommittee is one of the real engines of innovation through its work at the National Space Agency and at the National Science Foundation, doing the kinds of basic research the private sector can't do but will value in order to invest again in those new products that will create new jobs in America.

We like our bills. Again, we have done oversight to deal with how to be more frugal. We want people to work on that as the day moves on. I wanted to give everybody the lay of the land.

For those Senators who want to improve our bill by the regular order of the amendment process, we encourage them to come to the floor now to offer them and speak out. We want them to have their say and to have their day.

AMENDMENT NO. 750

Mr. President, while we are waiting for those Senators to come, I wish to comment on an amendment offered by our colleague from Virginia, Senator WEBB.

Senator WEBB has been a long-standing advocate that our people in this country be well served by the justice system. He has become increasingly concerned about the way the justice system works and feels it needs a comprehensive review. He has recommended the establishment of a national justice commission to do a review of Federal, State, and local Federal criminal justice systems, which will make a final report recommending changes in policy and practices to both prevent, deter, and reduce crime and violence and also to reduce recidivism and do it in a cost-effective way.

I want my colleagues to know I am an enthusiastic supporter of the Webb criminal justice commission. It is just a patchwork now. At times, because we so load up in the bottom end after a crime is committed, we need to look at prevention and intervention and also

other things, such as alternative sentencing.

I wish to acknowledge the validity of the issue raised by our colleague from Virginia. We have a very high incarceration rate in this country.

More than 2.3 million Americans are in prison. Another 5 million are on probation or parole. Correction costs continue to grow and we have to tighten our belt. The problem is definitely evident in my bill. For Federal prisons alone, we had to include another \$300 million to safely guard the Nation's growing Federal prison population, and that does not include those in State prisons and local jails. This subcommittee has an obligation to fund Federal prisons, but this increase did consume a significant part of our allocation at the expense of other DOJ agencies.

Why is this happening? Is it partly because of Americans being more violent, there are more criminals, or are we getting better at catching them and prosecuting them? You know what, the answer could be yes, but we don't know. Is it that our mandatory sentencing—a good intention—has now had unintended consequences; that people who are first offenders could be in alternative sentencing and doing something else?

We are spending a lot on prisons, and so I support Senator WEBB's effort to create a blue-ribbon national commission to do an 18-month, top-to-bottom review, examining costs and practices and policies for prevention, intervention, prosecution, and imprisonment, looking at which programs work and which can be improved. I hope it will end in concrete, wide-ranging reforms.

I support the amendment and look forward to voting for it and then to working on a constructive way to take a look at what his recommendations are. I understand the Senator from Virginia is retiring. Along with his incredible service in terms of the national security of our country, this will be one of his more lasting legacies. I hope we adopt the Webb amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 769

Ms. MIKULSKI. Mr. President, I do want to comment on the Vitter amendment and then be able to have the Senator from New Hampshire speak.

But before the leader leaves, I want to express my condolences to the Mullins family for what happened. It is a little hard to get back into talking about amendments and debating issues when you hear such a poignant and wrenching story.

I am glad the Senator from Louisiana is on the floor, because I know we will be debating his amendment.

I want to make a comment about the Vitter amendment No. 769, as modified. I oppose the amendment. I appreciate the intent of the Senator from Louisiana to make lower cost drugs available to the American people, but we

have many flashing lights about this and I bring this from knowledge of being both on the Intelligence Committee and also in working with the FBI through our CJS in both the classified and unclassified setting.

The amendment allows individuals to import FDA-approved drugs from Canada. It sounds great. But we don't know if the drug was made in Canada, and we don't know if it is coming from a regulated Canadian Web site.

We are concerned because of organized crime involvement and now counterfeit drugs—lethal, lethal, lethal drugs—could come into our country and have dire and devastating effects.

We could talk about how to have pharmaceutical FDA-approved drugs available to our people at less cost. Ironically, this is coming from a national health system. I am not going to get into ObamaCare and all that, but I do want to speak as someone who knows a lot about international organized crime.

What I want our colleagues to know is where there is compelling, compassionate human need, there is greed. Where there is greed, there are scams, schemes, and in many cases they have lethal consequences. What the Vitter amendment does—first of all, it does not give the FDA additional resources to combat counterfeit medicine, it just makes an allowable use.

I don't know where we are going to get the money. If our colleague, Senator KOHL, were here, he would speak about the money. I wish to speak about the safety.

There are rogue Canadian pharmacy Web sites, and the consequence of that is we do not know what is coming. One of the things we do know is, we have examples of awful things that have happened. Do many of you remember when Coumadin came into this country? That is a blood thinner. It was illegally produced and did not meet FDA standards and resulted in people dying because they hemorrhaged out because of a counterfeit drug. They bled to death taking something they thought was safe.

There is Tamiflu that came into our country, but it was not Tamiflu; it was talcum powder. A person might want to swallow talcum powder. It might give them indigestion. But I tell you there are other things that can have more dire circumstances—birth control pills made out of rice flour. There is a complete list, and I encourage my colleagues, go to the FDA, find out what they have experienced in this. Go to the FBI, find out what they have done to try to intercept this. Go to our customs and border people. They have heartburn trying to prevent heartache from those things that could come illegally into our country.

We do have to deal with the cost of prescription drugs. We did deal with it in subsequent legislation in which we have closed the doughnut hole. I compliment the Senator from Louisiana for wanting to do that and all who modi-

fied it. But do not make a good intention have a horrible, lethal, unintended consequence.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Senator from New Hampshire is recognized.

AMENDMENT NO. 753

Ms. AYOTTE. Mr. President, I rise to discuss my amendment, No. 753. This amendment would prohibit the use of funds for fiscal year 2012 for the prosecution of enemy combatants in article III courts. Specifically, it applies to members of al-Qaida or affiliated entities who are also participants in the course of planning or carrying out attacks against the United States.

I heard yesterday many of my colleagues from the other side of the aisle, for whom I have great respect, come to the floor to oppose my amendment. I would like to address the issues they have raised and start with this. I think their arguments miss the point. We are at war with these terrorist enemy combatants, members of al-Qaida who are planning or who have planned attacks against the United States of America. In what other conflict has the default or preferred position been to try these individuals in the civilian court systems of the United States?

The primary focus when we capture an enemy combatant needs to be on gathering intelligence to protect the people of this country and our allies. I have great respect for our civilian court system. I have tried many cases. I have both defended criminals in that system, and I have prosecuted criminals in that system. Our civilian court system was not set up to gather intelligence. It was set up to have a fair prosecution of individuals who commit crimes in our country. When people rob a liquor store, the police arrest them, they question them, but the primary purpose is to find out who is accountable for the crime and then within that system to hold them accountable. The primary purpose of that system is not to gather intelligence and to make sure, within that system, we gather as much intelligence as possible of every single connection that individual has, to ensure we are preventing future attacks on our country. That has to be our primary purpose when we are trying to protect the American people.

Those who want to—and this administration wants to—use the civilian court system as the default system, they are undermining, in my view, our ability to obtain valuable intelligence because intelligence does not just come, often, with the brief interview that may happen in a criminal case, sometimes it takes months to gather the type of intelligence we need to protect Americans.

That is why, under the law of war, we allow people to be held in military custody, so we can protect the American people. But also in time, as we develop information, we can go back to those individuals 6 months later and say we just learned from another individual

your connection with al-Qaida, your connection with an attack on the United States of America, and gather further information to protect our country. Our civilian court system is not set up to do that because, under this administration, when we treat an enemy of our country, an enemy combatant, under the civilian court system, they are entitled to certain rights, such as the Miranda rights guaranteed under the fifth amendment of our Constitution.

They are, of course, told: You have the right to remain silent; you have a right to have a lawyer. These are rights they would not be read if they were taken into military custody, where they are not required to be read.

That is a fundamental difference that is very important for the American people to think about. When we capture a terrorist, we need to know what else they were planning and what they might attempt to do to our country or our allies. If we capture them and make the decision to treat them in our civilian court system, once we hold them in custody for a certain period in our civilian court system, under our fifth amendment to the Constitution, we have to tell them they have the right to remain silent. Here we are telling terrorists they have the right to remain silent. It does not fit to have a system where we are treating terrorists that way. It undermines our ability to gather information that will protect our country.

I have heard many of my colleagues, including the distinguished Senator from California yesterday, argue that military commissions are not effective in holding terrorists accountable. I have heard cited time and time again the number of convictions in article III courts compared to the number of convictions in military commissions. This is an argument that, in my view, is very misleading because one of the first steps this administration took when the President came into office was to suspend military commissions. To criticize the low number of military commission convictions when the President suspended military commissions for over two years strikes me as disingenuous—if I were making that argument in law school, I think I would have flunked my classes.

The reality is, to say our military commissions are not sufficient is actually very unfair to the military commission system. I find it astounding that somehow that would be cited as a reason not to treat enemy combatants, who are enemies of our country in the first instance, in military custody so we can gather the maximum amount of information from them, and that may take a period of time to do so, a period of time that is not built into our civilian court system because they are also guaranteed rights such as speedy presentment. That does not fit when we need periods of time to gather information to protect our country.

The distinguished Senator from California also raised the case of Mr.

Moussaoui. Our court system is, rightly so, an open system for people to see. In that system, I would give defense counsel all the information I had about a case so they could adequately defend their client. When we are dealing with a case involving the prosecution of enemy combatants, much of the information is very sensitive. It can be sensitive to our national security if it is released. It could be sensitive if the individual being prosecuted gets that information to other people. We saw that, for example, in the Moussaoui case, when he was prosecuted in an article III court where sensitive material was inadvertently leaked.

We also, of course, saw in that case victims of 9/11 having to subject themselves to being mocked by him in our open court system.

Finally, I was astonished yesterday when I heard the argument from the esteemed Senator from California that if someone commits a terrorist act on our soil, they should be exclusively tried in article III courts. She cited Mr. Brennan, who is one of the President's National Security Advisers, in saying we should be using article III courts as an exclusive way to treat individuals who have actually come to our soil to attack our country. To me, that does not make sense.

If a person is a terrorist, a member of al-Qaida, who actually has planned an attack on our country and actually comes to our country to attack us, they are going to be given greater rights because they will be given their Miranda rights, told they have the right to remain silent, they will be automatically treated in our civilian court system and we will have to give them speedy presentment and many of the rights that, rightly so, are included in our article III court system. So what are we saying to terrorists? We are actually going to give them greater rights if they come and attack us here. In my view, unfortunately, it sends the wrong message. I think it is welcoming people to the United States of America, when the message should be, clearly, we are at war with them, we are going to treat them in our military system because they are an enemy of our country, and we are going to make sure we gather the most information from them and their colleagues to protect Americans and our allies from future attacks.

We need look no further than the case of Osama bin Laden for the proof that the process of obtaining information from terrorists is frequently long and difficult, but I shudder to think what would have happen if the detainees from whom we gleaned information that led us to bin Laden were instead read their Miranda rights, remained silent, we brought them here, we had to give them speedy presentment rights. I do not think it is a stretch to say bin Laden might still be at large.

We have to put the priority on protecting Americans by gathering information. We are at war. We have a fun-

damental duty to protect the American people from the threat of future terrorist attacks. To me, that is the all-consuming priority, more important than extending constitutional rights to foreign terrorists—not American citizens—who are at war with us. I urge my colleagues to oppose civilian trials for this category of the most dangerous individuals with whom we are at war.

Finally, I wish to address one point which was actually quite surprising to me yesterday as well. The distinguished senior Senator from California said these individuals should not be treated as enemy combatants in military commissions is because, she said, it will reduce our allies' willingness to extradite terror suspects to the United States for interrogation or prosecution or even provide evidence about suspected terrorists if they will be shipped off to military commissions in all cases. And she cited that, saying: Our allies are very reluctant to give us evidence in a process where they don't feel the rule of law is present.

Well, first of all, military commissions are historically part of our system. They are consistent with the Geneva Convention and the rule of law.

Secondly, the notion that we would allow our allies to dictate where we would try enemies of our country just seems absurd in terms of what policy we are going to take as the United States of America.

It doesn't make sense to me. Here we have a situation where this administration is taking out—and I agree with them on this, and I commend them for this—terrorists around the world, members of al-Qaida, enemy combatants who threaten our country. We are killing them. Yet the same administration is saying this same category of individuals—that we shouldn't detain them in military custody, we shouldn't try them by military commissions, and that seems internally inconsistent.

It also seems inconsistent that while we have our allies participating with us in attacks against enemy combatants around the world, that they would not transfer detained enemy combatants to the U.S. for fear that we will put them in military custody. It just does not make sense.

I would urge my colleagues to support my amendment. We shouldn't further criminalize this war. We remain at war with terrorists who want to kill Americans. I brought forward this amendment because I firmly believe our priority has to be to gather intelligence and not to provide them Miranda rights and not to undermine, in my view, our military commission system but to treat enemy combatants for who they are—enemies of our country—and make sure we protect Americans.

I yield the floor.

THE PRESIDING OFFICER. The senior Senator from Virginia.

AMENDMENT NO. 750

Mr. WEBB. I would like to spend some time today addressing the amend-

ment I have introduced, which is pending—it will be voted on later this morning or early this afternoon—which would establish a national commission to address the issue of criminal justice in our country.

I would like to begin by thanking the senior Senator from Maryland for her comments earlier this morning and her strong support of this legislation. I also wish to thank the majority leader and, I believe, a majority of our Democratic caucus who cosponsored this legislation in the last session.

This is a bill that was put together over a period of 4½ years. It is not so much politics as it is leadership in terms of how we address the issue of criminal justice in the United States. We had the support last year, we continue to have the support, I believe, and the cosponsorship on the Republican side of Senator GRAHAM. Last year, Senator HATCH and Senator SNOWE also cosponsored this legislation. It passed the House in the same form we are introducing it today by voice vote, with the cosponsorship of LAMAR SMITH, who is now the chairman of the House Judiciary Committee. It was voted out of the Senate Judiciary Committee last year.

This is a very important moment in terms of how we are going to resolve a lot of the pending issues with respect to law enforcement in this country.

I wish to start off by saying that my motivation in getting involved in this issue stems first from the time I spent as an officer in the U.S. Marine Corps, where one of the strongest leadership principles that was ingrained in every marine was that in order for a system to function, it has to be firm but also fair, and also from my time as a journalist preceding the time I have spent here in the Senate.

It is the product of 4½ years of work, outreach, and listening. We have listened to more than 100 organizations from across the country, across the philosophical spectrum. We have listened to our colleagues on the other side. We have adapted the legislation to ensure that this is balanced politically, so we can set politics aside and get into the complex issue of how we resolve the broken points in our criminal justice system.

Our criminal justice system is broken in many areas. We have some strong work in local areas, with people trying to help fix these problems, but we need a national commission in order to take a look at the criminal justice system from point of apprehension all the way to reentry into society of people who have been incarcerated. We have not had this overarching national look since 1965.

What are the two boundaries that affected my approach to this? I would like to lay them out very quickly.

The first is that we have entered a period from the 1980s forward where we have tended to overincarcerate for a lot of nonviolent crimes. This is a chart that goes from 1925 to today. Beginning in the 1980s, our incarceration

system skyrocketed to the point where there are now 2.38 million people in prison in the United States. Seven million people are involved in the criminal justice system on one level or another of supervision from our authorities.

The second is that Americans don't feel any safer for all of this incarceration and for the approach that it has taken. Survey after survey from the last decade indicates that the average American community feels more threatened this year than it did last year. Two-thirds of Americans believe crime is more prevalent today than it was a year ago.

This is a leadership question. How do we fix it? Whom do we go to in order to find the answers so we can have the kind of advice that is very difficult to obtain in a holistic way so that Congress can move forward and the country can move forward and solve this problem?

This legislation is paid for. It is sunsetted at 18 months—very similar to the legislation Senator MCCASKILL and I put together going after the problems in wartime contracting, which now, after a 2-year sunset period, has reported out very important improvements in looking at a system in Iraq and Afghanistan that resulted in \$30 billion to \$60 billion of fraud, waste, and abuse. We put a commission together, we brought in good minds to help us solve the problem, they came in with recommendations, and we are going to fix that problem as best it can be fixed.

It is balanced philosophically and politically. I would ask my colleagues when the last time was that we had law enforcement lining up with people who were generally believed to be on the other side philosophically—the ACLU, NAACP, et cetera—all coming together and saying the same thing. This needs a national commission. This needs to be fixed.

In terms of law enforcement, we have the strong support of the International Association of Chiefs of Police, the National Sheriffs' Association, the Fraternal Order of Police, the Major Cities Chiefs Association, the National Narcotics Officers' Association, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the National Criminal Justice Association.

There are a few quotes in terms of supporting this legislation that I would ask my colleagues from both sides to consider.

Chief Michael Carroll, president of the International Association of Chiefs of Police, said:

For more than 20 years, the IACP has advocated for the creation of a commission that would follow in the footsteps of the 1965 Presidential Commission on Law Enforcement . . . The IACP believes that it is imperative that the National Criminal Justice Commission Act be approved in a timely fashion. For far too long our Nation's law enforcement and criminal justice system has lacked a strategic plan that will guide and integrate public safety and homeland security.

Chuck Canterbury, the national president for the Fraternal Order of Police:

Law enforcement has changed a great deal in the last few decades. We believe establishing a national commission . . . will only help law enforcement officers do their jobs more effectively, more efficiently, and more safely.

Sheriff B.J. Roberts, president of the National Sheriffs' Association:

. . . make the creation of a national commission all the more necessary to ensure law enforcement . . . has the tools and knowledge necessary to adapt to the continually evolving justice system. The NSA commends . . . this work on this critical issue. We look forward to supporting you to pass this bill.

Criminal justice experts from across the philosophical spectrum:

Chuck Colson, founder of the Prison Fellowship:

I write from the perspective of a conservative who has always been comfortable as a reformer . . . I don't believe this is an ideological issue at all, but one on which people of good will, conservative and liberal alike, could join forces to make prisons more effective, humane and successful.

Brian Walsh, the Heritage Foundation:

Reform experts who are serious about criminal justice reform should . . . reach out to elected officials on both sides of the aisle.

Mark Mauer, executive director of the Sentencing Project:

A new approach to crime prevention is necessary and the time for reform is upon us. The commission created by this legislation would establish an organized and proactive approach to studying and advancing programs and policies that promote public safety, while overhauling those practices that are found to be fundamentally flawed . . . We strongly urge passage of the National Criminal Justice Act.

Professor Charles Ogletree, Harvard Law School:

The comprehensive, timely and important bill . . . will go a long way toward addressing some of the severe inequities in the criminal justice system. This effort should be pursued with great vigor to ensure that we not only hold offenders accountable, but that we implement criminal justice policies that are sensible, fair, increase public safety and make judicious use of our State and Federal resources.

I am grateful that this legislation has been offered as an amendment on this appropriations measure. Again, it is paid for. It is sunsetted. It is balanced philosophically and politically. We listened very carefully to our colleagues from the other side of the aisle to incorporate their suggestions as this legislation moved forward. It passed the House last year, and I earnestly hope people from both sides of the aisle will support this legislation when it comes to a vote later today.

I yield the floor.

The PRESIDING OFFICER. The junior Senator from Louisiana.

AMENDMENT NO. 769

Mr. VITTER. Mr. President, I rise in strong support of Vitter amendment No. 769, which we will be voting on a little after noon in the next block of votes. I want to encourage all of my

colleagues, Democrats and Republicans, to come together in a strong bipartisan way in favor of this amendment. It is a bipartisan amendment, and I thank Senators SANDERS, MCCAIN, STABENOW, and BINGAMAN for being coauthors of it, along with me.

The amendment is very simple. It would give all Americans another avenue to get safe, cheaper prescription drugs by allowing the reimportation of prescription drugs for personal use from Canada only. Again, it is very modest and very restricted. We are just talking about Canada. We are just talking about, of course, FDA-approved prescription drugs. We are just talking about small quantities for personal use, not big quantities, not wholesalers, not folks in that business. We are specifically excluding biologics. We are specifically excluding things listed on the controlled dangerous substances schedule. So it is a very modest, straightforward, limited amendment, but it would still be real in terms of the relief it would give Americans, particularly seniors, who are so often under the crunch—another opportunity for safe, cheaper prescription drugs.

In its form as I have described, this is nearly identical to a bipartisan Vitter amendment that was passed in the last Senate. It passed on a strong bipartisan vote, and I thank Members who voted for that.

This problem, again, is real. It hits millions of Americans. It hits seniors particularly hard.

Let's just take three very common prescription drugs.

Nexium. In the United States, it is about \$635 for a certain amount. In Canada, that same volume of the drug is \$386. For Lipitor, the price difference on average is \$572 in the United States versus \$378 in Canada; Plavix, \$644 in the United States, \$434 in Canada—huge price differences of 39 and 34 and 33 percent. That cost crunch is what all too often causes seniors to have to make horrible choices between prescription drugs they need for their health or other necessities such as food and utilities. Let's give those Americans real relief, and we can in this simple, straightforward amendment.

Let me say two things in closing. First, there have been safety concerns brought up about the amendment. We have real safety concerns about counterfeit drugs in general, but I do not believe—and I would not offer this amendment if I did believe—this amendment expands those vulnerabilities or concerns at all. As an example, the distinguished Senator from Maryland brought up several cases documented in the press in the last few years, and those are serious cases of counterfeit drugs, but none of them have anything to do with reimportation; none of them have anything to do with Canada; none of them have anything to do with small quantities of drugs for personal use. They are other unrelated safety concerns. This amendment would not expand those vulnerabilities.

Finally, this vote is about the amendment I have described, but I think it is also about the intersection of money and power and politics in Washington. President Obama often decries that intersection of big money and big power in Washington, and I agree with him. But I think the single biggest example of that sort of money run amok in Washington—buying power and influencing politics in the last few years—has been big Pharma dealing with the White House, specifically visiting the White House over and over during the development of ObamaCare and in the end supporting ObamaCare. And, oh, by the way, in the end the President no longer supports reimportation, which he had consistently up to that point. I decry that sort of intersection of money and politics. If my colleagues do as well, they will support this amendment. If my colleagues disapprove of that sort of action by PhRMA and that interaction of big money and power politics, my colleagues will support this amendment too. I urge strong bipartisan support.

Again, I thank my colleagues from both parties for coauthoring and supporting this amendment.

With that, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Maryland.

AMENDMENT NO. 772 WITHDRAWN

Ms. MIKULSKI. Mr. President, I know my colleague wishes to speak, but I have a matter to dispose of. I ask unanimous consent that the Murray amendment No. 772 be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Ms. MIKULSKI. Thank you very much.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 750

Mrs. HUTCHISON. Mr. President, I rise to speak against the Webb amendment to the bill. Senator WEBB from Virginia spoke earlier about the purpose of this legislation. I believe if we had the time to work on this amendment we could accommodate the Senator's proposed goals for the commission. However, this has not gone through the Judiciary Committee. It is an authorization of a commission—it is called the National Criminal Justice Commission—which is purporting to look at the entire criminal justice system—Federal, State, and local.

This is an overreach of gigantic proportions. It is certainly within the purview of Congress to do a national commission to look at the Federal criminal justice system, but to go into State and local governments and purport to examine the criminal justice systems of our States and local governments is far beyond the reach of Congress, and it is certainly not a priority we should meet in appropriations bills when we are already in a deficit and debt crisis in this country.

I ask unanimous consent that a letter from the National District Attor-

neys Association and a letter from the National Association of Police Organizations be printed in the RECORD.

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

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA.

PLEASE OPPOSE S.A. 750, THE NATIONAL CRIMINAL JUSTICE COMMISSION ACT OF 2011

I'm writing you today on behalf of the National District Attorneys Association (NDAA), the oldest and largest organization representing over 39,000 of America's state and local prosecutors, to voice our strong opposition towards an amendment to be offered today by Senator Jim Webb (D-VA) to the FY12 Commerce, Justice and Science Appropriations bill which would authorize and fund the National Criminal Justice Commission Act of 2011.

The amendment to be offered is S.A. 750, which was first introduced by Senator Jim Webb during the 111th Congress. The amendment would establish a Federal Commission to undertake a comprehensive examination of all aspects of America's criminal justice system—federal, state and local—and offer those findings to Congress and the Executive Branch.

While NDAA believes that a comprehensive examination of America's criminal justice systems could be useful, we believe that S.A. 750 in its current form is flawed in many different ways:

1. NDAA has major concerns with the formulation and composition of the National Criminal Justice Commission. The 14-member Commission would be selected largely by the current President (5 members), with other members selected by Congressional leadership from both the Majority and Minority parties. NDAA feels that the larger number of Presidential selections would skew the panel to favor one political ideology over another. Additionally, while guidelines on areas of expertise (for example, "law enforcement", "prisoner reentry" and "civil liberties") in order to be considered to serve on the Commission are contained in S. 306, specific representation from criminal justice practitioners such as District Attorneys, State and local prosecutors, Attorneys General, Chiefs of Police, Judges, Drug Court Professionals, Sheriffs, Police Officers or any other law enforcement practitioner to serve on the Commission would not be mandated.

2. Simply put, NDAA feels that an analysis of America's federal, state and local criminal justice systems cannot be completed in an 18-month period. The 18-month timeframe was selected largely based on the President Lyndon Johnson's Commission on Law Enforcement and Administration of Justice in 1965. Over the past 45 years, the size and complexities of America's criminal justice system has grown by leaps and bounds and NDAA feels an 18-month window isn't near enough time to complete such a study.

3. NDAA believes that the federal government should never be in the business of auditing state and local criminal justice systems.

4. During these times of fiscal crisis in America, the Commission would require \$5 million in new spending to complete its work over the next two fiscal years. Senator Webb's amendment would offset this new spending through the Department of Justice's Office of Justice Program's Administrative Account, which has already received close to a 50% reduction in funding since FY2010. In addition, many state and local criminal justice programs funded by OJP have been gutted or eliminated over the past

few fiscal cycles, including NDAA's National Advocacy Center for State and Local Prosecutor Training and the John R. Justice Loan Repayment Program for Prosecutors and Public Defenders—just two of the hundreds of programs which desperately need funding to provide services for America's communities now instead of funding a 14-member Commission to write a study. It would be fiscally irresponsible to fund such a study while current budget cuts are hitting America's communities hard.

It is our hope that you oppose this amendment as it is considered on the Senate floor. If you have any questions or concerns, please feel free to contact me at your earliest convenience.

Thank you for all you do for America's state and local prosecutors.

Sincerely,

SCOTT BURNS,
Executive Director.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Alexandria, VA, October 18, 2011.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee,
Washington, DC.

Hon. CHUCK GRASSLEY,
Ranking Member, Senate Judiciary Committee,
Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: On behalf of the National Association of Police Organizations (NAPO), representing 241,000 rank-and-file officers from across the United States, I write to you to ask you to oppose The National Criminal Justice Commission Act of 2011 (S.A. 750).

During the 111th Congress, NAPO did support the original version of Senator Jim Webb's Crime Commission Bill (S. 714). However, over time the bill morphed into a different piece of legislation which NAPO could no longer support. The current proposal mirrors the later language of the 111th Congress, causing great concern to NAPO's members.

These concerns, which we share with other law enforcement groups such as the NDAA, include concern over the composition and qualifications of the proposed commission; the unrealistic timeframes called for in the legislation, and the appropriation of funds for the commission at the expense of other, proven, Justice Department programs.

Rank-and-file officers are the most visible and immediate providers of government service and protection for Americans. It is in the best interest of our entire nation to ensure they have the support they need to succeed. We strongly oppose the National Criminal Justice Commission being added as an amendment. If you should have any questions or wish to discuss this further, please feel free to contact me, or NAPO's Director of Government Affairs, Rachel Hedge, at (703) 549-0775.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

Mrs. HUTCHISON. Mr. President, the letter from the District Attorneys Association looks at an earlier version of the bill which had a \$14 million pricetag and the pricetag on this amendment is \$5 million. So with that caveat I submit the letter, because the points the District Attorneys Association makes are very valid except for that one error of the amount of money.

However, let's talk about the \$5 million. Is it the priority of the Justice Department to have a national commission that purports to go into State and local governments and look at their criminal justice systems at a

time such as this? They are taking the \$5 million from the Department of Justice's Office of Justice Programs administrative account. That is the account that administers the following grant programs, all of which I will not read, but they include: the National Center for Missing and Exploited Children, Byrne-JAG grants, the National Sex Offender Registry, the Bulletproof Vest grants, the National Stalker Database, and it goes on and on.

So the Senator from Virginia wants to take \$5 million from the administrators of this account and put it into looking into the criminal justice systems of our 50 States and whatever local governments they would choose to look at. The Senate position is already \$118 million for that account, which is \$64 million below the fiscal year 2011 levels. The House has put \$79 million in this account. We would be taking away \$5 million more for us to go to conference with to do an overreach against States rights in order to fund a commission that is going to look into programs, and take away from the fund grants that are so important to so many of our State and local governments, not to mention the people of our country.

Let's talk about the budgetary decisions of the States; for instance, New York and Vermont or the State of Virginia or Texas or Alabama. How are we going to look at the criminal justice systems with this national commission and say, Oh, we think the priority for New York State and its prison system or its number of district attorneys should meet the Federal standard? Would that be the same standard for the State of Vermont? This is such an overreach, and it is not a priority in these tight budgetary times, in my opinion.

The budgetary decisions of our State and local governments and the criminal justice systems should be done at that level. If there is a massive problem, there will be lawsuits about it. There would be a lawsuit against the Texas prison system. There was one, and it changed the way the Texas prison systems were even built and how much space there was in the cells. If there is a problem, there is a remedy. But we don't need a national commission to come in and tell the State and local governments they have a problem and rearrange the budgetary priorities of those States and local governments.

The GAO looked at this bill as a free-standing bill and they said the definition of "criminal justice system" is way too broad. A report on the Federal criminal justice system could be valuable to Congress, which I submit I would agree with. Maybe that would be important. But to be effective, the GAO said, such a report should be narrowly targeted on specific features of the Federal criminal justice system such as law enforcement, courts, detention facilities, number of prosecutors, whether there is a victims rights advocate—they can look at a lot of different

things, but they should narrow the scope if they are going to be effective. If Congress is to responsibly and wisely use our taxpayer dollars in these economic times, I think it is essential that we narrow the scope.

Let me mention something that is also mentioned in the District Attorneys Association's letter, which is something that caught my eye when I read this amendment. The 14-member commission is on its face 7 members appointed by Republicans and 7 members appointed by Democrats. So we have a 14-member commission. On its face, seven from each party would pass muster for bipartisan. However, it has the President of the United States appointing two of the Republican members. If we want a commission that is seven and seven, wouldn't it be more fair or pass the test of bipartisanship if Republicans appoint the Republicans and the Democrats appoint the Democrats? This commission would essentially be nine to five, not seven and seven.

I don't know that we have partisan issues in criminal justice. In some areas we probably do but, in the prioritizing of the budget, probably not. Probably there are political differences in our priorities for the criminal justice system, so if we are going to have a fair commission that purports to have a seven-seven makeup, let's make it seven-seven.

The reason we have a rule in this Senate that says we can't authorize on appropriations bills is because we have authorization committees that have hearings, that mark up legislation, that make the necessary changes to accommodate the needs of the majority and the minority and assure that something has at least been vetted. This bill has not been authorized. This comprehensive amendment appointing this national commission to study the criminal justice systems of the Federal, State, and local governments needs a lot of work. I wish to reach out to Senator WEBB to work with him to assure that it is a Federal commission looking at the Federal criminal justice system, and perhaps find out what his priorities are for his commission to study, and let's focus on those as the GAO said would be necessary. I would not take the \$5 million from the accounts administering the very important grant programs to our State and local governments and to the people who are affected by missing and exploited children, to assure that the State Criminal Alien Assistance program, SCAAP, which helps our border counties in the States that are on the border, accommodate the incarceration of illegal alien criminals. In my State of Texas, the counties on the border don't have the money to incarcerate the prisoners who are illegal aliens and who are Federal responsibility. The administrators of these programs, such as the Mentally Ill Offender Grants, the Cybercrime Economic Program, the Coverdell Forensic Improvement

grants, the Adam Walsh Act—we shouldn't be cutting the accounts that administer those programs. That would not be my choice if I had had the ability to work with the Senator from Virginia to accommodate his needs, as an authorization committee would.

This should not be in this bill. If we are going to have a 14-member commission—that is 7 Republicans and 7 Democrats—let's have a fair appointment of those 7 members on each side. To say the President of the United States would appoint two of the Republicans and that is an even distribution, it does not pass the test of what appears to be the fairness in the appointment of the commission.

So I oppose this amendment, and I would like to work with Senator WEBB to have a national criminal justice commission that would focus on the national criminal justice system. We do not need to overreach into State and local governments. We do not need to set the priorities for the budgets of States and local governments. We do not have the capacity to do it. I will guarantee, with 14 members, they are not going to represent 50 States and the needs of the States that are small and the States that have large urban areas and the cities that are dealing with these crimes.

We are into vast overreach with this amendment, and it is not the priority, I believe, right now to take \$5 million from the National Center for Missing and Exploited Children and Byrne grants that are so important to our State and local governments and the border prosecution funding and the SCAAP funding.

It has not been vetted as we require in the Senate. Unfortunately, the agreement that was made between the majority and minority leaders last night said no points of order would be able to be launched against this amendment. I would have raised a point of order because it is authorizing on an appropriations bill. The reason is, it has not been vetted by the Judiciary Committee, which ought to have taken up this bill and corrected the problems in it before it came to be full blown in an appropriations bill.

I will reiterate that I will work with Senator WEBB. I will work on a national commission that studies the national criminal justice system. If we can pinpoint it carefully to the needs he is trying to meet, I will be happy to work with him on that. I will be happy to work with him on the appointment of the commission. If it is supposed to be seven and seven, let's make it seven and seven, not nine and five.

I hope he will withdraw this amendment. I hope the Senate can defeat it, if he does not. Most certainly, if we go to conference with this amendment on this bill, I will do everything in my power to eliminate it, unless it is changed significantly to meet the needs of our country to assure a fair Federal system. We do not need to get into the State and local government

budgetary priorities in this appropriations bill.

I yield the floor.

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. KERRY. 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. KERRY. Mr. President, we are where in the legislative process now?

The PRESIDING OFFICER. Legislative session.

HIGGINBOTTOM NOMINATION

Mr. KERRY. Mr. President, I wish to say a few words, if I may, about the nominee whom we are about to vote on.

I strongly support the nomination of Heather Higginbottom to be the Deputy Director of the Office of Management and Budget.

It has been more than 12 years since Heather first came to work for me in the Senate as a senior legislative assistant, and later she became my legislative director and top policy aide. In all those years on the Hill, I want to assure my colleagues who are thinking about this position that she stood out not just for her policy knowledge and her understanding of the budget and the legislative process but for her ability to work across the aisle.

I know a lot of colleagues are anxious to confirm people who come not with partisan intent but with the ability to try to get things done in Washington. Believe me, Heather has that ability.

She worked with me and developed my proposal a number of years ago for a constitutional line-item veto—a proposal which now has many bipartisan supporters in the Senate. I also saw firsthand her instinct to put aside ideology and to go after waste, to push for tough-minded budget reforms, all of which protected the taxpayers' interests. She worked with me through seven budget cycles, and I am pleased to say, as many Members remember, we balanced the budget back in those years. So I think she comes with an experience of understanding what the tough choices are that can help to improve our fiscal situation now.

I came to know somebody who worked diligently and looked at the budget with a critical eye. When Jack Lew announced Heather's nomination, he said she was known for her "dedication to sound public policy that makes a difference in people's lives."

Health care, technology, poverty, education, infrastructure—for every single one of these priorities, she will look at them to determine whether the current policies are working, whether there are ways we could do things more effectively, and whether the American taxpayer is getting what they deserve in return for their investment. For all those efforts, I think Jack Lew could not have chosen a stronger or more competent Deputy.

For all of those efforts, I think Jack Lew could not have chosen a stronger or a more competent deputy. I hope my colleagues will support her nomination.

EXECUTIVE SESSION

NOMINATION OF HEATHER A. HIGGINBOTTOM TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Heather A. Higginbottom, of the District of Columbia, to be Deputy Director of the Office of Management and Budget.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled in the usual form.

Mr. KERRY. Mr. President, I reserve my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I reserve the time we have.

Mr. KERRY. It is my understanding that under the order, this is the time for the debate. Is that correct?

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. KERRY. If the time is not about to be used, it will be tallied?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. I suggest we yield it back mutually or someone speaks.

Ms. COLLINS. Mr. President, Senator SESSIONS is on his way to the floor. He does have reservations about the nominee. I think it would be courteous, since we know he is on his way, to delay just for a couple of moments so he could make his comments.

The PRESIDING OFFICER. Is there objection to Senator COLLINS' request?

Mr. KERRY. I am always in favor of extending courtesies. I think it is important to do that. But I would just reserve, if I can, therefore, that we might wait until the Senator is here and have those 2 minutes used at that time.

I will suggest the absence of a quorum until the Senator is here, at which time we will have 2 minutes equally divided.

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

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

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, we are now considering the nomination of Heather Higginbottom to be Deputy Director of the Office of Management and Budget. We need to confirm this nominee.

The Deputy Director position has been vacant for 19 months. The Senate received Ms. Higginbottom's nomination papers in January, and she was reported favorably out of both the Budget and Government Affairs Committees in the spring.

Ms. Higginbottom is fully qualified for this position. She served as Deputy Assistant to the President and Deputy Director of the Domestic Policy Council at the White House. She also previously served as legislative director for Senator KERRY. So she brings with her a broad knowledge of Federal policy and the operations of the government.

It is important to note that Ms. Higginbottom was personally selected by Director Lew as the individual he wants as his Deputy. His selection of Ms. Higginbottom speaks volumes about her ability and the respect she has attained from her colleagues in the administration. Director Lew needs to have the Deputy Director of his choice working with him at OMB.

I know some have questioned this nominee's qualifications. They are wrong to do so. Ms. Higginbottom is absolutely qualified for this job, and she is as qualified as other individuals who served in this position during Republican administrations.

I hope the Senate joins me in voting to confirm this nominee.

Ms. CANTWELL. Mr. President, as we consider the nomination of Heather Higginbottom to be Deputy Director of OMB, I would like to bring to the attention of my colleagues my concern for how OMB and the Coast Guard have been conducting business.

The Arctic is opening at an alarming rate, which creates new requirements for the U.S. Coast Guard and the Navy. Multiple Presidential directives call for Arctic presence to meet national security and homeland security needs; to facilitate safe, secure, and reliable navigation; to protect maritime commerce, and to protect the environment as resource development increases.

Polar icebreakers are critical to meet our national needs in the Arctic. According to a recent independent study, the Coast Guard and the Navy need six heavy-duty icebreakers and four medium icebreakers. This is not a political document; it is a study of the national security and commercial viability of the United States. It is not a surprise to this Senator that any third party, any independent judgment maker, or anyone paying attention as the Chinese, and the Russians, oil companies, even pirates actively stake claims in the Arctic, that the United States needs to be prepared to engage to protect its interests there.

In the Coast Guard Reauthorization Act of 2010, we required the Coast