

that come under the FAA existing budget, the funding for highway projects not related to Sandy that are in the Democratic bill and mitigation projects unrelated to Sandy.

Again, we are not against mitigation, but we are saying let us focus on Sandy. Let us get the emergency help to those who need it now. Let us get it there in an ample amount of time and money for them. Then let us take up, through the regular process and we carefully examine how we spend the taxpayers' money, providing those needed funds for the real emergency but not using this as a bill to lard up with all kinds of excessive spending that isn't needed for this particular emergency.

With that, I yield back the remainder of my time.

**FISA AMENDMENTS ACT REAUTHORIZATION ACT OF 2012—Continued**

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5949.

AMENDMENT NO. 3437

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3437 offered by the Senator from Vermont.

The Senator from Vermont.

Mr. LEAHY. Mr. President, this is a matter I care a great deal about. I am concerned that we are rushing to rubberstamp a House bill that is going to extend the surveillance authorities of the FISA Amendments Act for another 5 years. My amendment would allow the authorities to continue, but it would give a lot better and more timely oversight.

We passed this—and it was not on a last-minute thing—out of the Senate Judiciary Committee in July. We acted quickly so that we would not be acting in this last-minute manner.

This has no operational impact on the intelligence community, but it does ensure the strongest of oversight. I hope Senators will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to oppose this amendment and to indicate that the administration opposes the amendment as well.

We have just 4 days to reauthorize this critical intelligence tool before it expires. That is the reason for having the House bill before us today. The House bill is a clean bill. It extends the program to 2017, when it would sunset and would need another reauthorization. I believe we must pass the House bill now. I believe 2017 is the appropriate date.

I am very worried that if we do anything else, if we pass any one of these amendments, we will jeopardize the continuation of what is a vital intelligence tool. So regretfully, I oppose the Leahy amendment.

I yield the floor.

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

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Alaska (Ms. MURKOWSKI).

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

The result was announced—yeas 38, nays 52, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—38

Akaka	Franken	Reed
Baucus	Johnson (SD)	Reid
Begich	Klobuchar	Schatz
Bennet	Kohl	Schumer
Bingaman	Leahy	Shaheen
Blumenthal	Lee	Stabenow
Cantwell	Levin	Tester
Cardin	Manchin	Udall (CO)
Carper	Menendez	Udall (NM)
Casey	Merkley	Webb
Conrad	Murray	Whitehouse
Cooms	Nelson (NE)	Wyden
Durbin	Paul	

NAYS—52

Alexander	Grassley	Moran
Ayotte	Hagan	Nelson (FL)
Barrasso	Hatch	Portman
Blunt	Heller	Pryor
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Isakson	Rockefeller
Chambliss	Johanns	Rubio
Coats	Johnson (WI)	Sessions
Coburn	Kerry	Shelby
Cochran	Kyl	Snowe
Collins	Landrieu	Thune
Corker	Lieberman	Toomey
Cornyn	Lugar	Vitter
Crapo	McCain	Warner
Enzi	McCaskill	Wicker
Feinstein	McConnell	
Graham	Mikulski	

NOT VOTING—10

Boxer	Harkin	Murkowski
Brown (OH)	Inhofe	Sanders
DeMint	Kirk	
Gillibrand	Lautenberg	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 3435

Under the previous order, there will be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 3435, offered by the Senator from Oregon, Mr. MERKLEY.

Mr. REID. Mr. President, we are going to have two more votes tonight. They will both be 10 minutes in duration in addition to the debate time that has already been established. Then we are going to move in a very direct way to complete as much of the debate time as possible on the amendments on the supplemental. It is extremely important that we get this debate completed tonight so we can start voting in the morning. We have already set up that we will have some votes in the morning. We are going to come in probably about 9:30 and start voting. We have a lot to do.

It would really be good if people who have amendments on the supplemental use their debate time tonight. We are going to have no more votes tonight, but tomorrow there will be a limited amount of debate time. Senator MIKULSKI will be here tonight, Senator SCHUMER will be here tonight, and Senator MENENDEZ will be here tonight to help move this, in addition, of course, to the managers of the bill on the other side. We hope people will work hard to get debate out of the way tonight so we can vote tomorrow. We have a lot of votes tomorrow. I am led to believe there are a number of amendments the managers of this bill will pass either by voice or some other quick fashion.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, following up Leader RED's comments, to my colleagues on both sides of the aisle, if you have these amendments, Senator SCHUMER and I would like to know. We will stay here to offer and debate them, as you were accorded under the unanimous consent agreement. If you come up and tell Senator SCHUMER and me now, we can get an order and sequence and tell you when we will call you up. Instead of everybody standing around, we would actually get a regular order and you would know when your amendments are coming up and what order you are coming up so that you could plan your evening. Please see Senator SCHUMER and me, and we will work with you to accomplish this.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, is it time to speak to amendment No. 3435? The PRESIDING OFFICER. Yes.

Mr. MERKLEY. Mr. President, I rise in support of the Merkley-Lee amendment. I thank him for being lead co-sponsor.

I say to my colleagues, this is all about supporting the fourth amendment and opposing secret law. As we all know, in this Nation law consists of both the plain language and the court interpretations of what the plain language means. In the case of the FISA rulings, the public never finds out the second half and therefore doesn't really know when information will be collected, if you will, that is relevant to an investigation. No one ever knows

what that means. The public should be able to know and should be able to weigh in.

This amendment is constructed so it protects national security. It says this will only happen in cases when it is compatible with national security to release the FISA findings, and, second, you can do summaries instead, and if summaries are still causing a national security problem, a schedule is sufficient as to how the administration is reviewing these. It balances national security while it fights for the fourth amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the vice chairman of the committee opposes this amendment, as does the administration. We have only 4 days to authorize this intelligence tool before it expires. Sending this legislation to the President without amendment is the only sure way to do it.

The Director of National Intelligence is engaged in an ongoing process to declassify significant FISA Court opinions where it is possible to do so. I have agreed to work with Senator MERKLEY to get summaries of FISA Court decisions that can be made public.

In sum, the intelligence community strives to be as transparent as possible with the public, but legislation that would force its hand and potentially risk the exposure of classified information is both unnecessary and unwise.

I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the Merkley amendment.

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

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 37, nays 54, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—37

Akaka	Cantwell	Franken
Baucus	Cardin	Gillibrand
Begich	Carper	Heller
Bennet	Conrad	Klobuchar
Bingaman	Coons	Leahy
Blumenthal	Durbin	Lee

Levin	Pryor
Manchin	Reed
Menendez	Reid
Merkley	Schatz
Murray	Schumer
Nelson (NE)	Shaheen
Paul	Stabenow

NAYS—54

Alexander	Graham	McConnell
Ayotte	Grassley	Mikulski
Barrasso	Hagan	Moran
Blunt	Hatch	Nelson (FL)
Boozman	Hoeben	Portman
Brown (MA)	Hutchison	Risch
Burr	Isakson	Roberts
Casey	Johanns	Rockefeller
Chambliss	Johnson (SD)	Rubio
Coats	Johnson (WI)	Sessions
Coburn	Kerry	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Thune
Corker	Landrieu	Toomey
Cornyn	Lieberman	Vitter
Crapo	Lugar	Warner
Enzi	McCain	Whitehouse
Feinstein	McCaskill	Wicker

NOT VOTING—9

Boxer	Harkin	Lautenberg
Brown (OH)	Inhofe	Murkowski
DeMint	Kirk	Sanders

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 3436

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 3436 offered by the Senator from Kentucky, Mr. PAUL.

Mr. PAUL. Mr. President, I rise today to support the Fourth Amendment Protection Act. The fourth amendment guarantees that people should be secure in their persons, houses, and papers against unreasonable searches and seizures. Somewhere along the way we became lazy and haphazard in our vigilance. We allowed Congress and the courts to diminish our fourth amendment protections, particularly when papers were held by third parties.

I think most Americans would be shocked to know that the fourth amendment does not protect their records if they are banking, Internet, or Visa records. A warrant is required to read their snail mail and to tap their phone, but no warrant is required to look at their e-mail, text, or Internet searches; they can be read without a warrant. Why is a phone call more deserving of privacy protection than an e-mail?

This amendment would restore the fourth amendment protections to third-party records, and I recommend a “yes” vote.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I oppose this amendment, as does the vice chairman and the administration. This amendment is not germane to FISA. It has not been reviewed by the Judiciary Committee, which would have jurisdiction over this matter. It seeks to reverse 30 years of Supreme Court precedence of interpreting the fourth amendment. According to the

administration talking points received this afternoon: The amendment would severely limit the effectiveness of law enforcement authorities at all levels of government and will effectively repeal the FISA Amendments Act.

I urge a “no” vote.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Alaska (Ms. MURKOWSKI).

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

The result was announced—yeas 12, nays 79, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—12

Baucus	Lee	Tester
Begich	Merkley	Udall (NM)
Cantwell	Paul	Webb
Heller	Stabenow	Wyden

NAYS—79

Akaka	Franken	Moran
Alexander	Gillibrand	Murray
Ayotte	Graham	Nelson (NE)
Barrasso	Grassley	Nelson (FL)
Bennet	Hagan	Portman
Bingaman	Hatch	Pryor
Blumenthal	Hoeben	Reed
Blunt	Hutchison	Reid
Boozman	Isakson	Risch
Brown (MA)	Johanns	Roberts
Burr	Johnson (SD)	Rockefeller
Cardin	Johnson (WI)	Rubio
Carper	Kerry	Schatz
Casey	Klobuchar	Schumer
Chambliss	Kohl	Sessions
Coats	Kyl	Shaheen
Coburn	Landrieu	Shelby
Cochran	Leahy	Snowe
Collins	Levin	Thune
Conrad	Lieberman	Toomey
Coons	Lugar	Udall (CO)
Corker	Manchin	Vitter
Cornyn	McCain	Warner
Crapo	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Enzi	Menendez	
Feinstein	Mikulski	

NOT VOTING—9

Boxer	Harkin	Lautenberg
Brown (OH)	Inhofe	Murkowski
DeMint	Kirk	Sanders

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Maryland.

DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT—Continued

Ms. MIKULSKI. I ask unanimous consent that the Senate now resume consideration of H.R. 1, the legislative vehicle for the Hurricane Sandy supplemental.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill has been reported.

Ms. MIKULSKI. Mr. President, I would like to give a sense of the order of amendments so Senators may plan their time.

We are now back on the supplemental bill, and we have great cooperation in getting the pending amendments and debate done this evening so we could actually start voting tomorrow morning.

So that Senators can have an understanding of how we will start our work this evening, I want to lay out a bit of the schedule. This is not a unanimous consent request. It is kind of an outline.

Our intention is to have the following amendments called up after I yield the floor: Senator CARDIN to be recognized to call up his amendment No. 3393; Senator TESTER to be recognized for up to 2 minutes to call up his amendment No. 3350; Senator LANDRIEU to be recognized for up to 2 minutes to call up her amendment No. 3415; Senator COBURN to be recognized for up to 30 minutes to call up his six amendments: Nos. 3368; 3369; 3370, as modified; 3371; 3382; and 3383; following that, Senator MERKLEY to be recognized for up to 5 minutes to call up his amendment No. 3367; and then I have a few I will call up on behalf of other Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 3393 TO AMENDMENT NO. 3395

Mr. CARDIN. Mr. President, I call up the Cardin amendment that was made in order, amendment No. 3393.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Ms. LANDRIEU, proposes an amendment numbered 3393 to amendment No. 3395.

The amendment is as follows:

(Purpose: To strike section 501)

Strike section 501.

Mr. CARDIN. Mr. President, this amendment is totally noncontroversial. In the bill, they increase the surety bond limits for small businesses from \$2 million to \$5 million. It was an amendment I worked with Senator LANDRIEU on in the Small Business Committee. It was included in the Recovery Act. It expired. It has been very successful. It has generated a lot more contracts than anticipated. Making the limit permanent has no cost.

This amendment would strike the provision from this bill since it has already been included in the National Defense Authorization Act, which has

passed this body at \$6.5 million, made permanent. So there is no need to include this provision in the supplemental appropriations bill.

I know of no controversy on this amendment. We do not need any debate time. I am hopeful we will clear this for a voice vote tomorrow.

I wish to thank Senator LANDRIEU for her work and Senator SNOWE on the Small Business Committee and thank Senator MIKULSKI for her work.

The Small Business Administration's surety bond program provides a guarantee on surety bonds, which are issued by contractors to assure customers that contract work will be completed.

The surety bond program gives small businesses critical support to secure work, which will be especially important during recovery and rebuilding efforts after Superstorm Sandy.

The underlying bill contains a provision, requested by the administration, which would increase the maximum surety bond guaranteed by SBA from \$2 million to \$5 million.

The Defense authorization conference agreement contains a provision that would raise the maximum to \$6.5 million.

The amendment strikes the provision in the supplemental related to SBA surety bonds in order to avoid conflicting with the House and Senate's conference agreement in the Defense authorization bill.

This amendment is a simple but important technical fix supported by Chairwoman LANDRIEU and Ranking Member SNOWE of the Small Business Committee.

I urge my colleagues to support this amendment.

Mr. TESTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Ms. MIKULSKI. Mr. President, wait. Before the Senator from Montana speaks, why don't we voice vote the amendment now.

Mr. CARDIN. Fine. I know of no further requests for time and I am prepared for a vote.

I yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

Ms. MIKULSKI. Would the Chair withhold?

There seems to be—Mr. President, if we could have order, I think it would be helpful for us.

The PRESIDING OFFICER. The Senator will come to order.

Ms. MIKULSKI. The Senator from Maryland may proceed.

Mr. CARDIN. I have no further debate. I am prepared to let it go on a voice vote.

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

Mr. COBURN. Inquiry of the Chair, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. It was my understanding we were going to have ordered

votes tomorrow rather than this evening, and I would ask, through the Chair, the chairwoman of the committee if my understanding is correct.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Replying to the Senator from Oklahoma, for those amendments we know we have cleared on both sides of the aisle that we can do by voice votes or by consent, we are going to get those done this evening.

Does the Senator have an objection to that?

Mr. COBURN. I would on this particular—I think we ought to have a recorded vote on this. That would be my request.

Ms. MIKULSKI. Senator CARDIN's amendment No. 3393 will be voted on tomorrow.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 3350 TO AMENDMENT NO. 3395

Mr. TESTER. Mr. President, I call up amendment No. 3350.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. TESTER], for himself, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. WYDEN, Mr. BAUCUS, and Mr. JOHNSON of South Dakota, proposes an amendment numbered 3350 to amendment No. 3395.

The amendment is as follows:

(Purpose: To provide additional funds for wildland fire management)

On page 76, between lines 4 and 5, insert the following:

## WILDLAND FIRE MANAGEMENT

For an additional amount for "Wildland Fire Management", \$653,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)(i)); *Provided further*, That, not later than December 31, 2013, the Comptroller General of the United States shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report on new models or alterations in the model that may be used to better project future wildfire suppression costs.

Mr. TESTER. Mr. President, Senator UDALL of Colorado and I are offering this amendment to provide the Forest Service with sufficient resources to meet the demands of wildfire fighting this fiscal year.

Our amendment to the Sandy supplemental would close the gap between the budget request and the actual expected need for wildfire management this year. Over the last 15 years, the cost of wildfire suppression has increased fivefold, but the Forest Service's budget certainly has not. The reason we have had wildfire suppression increasing by fivefold is because the frequency and severity of fires have both increased.

The Forest Service, instead, has had to borrow money set aside for nonfire purposes, cutting into important programs such as timber production and watershed restoration. Borrowing