

program. It started during the George Bush era. Why? Because George Bush was President of the United States on 9/11, and he recognized the importance of doing this in a fashion that would maintain the civility of our criminal justice system.

I say to my friend, I want to make sure—I will repeat what I said earlier. No one is saying we are not going to do the Defense authorization bill. We are going to do that. But we are really, because of being jammed, as I have tried to outline here to the entire country, and being unable to get our work done here these last 10 months, we are trying to find time to do lots of things. That is why we have come up with this unique way of moving appropriations bills. We are doing them together—three at a time rather than one at a time—in an effort to do what I have been asked to do by the Speaker of the House: Do what you can to get these appropriations bills done. Senator MCCONNELL suggested something. We are doing our very best, but we have been held up from doing the ordinary business. I gave two examples that were about as good as you could give of our trying to do things to create jobs in America today. We have been stymied from doing that.

So I say to everyone here that I am really somewhat at a loss for words, for an organization here—the Republican caucus has done everything they can these past 10 months to stop us from moving forward. Remember, the No. 1 goal of my friend the Republican leader—and I admire his honesty—he said his No. 1 goal was and has been to defeat President Obama. As a result of that, we have not been able to do the government's business, because everything they can do to slow down government is something they believe will help them a year from now.

Mr. DURBIN. Would the Senator yield for one more question?

Mr. REID. I would be happy to.

Mr. DURBIN. Is it not true that the majority leader came to the floor on the pending legislation, the appropriations bills, and invited Members on both sides to bring their amendments to the floor, call their amendments for a vote, that some 10 or 11 or more amendments have been filed, and we are still waiting for that? Is it not true that we are giving this opportunity to our colleagues to offer their amendments and to call their amendments, and that is a way for those who are looking for their opportunity on the floor to express their point of view and get a vote?

Mr. REID. I appreciate very much the Senator from Illinois reminding me what took place at the beginning of this Congress.

Mr. MCCAIN. Would the Senator yield for a comment?

Mr. REID. As soon as I answer my friend's question.

I am reminded of what took place at the beginning of this year. We had a number of new Senators—relatively

new Senators—who joined with some of the more experienced Senators who wanted to change the way the saw our having done business in the last Congress.

I joined with my friend the Republican leader and said: Let's back off a little bit.

The Republican leader said: We are going to be very discrete in what we do with the motions to proceed, to allow us to get on legislation.

I said: Fine. If that is the case, we will make sure we have the opportunity to offer amendments.

That has broken down big time, I say to my friend, because it is a rare day here that we have been able to move to a piece of legislation without having to go through the process of filing cloture on just the ability to get on a bill. And we have had open amendments, as we did on the small business innovation bill. Guess what happened. It was amended to death. So after 2 months—after 2 months—we gave up. We could not do that bill as had been done routinely in the past.

So I say to my friend, we are going to try it again. We have these appropriations bills. We are going to try to get it done. We are waiting for people to offer amendments, and we are going to try to move through this and get it done. We are going to do the appropriations bills this week. We have other things we need to do. It is an important time in the history of our country to show the American people we can work together. I hope that, in fact, is the case because based on my experience from the beginning of this Congress, where there was supposed to be a good-faith effort to return to regular order, it has not happened.

I would be happy to yield to my friend for a question.

Mr. MCCAIN. I want to say to the majority leader, whom I have known and been friends with for many years, I thank him for his kind remarks. I am very appreciative of his commitment to bringing the Defense authorization bill to the floor. I thank the majority leader.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

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

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2112, which the clerk will report by title.

The assistant 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, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012.

Reid (for Webb) 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.

Cornyn amendment No. 775 (to amendment No. 738), to prohibit funding for Operation Fast and Furious or similar "gun walking" programs.

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.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENTS NOS. 739, 740, AND 741 TO AMENDMENT NO. 738

Mr. MCCAIN. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment for the purposes of calling up amendments.

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

Mr. MCCAIN. Mr. President, I call up three amendments numbered 739, 740, and 741 and ask unanimous consent that they be reported by number.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments en bloc numbered 739, 740, 741 to amendment number 738.

The amendments are as follows:

AMENDMENT NO. 739

(Purpose: To ensure that the critical surface transportation needs of the United States are made a priority by prohibiting funds from being used on lower-priority projects, such as transportation museums and landscaping)

At the appropriate place in division C, insert the following:

SEC. \_\_\_\_\_. None of the amounts made available under this division may be used for—

- (1) scenic or historic highway programs, including tourist and welcome centers;
- (2) landscaping or scenic beautification;
- (3) historic preservation;
- (4) rehabilitation or operation of historic transportation buildings, structures, or facilities;
- (5) control or removal of outdoor advertising;
- (6) archaeological planning or research; or
- (7) the establishment of transportation museums.

AMENDMENT NO. 740

(Purpose: To eliminate funding for the trade adjustment assistance for firms program)

In the matter under the heading "ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS" under the heading "ECONOMIC DEVELOPMENT ADMINISTRATION" in title I of division B, strike "for trade adjustment assistance, and for grants authorized by section 27 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as added by section 603 of the America COMPETES Reauthorization Act of 2010 (Public Law 111-358), \$220,000,000" and insert "and for grants authorized by section 27 of the Stevenson-

Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as added by section 603 of the America COMPETES Reauthorization Act of 2010 (Public Law 111-358), \$204,200,000”.

AMENDMENT NO. 741

(Purpose: To prohibit the use of appropriated funds to construct, fund, install, or operate certain ethanol blender pumps and ethanol storage facilities)

On page 83, between lines 20 and 21, insert the following:

SEC. \_\_\_\_\_. None of the funds made available by this Act shall be used to construct, fund, install, or operate an ethanol blender pump or an ethanol storage facility, including—

(1) funds in any trust fund to which funds are made available by Federal law; and

(2) any funds made available under the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107).

Mr. MCCAIN. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 775

Mr. CORNYN. Yesterday, I introduced my amendment to the pending Commerce-Justice appropriations bill, and I would like to briefly explain this amendment for my colleagues.

This amendment is designed to basically cut off any future funds that might be made available under this appropriations bill to fund the Department of Justice's program now notoriously known as Fast and Furious. This would prohibit the taxpayer funding of operations where Federal law enforcement personnel knowingly cause the transfer of firearms to drug cartel agents and intentionally fail to monitor those weapons.

On December 14, 2010, U.S. Border Patrol Agent Brian Terry was gunned down on the southern border while attempting to apprehend members of a predatory criminal gang that operated in Arizona's Peck Canyon. A congressional investigation and several news reports have confirmed that some of the guns used in that attack actually came from gun dealers in the United States, and the guns were actually put in the hands of the agents of the cartels and allowed to cross the border with the full knowledge of officials associated with the U.S. Government, most notably the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Attorney's Office in Arizona, although it is unknown at this point how far up in the chain of command knowledge of this program went. But that is another story for another time.

The American people and their representatives in Congress have begun asking, after the death of Brian Terry, what happened under this Fast and Furious Program and who will be held ac-

countable. Answers to those questions have been very slow in coming, and some have been contradictory. But the more questions that were raised, the more questions came up.

One question is, of course, who authorized Fast and Furious and why? According to congressional investigations led on this side of the Capitol by Senator GRASSLEY and on the other side of the Capitol by Congressman DARRELL ISSA, this Fast and Furious Program began in 2009 in the Phoenix field office of the Bureau of Alcohol, Tobacco, and Firearms, under the direct supervision of the U.S. attorney for the District of Arizona, and instructed Phoenix-area firearms dealers to go through with sales of nearly 2,000 weapons to persons suspected of working as straw purchasers on behalf of Mexican drug cartels. The logical question is, Why in the world would such a misguided program be initiated and who would be held accountable?

Another question is, Who objected to Fast and Furious, and why were those objections not taken seriously? Congressional investigations have found that many firearms dealers actually contacted the ATF and expressed their concerns about who was buying these guns and in whose hands they might end up. Multiple ATF agents have testified that they openly protested their orders to actually let these guns walk across the border into the hands of the cartels when they were told to break off surveillance of those illegally purchased weapons, because they suspected what eventually did happen: that no good would come of Fast and Furious.

Brian Terry lost his life as a result of this misguided program.

Weapons from the Fast and Furious Program have shown up at about 11 different crime scenes in the United States. So the questions I have relate to why weren't the voices of the people in the field who first raised objections or concerns about this program heard?

Another question my constituents in Texas have been asking is: Have similar gun-walking practices occurred in our State?

According to published reports, Houston-based firearms dealer Carter's Country revealed that its store clerks had been ordered to go through with a sale of weapons to suspicious persons who may have been working as "straw purchasers" from Mexican drug cartels. Some of the weapons purchased from Carter's Country have been recovered at the scene of violent crimes in Mexico.

Senator GRASSLEY's investigations have also revealed a possible Texas connection to the February murder of U.S. Immigration and Customs Enforcement officer Jaime Zapata in Mexico. One of the weapons used to murder Officer Zapata was purchased in Texas in October 2010 and subsequently trafficked to Mexico through Laredo, TX. While the suspected weapons traffickers have been arrested,

there are reports that ATF was aware of these activities and allowed them to continue for far too long.

Another question is being asked by our friends across the border, the Government of Mexico, those who are fighting these cartels and many of whom over the years have lost their lives. Our friends in Mexico are asking: Why is the administration allowing guns to come into Mexico as part of U.S. Government policy? Why is the U.S. Government arming drug cartels?

According to a report in the Los Angeles Times, one of the victims of Fast and Furious was a brother of Patricia Gonzalez, who at the time was a top State prosecutor in Chihuahua.

The Los Angeles Times also reports that Mexico's Attorney General, Marisela Morales, who has been a good partner to the United States, first learned about Fast and Furious from news reports. As of last month, she said U.S. officials have not briefed her on the operation, nor had there been any apologies for this misguided program.

Questions are being asked on both sides of the border, and they deserve answers. Back in August, I wrote to Attorney General Holder and asked him to promptly disclose the details of any past or present Texas-based gun-walking programs similar to operation Fast and Furious.

Much to my disappointment, I have not received any official response from the Department of Justice, nor Attorney General Holder. While disappointing, this administration's stonewalling is not surprising, considering the difficulty Senator GRASSLEY and Representative ISSA have had in their investigation of the Operation Fast and Furious scandal.

In May of 2011, Attorney General Holder told the House Committee on Oversight and Government Reform that he had only learned of Operation Fast and Furious "in the past few weeks."

The evidence now shows that Attorney General Holder had received multiple briefing memos regarding the operation that date back to as early as July 2010—much earlier than the few weeks ago he claimed in May of 2011.

It is time for Attorney General Holder to tell Congress precisely what he knew, when he knew it, and to be honest with Congress and the American people about how this happened and who will be held accountable for it. So far, I think the Attorney General's earnest hope is that this will all go away. But it will not go away.

My amendment would help ensure that we no longer have to worry about Operation Fast and Furious or similar ill-advised gun-walking operations.

This amendment will mandate that no taxpayer money will be spent on programs where law enforcement personnel knowingly cause the transfer of weapons to suspected drug cartel associates with the intent that those law enforcement officials break off the surveillance of those weapons prior to interdicting them.

In other words, this amendment is narrowly tailored to prevent future programs such as Operation Fast and Furious, while allowing law enforcement the freedom to operate gun-trafficking investigations, where they are in continuous surveillance of the weapons.

This will also allow law enforcement officials to use weapons transfers to low-level straw purchasers as a tool to investigate the chain of command in a gun-trafficking ring, while simultaneously requiring them to keep their eyes on the weapons at all times so they can step in and prevent unnecessary and tragic violence.

Just over 10 months ago, U.S. Border Patrol Agent Brian Terry was murdered by criminal gang members with weapons “walked” into their hands by ATF and the Department of Justice.

It is my hope this body has learned from this tragedy and that we will affirmatively act to ensure that nothing such as this happens again.

My amendment does just that, and I hope my colleagues will join me in supporting it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I rise to comment on the amendment of the Senator from Texas.

I am chair of the Subcommittee on Commerce, Justice, and Science, and we fund the Bureau of Alcohol, Tobacco, and Firearms. I will comment on the amendment.

Before I comment on the amendment explicitly, I compliment the Senator from Texas for raising the issue on the floor and, second, for his fierce defense of the southwest border and his devotion to Federal law enforcement and for always being concerned when we send them into harm's way, and where we, in any way, could have contributed to either their injury or their death. I compliment the Senator on that.

My ranking member, KAY BAILEY HUTCHISON, also from Texas, has spoken eloquently, diligently, and unflinchingly about the need we have to be serious about what is happening on the southwest border. I say this to the Senator and those of us concerned about our country: We support the effort to control our border and stop the growing violence that is occurring there.

I believe America is in four wars—Iraq, which is winding down; Afghanistan, which ultimately will; the southwest border; and the cyber war. We have now two enduring wars.

I say to the Senator from Texas, I wish to work with him. When I look at what happened with Operation Fast and Furious, I was fast to be furious about the bungled, botched occurrences that happened.

For those who might not be familiar with it, this was when Federal law enforcement, trying to combat illegal gun trafficking, allowed guns to knowingly “walk” into Mexico so we could

track what was happening. It was poorly planned, poorly executed, had flawed leadership, and it was definitely of questionable strategy and value.

I wish to work with the Senator from Texas on some slight modifications to the bill—some tweaking and more precise definitions—over the next hour or so, if we can look at it. I would like to be able to accept his amendment. He is on to something. I would like to work with the Senator's colleague from Texas also and those others from the Southwest to get the answers they want from the Attorney General. They are all entitled to them.

People at the local level who put local cops on the ground should at least have answers from their own government about what they are doing. Operation Fast and Furious was one of many strategies along the U.S./Mexico border, in Arizona, targeting illegal gun and drug smuggling—the offshoot of Project Gunrunner. There were teams of ATF agents and investigators who increased our coverage, disrupting firearm traffic in corridors. That Project Gunrunner has been operating since 2006.

Fast and Furious went too far. It went beyond the normal Project Gunrunner strategy and allowed assault weapons to be sold to suspected straw buyers who transported them to Mexico and then the ATF lost track of the weapons, which was the point of what they were trying to do.

Fast and Furious was brought to an end but with terrible problems. There is no doubt ATF has done good work. They have seized tens of thousands of guns. There is the issue of allowing the selling of guns across the area. But hundreds of Mexican citizens have died, our own law enforcement people have died, and we have to do something about it.

I understand from the Attorney General that when he heard about it, he did take decisive steps to clean it up. He immediately asked the DOJ inspector general to conduct an investigation and examine the facts of what happened. He made it clear to all Federal prosecutors and law enforcement that they should never knowingly allow guns to cross the border—long time Justice Department policy. He changed the leadership at ATF and the U.S. Attorney's Office in Arizona and has complied—he tells me—with congressional requests for thousands of documents.

If the Senator feels he is not getting answers, I will join with him. He deserves the answers. We need to make sure we are giving law enforcement the tools they need—hopefully, we have it in the bill—to fight those drug cartels and gun crimes, which are violent, grim, and ghoulish.

We have listened to the concerns of our colleagues who have spoken. The Senators from Texas and our two colleagues from Arizona, Senators KYL and MCCAIN, are well known in their advocacy.

We have made a major investment in 2009 and another close to \$2 billion in

this bill—it is \$1.9 billion—to safeguard our southwest border. We are putting resources in it.

Fast and Furious has ended. We need better leadership, a better strategy. I wish to work with the Senator on his amendment.

If we could, I think it would be great if we could just accept it. We all have to be in this together. The southwest border is America's border. I don't live in the Southwest; I live in the Northeast. But anything that happens at your border affects us. That is the way we need to think about ourselves. We are all Americans. We need to look out for one another. We need to be able to protect our borders, those defending the border, make sure we get it right and that we don't contribute to the problem. I would sure like to work with the Senator on this.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I thank the Senator from Maryland for her offer. I will take her up on that. Our staffs are exchanging modest provisions that maintain the general thrust of the amendment and make clear that the Senate will not approve of any funding used for the sort of misguided program such as Fast and Furious.

I ask for the Senator's help and take her up on her offer to try to get conclusive and comprehensive answers from the Department of Justice. Senator GRASSLEY, Representative ISSA, and I feel as well that the Attorney General and the Department could be more forthcoming. It boils down to a matter of accountability.

One of the things that drives people crazy about Washington and Congress these days is that they feel as if things are happening that should not be happening and nobody is held accountable. That is what needs to happen in this program. So I will take her up on her offer. I appreciate that. We will work with the Senator and her staff to see if we can come up with acceptable language.

As a matter of the record and from the standpoint of accountability and clearness, I would like to have a roll-call vote on my amendment at the appropriate time. We will work with the Senator and come up with acceptable language.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I wish to update my colleagues on an amendment that Senator UDALL of Colorado and I, along with several of our colleagues, filed at the end of debate last night. This is the amendment that would prevent the U.S. Department of Agriculture from imposing needless costly restrictions on the school lunch and school breakfast programs.

We debated this amendment at length last night, so I will not do so again now. I did wish to report on some progress we are making in achieving a consensus amendment.

First, I thank the chairman of the subcommittee, Senator KOHL, and his staff, who have been very helpful to us. I also thank the ranking member of the subcommittee, Senator BLUNT, and his staff, who have also worked with us. We have worked with the USDA. So this morning I am filing another amendment with Senator UDALL of Colorado that makes a few changes in the amendment. It is very consistent with the intent of the amendment that we debated last night, but it does strike the words "and fruits." Since the intent of our amendment was not to change the requirements on fruit servings, I was happy to accept that suggestion from USDA.

So I have filed a new amendment. I understand it is going through the clearance process on our side of the aisle, and I hope this is an amendment we can clear and accept very shortly. But I just wanted to bring my colleagues up to date and to thank the two leaders of the subcommittee and to let my colleagues know we are making great progress.

This amendment is going to make a real difference to school districts across the country without, in any way, impairing the nutritious meals we want all our school children to receive.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I appreciate the amendment offered by Senator COLLINS. I understand her concerns about how proposed changes in nutrition standards may affect producers in her State. This issue does relate to child health, so we need to be careful what we do. I have been working with the Senator on this issue, and I think we have made good progress. I hope we will be able soon to have language where we can come to an agreement.

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. BLUNT. 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. BLUNT. Mr. President, I wish to join Senator KOHL in saying how much I appreciate Senator COLLINS working on this amendment and the purpose of the amendment and I think it is a good addition to the bill.

I also think we had a good exchange of ideas on the floor yesterday and would note we have received a number of amendments to the bill. I encourage my colleagues to offer amendments they feel would improve the bill that is in front of them. Senator KOHL and I believe this is a good product, but we also believe it will benefit from debate. So we are looking forward to an open amendment process and are glad to have the pending amendments to discuss, plus particularly the one Senator

COLLINS has just discussed that we both believe is a good addition to the bill.

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. REID. 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. 750, AS MODIFIED

Mr. REID. Mr. President, I call for regular order with respect to amendment No. 750 and that the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. The amendment is pending. The amendment will be so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) SHORT TITLE.—This section may be cited as the "National Criminal Justice Commission Act of 2011".

(b) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "National Criminal Justice Commission" (referred to in this section as the "Commission").

(c) PURPOSE OF THE COMMISSION.—The Commission shall undertake a comprehensive review of the criminal justice system, encompassing current Federal, State, local, and tribal criminal justice policies and practices, and make reform recommendations for the President, Congress, State, local, and tribal governments.

(d) REVIEW AND RECOMMENDATIONS.—

(1) GENERAL REVIEW.—The Commission shall undertake a comprehensive review of all areas of the criminal justice system, including Federal, State, local, and tribal governments' criminal justice costs, practices, and policies.

(2) FINDINGS AND RECOMMENDATIONS.—After conducting a review of the United States criminal justice system as required by paragraph (1), the Commission shall make findings regarding such review and recommendations for changes in oversight, policies, practices, and laws designed to prevent, deter, and reduce crime and violence, reduce recidivism, improve cost-effectiveness, and ensure the interests of justice at every step of the criminal justice system.

(3) PRIOR COMMISSIONS.—The Commission shall take into consideration the work of prior relevant commissions in conducting its review.

(4) STATE AND LOCAL GOVERNMENT.—In making its recommendations, the Commission should consider the financial and human resources of State and local governments. Recommendations shall not infringe on the legitimate rights of the States to determine their own criminal laws or the enforcement of such laws.

(5) PUBLIC HEARINGS.—The Commission shall conduct public hearings in various locations around the United States.

(6) CONSULTATION WITH GOVERNMENT AND NONGOVERNMENT REPRESENTATIVES.—

(A) IN GENERAL.—The Commission shall—

(i) closely consult with Federal, State, local, and tribal government and nongovernmental leaders, including State, local, and tribal law enforcement officials, legislators, public health officials, judges, court administrators, prosecutors, defense counsel, vic-

tims' rights organizations, probation and parole officials, criminal justice planners, criminologists, civil rights and liberties organizations, formerly incarcerated individuals, professional organizations, and corrections officials; and

(ii) include in the final report required by paragraph (7) summaries of the input and recommendations of these leaders.

(B) UNITED STATES SENTENCING COMMISSION.—To the extent the review and recommendations required by this subsection relate to sentencing policies and practices for the Federal criminal justice system, the Commission shall conduct such review and make such recommendations in consultation with the United States Sentencing Commission.

(7) REPORT.—

(A) REPORT.—Not later than 18 months after the first meeting of the Commission, the Commission shall prepare and submit a final report that contains a detailed statement of findings, conclusions, and recommendations of the Commission to Congress, the President, State, local, and tribal governments.

(B) PUBLIC AVAILABILITY.—The report submitted under this paragraph shall be made available to the public.

(C) VOTES ON RECOMMENDATIONS IN REPORT.—Consistent with subparagraph (B), the Commission shall state the vote total for each recommendation contained in its report to Congress.

(e) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 14 members, as follows:

(A) One member shall be appointed by the President, who shall serve as co-chairman of the Commission.

(B) One member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Republican Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Republican Party, who shall serve as co-chairman of the Commission.

(C) Two members shall be appointed by the senior member of the Senate leadership of the Democratic Party, in consultation with the Democratic leadership of the Committee on the Judiciary.

(D) Two members shall be appointed by the senior member of the Senate leadership of the Republican Party, in consultation with the Republican leadership of the Committee on the Judiciary.

(E) Two members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party, in consultation with the Republican leadership of the Committee on the Judiciary.

(F) Two members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party, in consultation with the Democratic leadership of the Committee on the Judiciary.

(G) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Republican Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Republican Party.

(H) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party.

(2) MEMBERSHIP.—

(A) QUALIFICATIONS.—The individuals appointed from private life as members of the

Commission shall be individuals with distinguished reputations for integrity and non-partisanship who are nationally recognized for expertise, knowledge, or experience in such relevant areas as—

- (i) law enforcement;
- (ii) criminal justice;
- (iii) national security;
- (iv) prison and jail administration;
- (v) prisoner reentry;
- (vi) public health, including physical and sexual victimization, drug addiction and mental health;
- (vii) victims' rights;
- (viii) civil liberties;
- (ix) court administration;
- (x) social services; and
- (xi) State, local, and tribal government.

(B) **DISQUALIFICATION.**—An individual shall not be appointed as a member of the Commission if such individual possesses any personal financial interest in the discharge of any of the duties of the Commission.

(C) **TERMS.**—Members shall be appointed for the life of the Commission.

(3) **APPOINTMENT; FIRST MEETING.**—

(A) **APPOINTMENT.**—Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this section.

(B) **FIRST MEETING.**—The Commission shall hold its first meeting on the date that is 60 days after the date of enactment of this section, or not later than 30 days after the date on which funds are made available for the Commission, whichever is later.

(C) **ETHICS.**—At the first meeting of the Commission, the Commission shall draft appropriate ethics guidelines for commissioners and staff, including guidelines relating to conflict of interest and financial disclosure. The Commission shall consult with the Senate and House Committees on the Judiciary as a part of drafting the guidelines and furnish the Committees with a copy of the completed guidelines.

(4) **MEETINGS; QUORUM; VACANCIES.**—

(A) **MEETINGS.**—The Commission shall meet at the call of the co-chairs or a majority of its members.

(B) **QUORUM.**—Eight members of the Commission shall constitute a quorum for purposes of conducting business, except that 2 members of the Commission shall constitute a quorum for purposes of receiving testimony.

(C) **VACANCIES.**—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this section, a quorum shall consist of a majority of the members of the Commission as of such day, so long as at least 1 Commission member chosen by a member of each party, Republican and Democratic, is present.

(5) **ACTIONS OF COMMISSION.**—

(A) **IN GENERAL.**—The Commission—

(i) shall act by resolution agreed to by a majority of the members of the Commission voting and present; and

(ii) may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this section—

(I) which shall be subject to the review and control of the Commission; and

(II) any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(B) **DELEGATION.**—Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this section.

(f) **ADMINISTRATION.**—

(1) **STAFF.**—

(A) **EXECUTIVE DIRECTOR.**—The Commission shall have a staff headed by an Executive Director. The Executive Director shall be paid at a rate established for the Certified Plan pay level for the Senior Executive Service under section 5382 of title 5, United States Code.

(B) **APPOINTMENT AND COMPENSATION.**—The co-chairs of the Commission shall designate and fix the compensation of the Executive Director and, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(C) **PERSONNEL AS FEDERAL EMPLOYEES.**—

(i) **IN GENERAL.**—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) **MEMBERS OF COMMISSION.**—Clause (i) shall not be construed to apply to members of the Commission.

(D) **THE COMPENSATION OF COMMISSIONERS.**—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States, State, or local government shall serve without compensation in addition to that received for their services as officers or employees.

(E) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(2) **EXPERTS AND CONSULTANTS.**—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(4) **OTHER RESOURCES.**—The Commission shall have reasonable access to materials, resources, statistical data, and other information such Commission determines to be necessary to carry out its duties from the Library of Congress, the Department of Justice, the Office of National Drug Control Policy, the Department of State, and other agencies of the executive and legislative branches of the Federal Government. The co-chairs of the Commission shall make requests for such access in writing when necessary.

(5) **VOLUNTEER SERVICES.**—Notwithstanding the provisions of section 1342 of title 31, United States Code, the Commission is authorized to accept and utilize the services of volunteers serving without compensation. The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. A person providing volunteer services to the Commission shall be considered an employee of the Federal Government in performance of those services for the purposes of chapter 81 of title 5 of the United States Code, relating to compensation for work-related injuries, chapter 171 of title 28 of the United States Code, relating to tort claims, and chapter 11 of title 18 of the United States Code, relating to conflicts of interest.

(6) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this section. Upon the request of the co-chairs of the Commission, the head of that department or agency shall furnish that information to the Commission. The Commission shall not have access to sensitive information regarding ongoing investigations.

(7) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(8) **ADMINISTRATIVE REPORTING.**—The Commission shall issue biannual status reports to Congress regarding the use of resources, salaries, and all expenditures of appropriated funds.

(9) **CONTRACTS.**—The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities. A contract, lease or other legal agreement entered into by the Commission may not extend beyond the date of the termination of the Commission.

(10) **GIFTS.**—Subject to existing law, the Commission may accept, use, and dispose of gifts or donations of services or property.

(11) **ADMINISTRATIVE ASSISTANCE.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section. These administrative services may include human resource management, budget, leasing, accounting, and payroll services.

(12) **NONAPPLICABILITY OF FACCA AND PUBLIC ACCESS TO MEETINGS AND MINUTES.**—

(A) **IN GENERAL.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(B) **MEETINGS AND MINUTES.**—

(i) **MEETINGS.**—

(I) **ADMINISTRATION.**—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(II) **NOTICE.**—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(ii) **MINUTES AND PUBLIC AVAILABILITY.**—Minutes of each open meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed.

The minutes and records of all open meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(13) ARCHIVING.—Not later than the date of termination of the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

(g) APPROPRIATION.—Of amounts provided in this Act for salary and expenses for the Office of Justice Programs, \$5,000,000 shall be for the establishment of the commission, until such funds are expended.

(h) SUNSET.—The Commission shall terminate 60 days after it submits its report to Congress.

Mr. REID. 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. REID. 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. 775

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to amendment No. 775.

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

Mr. REID. 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.

The PRESIDING OFFICER. The Senator from Montana.

#### ELOUISE COBELL

Mr. BAUCUS. Mr. President, a Native American expression on the circle of life offers insight into a life well-lived:

If you were born, you cried and the world rejoiced. Live your life so that, when you die, the world cries and you rejoice.

On Sunday, the world cried when Elouise Cobell left the Earth. Elouise was a brave member of the Blackfeet Nation from my home State of Montana. She fought tirelessly for what was right.

On Sunday, the world lost a great hero. Native American people everywhere lost a champion. Her husband Alvin and son Turk, along with her entire extended family, lost an admired and irreplaceable loved one. And I can say with deep gratitude, having worked with her for many years, that I lost a dear friend.

Through her persistence and determination, she drew attention to the Federal Government's mismanagement of Indian trust lands. She deserves the highest recognition and thanks for helping close a chapter on a bitter history of broken promises.

For more than 100 years, the Federal Government did not fairly compensate Native Americans in Montana and across the Nation for revenue generated from their land. The Federal Government squandered and wasted

billions of dollars in not paying Native Americans revenues they were due. It was Elouise who took up the cause. Others wouldn't; she did. She knew it was wrong. She knew it, and she had a mission. She worked tirelessly through the courts until the judicial system finally recognized what she had uncovered. The judge in the case decried the Federal Government's action as "fiscal and government irresponsibility in its purest form."

I was proud and humbled to work with her on the legislative plan to help settle the longstanding Indian trust lawsuit. Last year, we passed bipartisan legislation to provide a long-overdue conclusion for hundreds of thousands of folks in Indian Country.

Recently, I joined my colleague, the present occupant of the chair, Senator TESTER, who introduced legislation to award Elouise with the Congressional Medal of Honor, the highest honor possible from Congress.

Elouise Cobell fought for many who could not fight for themselves and brought a voice to many who died before being able to see justice served. May we never forget Elouise's long battle to right this wrong. May Elouise's memory continue to inspire everyone who believes justice is worth the fight. And may the Creator welcome Elouise home with joy and tenderness as we offer our thoughts and prayers to her loved ones. Our hearts are heavy as we mourn Elouise. Because she lived a life worth living, she lived a life worth rejoicing.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. 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. 740

Mr. BAUCUS. Mr. President, I would like to speak against the amendment offered by the Senator from Arizona, Mr. MCCAIN, amendment No. 740.

This Chamber approved three free-trade agreements last week and did so with overwhelming support. But for many, that support hinged on passage of a robust trade adjustment assistance program, otherwise known as TAA.

Last month, the Senate approved trade adjustment assistance, and during floor consideration an amendment similar to the one offered by Senator MCCAIN was rejected. Why was it rejected? I will tell you why. Because a majority of Senators in this Chamber want to help small businesses. We want to help small businesses improve their competitiveness, and we want to help small businesses take advantage of the opportunities trade provides.

But this amendment would end the Trade Adjustment Assistance for Firms

Program. It would end the only program specifically designed to help small manufacturers hurt by import competition. It would end the program that helps companies adjust, retool, and stay competitive in an increasingly global economy.

In 2010, trade adjustment assistance for firms enabled 330 companies to devise strategies that got them back on track. It helped them identify new markets. It helped them improve inefficiencies. It helped them restructure their debt, and it helped them find new financing.

The results proved that the Trade Adjustment Assistance for Firms Program works. Ninety-eight percent of the companies that participated in the program are still in business after 5 years. Without trade adjustment assistance for firms, many of these companies would be out of business and their workers out of jobs.

The program has helped create or retain more than 50,000 good-paying manufacturing jobs since 2006. I would think that with unemployment at such high rates—over 9 percent—and with the large vote in this body on the currency amendment with respect to the Chinese manipulation of currency, it makes eminent sense to help American workers who lost jobs, not prevent help to American workers who have lost jobs on account of trade. And that is what the Trade Adjustment Assistance for Firms Program does—it helps American workers who have lost jobs on account of trade.

Senator MCCAIN's amendment will put those jobs at risk. I don't think that is what this body wants to do. We should be creating jobs, not destroying them. For these reasons, I urge my colleagues to vote no on the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Wisconsin.

#### RECESS

Mr. KOHL. Mr. President, I ask unanimous consent that the Senate now recess until 2:15 p.m., as provided for under the previous order.

There being no objection, the Senate, at 12:27 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. TESTER).

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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