

I am disappointed that these amendments, which all call for greater accountability and transparency, were unsuccessful.

In 2008, I largely objected to the FAA because I had serious concerns about granting retroactive immunity to telecommunications companies for actions they may or may not have taken in response to administration requests that may or may not have been legal. Because these immunity provisions are not subject to a sunset, they are not at issue with today's vote.

I ultimately decided to vote in favor of extending FAA for 5 years because, as I noted earlier, major threats still exist. However, I did so reluctantly. We should have considered an FAA extension months ago without the threat of FAA expiration in mere days. Protecting Americans means that we must balance ensuring our national security with preserving our civil liberties, and I will continue to work with my colleagues to ensure that this balance is struck.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1, which the clerk will now report by title.

The assistant bill clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

#### Pending:

Reid amendment No. 3395, in the nature of a substitute.

Coats/Alexander amendment No. 3391 (to amendment No. 3395), in the nature of a substitute.

Cardin/Landrieu amendment No. 3393 (to amendment No. 3395), of a perfecting nature.

Tester amendment No. 3350 (to amendment No. 3395), to provide additional funds for wild land fire management.

Landrieu amendment No. 3415 (to amendment No. 3395), to clarify the provision relating to emergency protective measures.

Coburn amendment No. 3369 (to amendment No. 3395), to reduce the amount that triggers the requirement to notify Congress of the recipients of certain grants and to require publication of the notice.

Coburn/McCain amendment No. 3371 (to amendment No. 3395), to ensure that Federal disaster assistance is available for the most severe disasters.

Coburn amendment No. 3382 (to amendment No. 3395), to require merit-based and competitive awards of disaster recovery contracts.

Coburn amendment No. 3383 (to amendment No. 3395), to strike a provision relating to certain studies of the Corps of Engineers.

Coburn/McCain amendment No. 3368 (to amendment No. 3395), to clarify cost-sharing requirements for certain Corps of Engineers activities.

Division I of Coburn/McCain modified amendment No. 3370 (to amendment No. 3395), to ensure funding for victims of Hurricane Sandy is not spent on tax cheats, deceased individuals, or fisheries outside of the affected area.

Division II of Coburn/McCain modified amendment No. 3370 (to amendment No. 3395), to ensure funding for victims of Hurricane Sandy is not spent on tax cheats, deceased individuals, or fisheries outside of the affected area.

Merkley further modified amendment No. 3367 (to amendment No. 3395), to extend certain supplemental agricultural disaster assistance programs.

Mikulski (for Leahy) amendment No. 3403 (to amendment No. 3395), to provide authority to transfer previously appropriated funds to increase security at U.S. Embassies and other overseas posts.

Mikulski (for Harkin) amendment No. 3426 (to amendment No. 3395), of a perfecting nature.

#### AMENDMENT NO. 3393

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3393, offered by the Senator from Maryland, Mr. CARDIN.

The Senator from Maryland.

AMENDMENTS NOS. 3348 AND 3421, AS MODIFIED,  
EN BLOC

Ms. MIKULSKI. Madam President, it is my understanding that we will be able to adopt a number of amendments by voice vote. In order to do that, I will call up a few more amendments now en bloc before a voice vote on the amendments.

I ask unanimous consent to call up the following amendments en bloc: Grassley No. 3348 and Feinstein No. 3421, as amended.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report the amendments by number.

The assistant bill clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes amendments numbered 3348 and 3421, as modified, en bloc.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the reading be dispensed with.

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

The amendments are as follows:

(Purpose: To shift vehicles used for non-operational purposes by the Department of Justice and Department of Homeland Security in the District of Columbia to replace vehicles of those agencies damaged by Hurricane Sandy)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ VEHICLES USE IN THE WAKE OF HURRICANE SANDY.

(a) REPORT.—Not later than 7 days after the date of enactment of this Act, the Department of Justice and Department of Homeland Security shall identify and relocate any vehicles currently based at the Washington, D. C., headquarters of such agencies used for non-operational purposes to replace vehicles of those agencies damaged by Hurricane Sandy. The Department of Justice and Department of Homeland Security shall provide copies of a report summarizing the actions taken to carry out this subsection to the House and Senate Committees on Appropriations and Judiciary.

(b) FUNDING LIMITATION.—No funds provided by this Act shall be used to purchase, repair, or replace any Department of Justice or Department of Homeland security vehicle

until after the report required by subsection (a) has been provided to Congress.

#### AMENDMENT NO. 3421, AS MODIFIED

On Page 16, strike lines 17 through 20, and insert in lieu thereof:

“*Provided further*, That these funds may be used to construct any project that is currently under study by the Corps for reducing flooding and storm damage risks in areas along the Atlantic coast within the North Atlantic or the Gulf Coast within the Mississippi Valley Divisions of the U.S. Army Corps of Engineers that suffered direct surge inundation impacts and significant monetary damages from Hurricanes Isaac or sandy if the study demonstrates that the project will cost-effectively reduce those risks and is environmentally acceptable and technically feasible: *Provided*”.

AMENDMENTS NOS. 3393, 3348, 3421, AS MODIFIED,  
3426, 3415, 3403, 3369, AND DIVISION I OF 3370 EN  
BLOC

Ms. MIKULSKI. Madam President, I ask unanimous consent that we proceed to vote on the following amendments en bloc: Cardin No. 3393; Grassley No. 3348; Feinstein No. 3421, as modified; Harkin No. 3426; Landrieu No. 3415; Leahy No. 3403; Coburn No. 3369; and division I of Coburn No. 3370.

Mr. COCHRAN. Madam President, these amendments have been cleared by the managers on this side. I know of no objections to their adoption.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be considered en bloc.

Mr. GRASSLEY. Madam President, amendment No. 3348 is about smart government. It is about ensuring that taxpayer dollars are spent wisely, while at the same time guaranteeing that Federal law enforcement agencies that face challenges following Hurricane Sandy have the resources they need to get the job done.

Instead of simply providing funding, my amendment requires that within 7 days, the Department of Justice and Department of Homeland Security identify and relocate vehicles based at the Washington, D.C. headquarters of DOJ and DHS that are used for non-operational purposes.

The vehicles identified will then be used to replace those damaged by Hurricane Sandy that are used by the FBI, DEA, ATF, ICE, and Secret Service.

This is a good government amendment and one that actually achieves the goal of replacing operational vehicles used by Federal law enforcement faster than the underlying bill.

If this is an emergency, as we have been told, these agencies can spare some of the hundreds of vehicles they have sitting at their headquarters that they currently have for non-operational purposes.

I urge my colleagues to support my commonsense, good government amendment.

If there is no further debate, the question is on agreeing to the amendments en bloc.

The amendments were agreed to.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, it is my understanding the Senator from

Arizona, Mr. McCAIN, no longer wishes to offer amendment No. 3384. Senator BINGAMAN of New Mexico is in line to offer the next amendment in order under the agreement, and I see he is here now to call up his amendment.

Now we will proceed to debating amendments where there was more extensive time asked. But I ask Members not to leave the Chamber. These are 4 minutes of debate, 10 minutes of debate. If we all stick together, for a change, we can all move this bill in a way we can be proud of.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

#### AMENDMENT NO. 3344

Mr. BINGAMAN. Madam President, I thank the managers of the bill, the chairman of the Appropriations Committee, and I call up amendment No. 3344.

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

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. WEBB, and Mr. WYDEN, proposes an amendment numbered 3344.

Mr. BINGAMAN. Madam President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for the approval of an agreement between the United States and the Republic of Palau in response to Super Typhoon Bopha)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . APPROVAL OF THE 2010 U.S.-PALAU AGREEMENT IN RESPONSE TO SUPER TYPHOON BOPHA.

(a) IN GENERAL.—The agreement entitled “The Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review” signed on September 3, 2010 (including the appendices to the agreement) (referred to in this section as the “Agreement”) is approved (other than Article 7 to the extent it extends Article X of the Federal Programs and Services Agreement) and may only enter into force after the Secretary of State, in coordination with the Secretary of the Interior, enters into an implementing arrangement with the Republic of Palau that makes the adjustments to dates and amounts as set forth in Senate Amendment 3331.

(b) AMENDMENT.—Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) is amended by striking “2009” and inserting “2024”.

#### (c) FUNDING.—

(1) IN GENERAL.—There are appropriated to the Secretary of the Interior such sums as are specified to carry out sections 1, 2(a), 4(a), and 5 of the Agreement for each of fiscal years 2014 through 2024.

(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

(3) EMERGENCY DESIGNATION.—Amounts appropriated under paragraph (1) are designated by Congress as being for an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3344 offered by the Senator from New Mexico, Mr. BINGAMAN.

Mr. BINGAMAN. Madam President, as Hurricane Sandy was bearing down on our own east coast, causing tremendous damage, a supertyphoon named Bopha was also striking the small Asian Pacific nation of Palau. The U.S. Embassy in Palau issued a declaration on December 5.

In response to this emergency, Palau has asked that the assistance agreement signed by the United States in 2010 be approved so the funds already agreed to can become available for disaster recovery.

Palau is a strategic ally of ours in the western Pacific near Guam, the Philippines, and Indonesia. Last year, our own Defense Department wrote:

Failure to follow through on our commitments to Palau, as reflected in the proposed (Agreement), would jeopardize our defense posture in the Western Pacific.

It is important the United States demonstrate its reliability as a strategic partner in the Pacific by approving the 2010 agreement with Palau and meeting our commitments.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BINGAMAN. Madam President, I am happy to see the matter dealt with, with a voice vote.

Ms. MIKULSKI. I urge the amendment be adopted by voice vote.

Ms. LANDRIEU. Seconded.

Mr. COCHRAN. Madam President, I object.

Mr. SESSIONS. Madam President, I object to the voice vote and ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. SESSIONS. Madam President, I ask for time to speak on this point.

The PRESIDING OFFICER. There is 30 seconds remaining in opposition.

Mr. SESSIONS. Madam President, this is the result of a compact that, to my knowledge, has not been brought before the Foreign Relations Committee. It commits us to direct spending permanently for entitlement-type spending that I do believe needs more careful review.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment. The yeas and nays were previously ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 237 Leg.]

#### YEAS—52

Akaka	Heller	Nelson (FL)
Baucus	Johanns	Pryor
Begich	Johnson (SD)	Reed
Bennet	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Blumenthal	Kohl	Sanders
Brown (OH)	Landrieu	Schatz
Cantwell	Leahy	Schumer
Cardin	Levin	Shaheen
Carper	Lieberman	Stabenow
Casey	McCain	Tester
Conrad	McCaskill	Udall (CO)
Coons	Menendez	Udall (NM)
Durbin	Merkley	Webb
Feinstein	Mikulski	Whitehouse
Franken	Murkowski	Wyden
Gillibrand	Murray	
Harkin	Nelson (NE)	

#### NAYS—43

Alexander	Enzi	Moran
Ayotte	Graham	Paul
Barrasso	Grassley	Portman
Blunt	Hagan	Risch
Boozman	Hatch	Roberts
Brown (MA)	Hoeven	Rubio
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coats	Isakson	Snowe
Coburn	Johnson (WI)	Thune
Cochran	Kyl	Toomey
Collins	Lee	Vitter
Corker	Lugar	Wicker
Cornyn	Manchin	
Crapo	McConnell	

#### NOT VOTING—5

Boxer	Kirk	Warner
DeMint	Lautenberg	

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

Under the previous order, there will be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 3368.

The Senator from Maryland.

Ms. MIKULSKI. Madam President, the Senator from Oklahoma, Mr. COBURN, has asked that he have a chance to get his own paperwork together because he has extensive remarks. I am going to ask unanimous consent that the Coburn amendments be temporarily laid aside until he is able to return to the floor, and we will move to TESTER and then return to COBURN. I believe the minority concurs, before I make my request?

Mr. COCHRAN. Madam President, we have no objection to the request of the Senator.

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

Ms. MIKULSKI. Madam President, I ask unanimous consent that Coburn amendments Nos. 3368, 3370, 3371, and 3382 be temporarily laid aside and that the Senate proceed to Tester amendment No. 3350.

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

Ms. MIKULSKI. I thank the Chair.

AMENDMENT NO. 3350

The PRESIDING OFFICER. There will be 2 minutes of debate equally divided.

The Senator from Montana.

Mr. TESTER. Madam President, this amendment, No. 3350, is to provide additional funds for wildland fire management. The summer of 2012 was a bad fire year, the third worst on record—9.2 million acres were burned. The drought has continued to persist. Projections for 2013 as a fire season will be even worse. The Forest Service budget—when there are bad fire years, they have to rob from other accounts. That was the case this year, with a shortfall of \$653 million. This amendment closes that gap and gives the Forest Service the resources for the upcoming fire season, which is due to be a bad one.

The amendment also requires the GAO to recommend alternative new models to better reflect the costs associated with wild land fires because they have been underfunded so much in the past. This will establish a better model and reduce the need for supplemental funding in this account in the future.

Here is the scoop, folks: The damage done by fires, particularly in the West, was extensive and is an emergency. The Forest Service can continue to rob money from other accounts to fight these fires which ends up in poor forest management and even bigger fires.

I encourage everyone's concurrence in this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I appreciate Senator TESTER's energy on this issue and desire to move forward with it. We do have a process for this kind of funding to occur. He would add \$653 million in prospective wildlife mitigation spending and declare that as an emergency. This spending is better if handled through the regular appropriations process. It is actually moving forward faster. He is trying to make sure this money is set aside. This is not the time to do it, but I appreciate his interest.

I raise a budget point of order pursuant to section 314(e)(1) of the Congressional Budget Act. I raise a point of order against the emergency designation provisions contained in amendment No. 3350 to amendment No. 3395, the substitute amendment to H.R. 1, the vehicle for the Supplemental Appropriations Act.

I appreciate the Senator's efforts but do not believe this is the appropriate process at this time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive all applicable sections of that act for purposes of the pending measure.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. COONS). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from South Carolina (Mr. DEMINT).

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

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 238 Leg.]

#### YEAS—51

Akaka	Hagan	Nelson (NE)
Baucus	Harkin	Nelson (FL)
Begich	Heller	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schatz
Cardin	Leahy	Schumer
Casey	Levin	Shaheen
Collins	Lieberman	Stabenow
Conrad	Manchin	Tester
Coons	McCaskill	Udall (CO)
Durbin	Menendez	Udall (NM)
Feinstein	Merkley	Webb
Franken	Mikulski	Whitehouse
Gillibrand	Murray	Wyden

#### NAYS—44

Alexander	Enzi	Moran
Ayotte	Graham	Murkowski
Barrasso	Grassley	Paul
Blunt	Hatch	Portman
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Inhofe	Rubio
Carper	Isakson	Sessions
Chambliss	Johanns	Shelby
Coats	Johnson (WI)	Snowe
Coburn	Kyl	Thune
Cochran	Lee	Toomey
Corker	Lugar	Vitter
Cornyn	McCain	Wicker
Crapo	McConnell	

#### NOT VOTING—5

Boxer	Kirk	Warner
DeMint	Lautenberg	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the emergency designation is removed.

The Senator from Montana.

AMENDMENT NO. 3350 WITHDRAWN

Mr. TESTER. Mr. President, it is unfortunate that we couldn't sustain this budget point of order because it truly is an emergency situation, particularly in the West. We have seen the number of fires we have had. Without the emergency designation, it does some bad things to our budget next year.

With that, I ask unanimous consent to withdraw this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment No. 3350 is withdrawn.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for 1 minute on the Tester amendment withdrawal.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I thank the Senator from Montana for withdrawing his amendment.

We are mindful of the issue of fires facing western Senators. We look forward to working with Senator TESTER and other colleagues affected to really deal with this problem in a sensible way that meets the needs of local communities and our serious budgetary constraints.

Mr. President, I also urge a return to regular order and ask that we move our amendments as expeditiously as we can and stick to 15-minute votes so we can get as much done as we can before we adjourn for lunch and visits to the White House. I wish to thank the minority for their excellent cooperation in doing what we have done already.

AMENDMENT NO. 3368

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 3368, offered by the Senator from Oklahoma.

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, the Sandy supplemental appropriations bill provides \$3.5 billion in funding for new construction projects through the Corps of Engineers. Part of that \$3 billion is toward reducing future flood risk—not repairing present but reducing future.

I talked to CRS this morning after listening to my colleague from New York. Over the last 25 years, the average participation rate was 35 percent—65 percent. No exceptions for future mitigation risks were made during Katrina. It was not 100 percent. It was not 90 percent.

All this does is restore it back to what we have had traditionally. We know projects that shouldn't get funded won't get funded when we have this kind of ratio.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New York.

Mr. SCHUMER. Mr. President, this amendment, if passed, would not allow the Sandy States or future States to protect themselves against future disasters. Now, my colleague draws a very clear line between present rebuilding and protection for the future. If a dune is wiped out in Long Beach and they think it ought to be rebuilt at 7 feet rather than at 5 feet because 5 feet wouldn't be good enough, we come to the irrational conclusion that we will pay for the 5 feet and not the 7 feet. It makes no sense.

Most of the cost of rebuilding is to restore, but if there is an extra amount needed to prevent damage from a future hurricane and it is the same type of project, fine.

We have a couple of piers that actually protected the houses in the Rockaways, but they didn't build enough of them—not piers, jetties. Now, under my colleague's proposal, we could rebuild those jetties because some of them were destroyed, but we couldn't build new ones to protect the other land there except at this 65-percent level.

I can tell my colleagues that most of New York and New Jersey are dotted with little localities, and the cost of these projects is so expensive, if we say 35 percent, they won't get built, period. We will have no protection, and we will be back here sure enough when another storm occurs.

Furthermore, it is not true—Katrina Army Corps projects were funded at 100 percent. They did not call them. We didn't draw this new line between mitigation or rebuilding to protect and building for the old. They were lumped together. But the overwhelming majority of Army Corps projects for Katrina, as both of my colleagues from Louisiana can tell us, were 100 percent.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oklahoma.

Mr. COBURN. It doesn't mean they won't get rebuilt; it means that portion of the increase will be a contribution rate of 35 percent. We are going to do a complete restoration of what was there. The differential is and what we know from history, when this was put in, is it keeps projects that don't benefit from being built. The claim of the Senator from New York that they won't get built is just untrue. Everything is going to be restored, but new mitigation projects should have a cost share so we don't do frivolous mitigation projects.

So I would insist on the yeas and nays on this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

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 New Jersey (Mr. LAUTENBERG), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—44

Alexander	Blunt	Burr
Ayotte	Boozman	Chambliss
Barrasso	Brown (MA)	Coats

Coburn	Hutchison
Cochran	Inhofe
Collins	Isakson
Corker	Johanns
Cornyn	Johnson (WI)
Crapo	Kyl
Enzi	Lee
Graham	Lugar
Grassley	McCain
Hatch	McConnell
Heller	Moran
Hoeven	Murkowski

NAYS—51

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Johnson (SD)	Reed
Bennet	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Blumenthal	Kohl	Sanders
Brown (OH)	Landrieu	Schatz
Cantwell	Leahy	Schumer
Cardin	Levin	Shaheen
Carper	Lieberman	Stabenow
Casey	Manchin	Tester
Conrad	McCaskill	Udall (CO)
Coons	Menendez	Udall (NM)
Durbin	Merkley	Vitter
Feinstein	Mikulski	Webb
Franken	Murray	Whitehouse
Gillibrand	Nelson (NE)	Wyden

NOT VOTING—5

Boxer	Kirk	Warner
DeMint	Lautenberg	

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

AMENDMENT NO. 3370

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3370, division II, offered by the Senator from Oklahoma.

Mr. COBURN. Mr. President, I have no doubt there was significant damage in the past of fisheries both on the west coast, Alaska, and on the east coast. But a large portion of this money in this bill is not for fisheries but for research. This should not be, in fact, in an emergency supplemental bill.

So all this amendment does is say that fisheries reparations inside 50 miles of Sandy qualifies for this money, outside of 50 miles does not. The regular process of going through the appropriations process, making appropriate judgments about priorities is what we need to be doing, just like the point of order that was made on fire-fighting.

I would suggest we eliminate this portion of it or at least limit it to Sandy and not other areas. With that, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, first, I would like to bring something to the attention of the Senator from Oklahoma. First, the Senator got a decimal point wrong. I feel amused correcting the Senator from Oklahoma on numbers. But if we read his amendment, it is .50, which makes it half a mile rather than 50 miles. So that is 49.5 off. But before the Senator asks consent to correct that, whether it is half a mile or 50 miles, I oppose the Senator's amendment because this amendment tries to steer fisheries disaster funding for communities only affected by citing the Stafford Act.

Limiting it to half a mile or 50 miles, fish swim big distances, as do crabs, as do lobsters, and particularly those big king crabs. Under the Senator's amendment, by talking about the Stafford Act, it actually has no bearing on fisheries.

Fisheries disasters are declared by the Secretary of Commerce according to the Federal fisheries and commerce laws at the request of Governors. Fisheries disasters are unanticipated. Under this amendment, all federally declared disaster areas would miss out on much needed financial help. I urge a "no" vote on the Coburn amendment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. For the information of all Senators, we are going to have two votes before we break for our caucuses—the Republicans have a caucus, we have one. So we have two votes before lunch. Then at 2 o'clock we will have another vote. If the meetings run over a little bit, that will give people 15 minutes to get here to vote.

Then Senator MCCONNELL and I are both going to be indisposed from 3 o'clock to 4 o'clock. So we will have a little brief time there. Then we will finish the bill, we hope, after that.

The order says we are coming back at 2:15. I ask unanimous consent that it be modified so we come back at 2 o'clock.

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

Ms. MIKULSKI. If I might discuss with the leader and get the consent of the minority, the Senator from Oklahoma has a series of amendments. I wonder if we could debate the next amendment now, which is the Feinstein amendment, and then have two stacked votes or if the Senator just wants to follow regular order.

Mr. COBURN. I have no objection.

Ms. MIKULSKI. I ask unanimous consent that the vote on Coburn No. 3372 be laid aside, that the Senator be allowed to speak on amendment No. 3371, and then following that, we dispose of the Senator's amendment and we have two votes at the same time.

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

Mr. REID. So the Senator from Oklahoma is going to debate the second amendment and then we will have two stacked votes.

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate on amendment No. 3371.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, before we go to the second amendment—I ask unanimous consent—I am looking at my transcription of this amendment. It says 50 miles. So if, in fact, what is at the desk does not say 50 miles, I ask unanimous consent to amend the amendment so it would read 50 miles.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. I object.

Mr. COBURN. All right. Amendment No. 3371.

Ms. MIKULSKI. Mr. President, I just want to say to the Senator from Oklahoma, there does seem to be a dispute

in the printing. But whatever it is, we are going to get it straight. We are going to work with the Senator and function with maximum courtesy here. If we could know whether we are taking about half a mile or 50 miles—

Mr. President, I ask the clerk to clarify, is it half a mile or 50 miles?

The PRESIDING OFFICER. The Chair advises it is 50 miles.

Ms. MIKULSKI. To the Senator from Oklahoma, I apologize. I am sorry for the delay. We will move forward to further debate on the second amendment.

Ms. COLLINS. Mr. President, fishing is more than just a profession in New England. Fishing is a culture and a way of life. In recent years, Maine's fishermen and fishing communities have been struggling to survive among Federal regulations that have limited fishing opportunities.

On September 13, 2012, the acting Secretary of Commerce declared a Federal fisheries disaster for Maine, Rhode Island, Massachusetts, New Hampshire, New York, and Connecticut because of the significant projected reductions in the total allowable catch for critical groundfish stocks.

The expected and considerable catch limit reductions have been triggered by recently updated stock assessments that show that several key groundfish populations are significantly below the levels necessary to meet the rebuilding deadlines that are mandated by Federal law.

The projected reductions, which may be as high as 73 percent, will come despite strict adherence to new and rigorous management practices by fishermen.

There are approximately 45 Maine-based vessels actively fishing with Federal groundfish permits. Last year, more than 5 million pounds of groundfish, with a dockside value approaching \$5.8 million, were landed in Maine.

Given the magnitude of the projected cuts, the effect on these Maine vessels and vessels of all sizes and gear types throughout the region will be profound. It will add to the already considerable economic burdens that fishing communities are facing. Federal assistance is necessary to support these fishermen and the fishing related businesses in our coastal communities.

The requested funding will be used to provide both immediate economic relief to the region's struggling groundfish industry, and to make targeted investments that will allow the fleet to survive and become more sustainable in the years ahead.

These funds could also be productively used to fully cover the costs of at-sea monitoring and to address long term overcapacity in the fishing industry. This is critical to rebuilding fish stocks and preserving a thriving fishing industry well into the future.

Slow recovery and declining fish stocks will continue to have a negative impact on commercial fishing, harming local communities and economies. Federal disaster assistance is vital to the

long term success and short term survival of fishing communities throughout the region.

It is important to note that the funding provided in the bill is to respond to fishery disasters declared by the acting Commerce Secretary in 2012 under the authority provided by the Magnuson-Stevens Fisheries Conservation and Management Act and the Interjurisdictional Fisheries Act. This is authorized funding in response to declared disasters.

#### AMENDMENT NO. 3371

Mr. COBURN. Mr. President, amendment No. 3371 is a good government house cleaning for FEMA. FEMA determines disasters based on a declaration process that is based on a per capita income—or per capita damage indicator. It has not been revised to account for the effects of inflation. Because we have not revised it, the smaller States actually get more benefit from FEMA than the larger States.

Oklahoma has had 25 disaster declarations in the last 6 years, more than any other State. So what I am actually proposing will not help my State; it will actually hurt my State. But it is improper for us to continue to use an outmoded number when, in fact, a small State has the same amount of damage as a large State, but the per capita indicator would say it does not meet the requirements.

All I am requesting is that FEMA, over the next 4 years, update this. It does not have any application until 2016. It gives them time to update it. Then, through good government, we have a better reflection of when we declare a disaster and when we do not as far as the per capita indicator would tell us.

I yield back.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I rise in opposition to this amendment. But I wish to say the Senator from Oklahoma raises a very good point. But this comes under the jurisdiction of the committee that he is actually the ranking member on, with the new chairman, Senator TOM CARPER, to be done in an authorizing action, not on this particular bill.

It does need some updating. But the other point that needs to be looked at—I think the Senator from Oklahoma will agree with me because the Federal Government cannot do everything—is what role the States should play in helping counties, particularly rural counties such as what happened in Joplin, MO, such as what has happened in Oklahoma, such as what has happened in Tennessee. What should States do to help these more rural counties that get hurt?

I agree with the Senator in the need for an update. This is not the time to do it, however. I urge a “no” vote on his amendment and turn it over to the authorizing committee, of which he is a member, to provide for appropriate oversight in that venue.

Mr. COBURN. I ask unanimous consent to recapture 15 seconds of my time.

The PRESIDING OFFICER. The Senator has 40 seconds remaining.

Mr. COBURN. Mr. President, this bill is full of authorizations—I mean, literally, full of authorizations. This is something I have studied and looked at. I have been looking at FEMA for 8 years. We should not wait to do this. Let's do it now. It is common sense. It does not harm anybody. It actually makes us better at what we are trying to do with Federal emergency management.

Ms. LANDRIEU. The Senator is correct that this bill is full of reforms that he and I and others have worked on. But every one of these reforms has been agreed to on both sides of the aisle; this has not. The Senator could continue to work with us and find a way forward.

I would urge a “no” vote on this now. I promise we will give him its full attention and get this taken care of but at a later date.

Mr. COBURN. 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 question is on agreeing to amendment No. 3370, division II.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 35, nays 60, as follows:

#### [Rollcall Vote No. 240 Leg.]

##### YEAS—35

Alexander	Enzi	McCain
Ayotte	Grassley	McCaskill
Barrasso	Heller	McConnell
Blunt	Hoeven	Paul
Boozman	Hutchison	Portman
Burr	Inhofe	Risch
Carper	Isakson	Roberts
Chambliss	Johanns	Rubio
Coburn	Johnson (WI)	Sessions
Corker	Kyl	Thune
Cornyn	Lee	Toomey
Crapo	Lugar	

##### NAYS—60

Akaka	Coons	Levin
Baucus	Durbin	Lieberman
Begich	Feinstein	Manchin
Bennet	Franken	Menendez
Bingaman	Gillibrand	Merkley
Blumenthal	Graham	Mikulski
Brown (MA)	Hagan	Moran
Brown (OH)	Harkin	Murkowski
Cantwell	Hatch	Murray
Cardin	Johnson (SD)	Nelson (NE)
Casey	Kerry	Nelson (FL)
Coats	Klobuchar	Pryor
Cochran	Kohl	Reed
Collins	Landrieu	Reid
Conrad	Leahy	Rockefeller

Sanders	Snowe	Vitter
Schatz	Stabenow	Webb
Schumer	Tester	Whitehouse
Shaheen	Udall (CO)	Wicker
Shelby	Udall (NM)	Wyden

## NOT VOTING—5

Boxer	Kirk	Warner
DeMint	Lautenberg	

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

## VOTE ON AMENDMENT NO. 3371

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Coburn and McCain amendment No. 3371.

Mr. COBURN. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 40, nays 55, as follows:

## [Rollcall Vote No. 241 Leg.]

## YEAS—40

Alexander	Enzi	McCaskill
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Hutchison	Risch
Burr	Inhofe	Rubio
Carper	Isakson	Sessions
Chambliss	Johanns	Shelby
Coats	Johnson (WI)	Thune
Coburn	Klobuchar	Toomey
Cochran	Kohl	Vitter
Coons	Kyl	Webb
Corker	Lee	Wicker
Cornyn	Lugar	
Crapo	McCain	

## NAYS—55

Akaka	Harkin	Nelson (FL)
Ayotte	Hatch	Pryor
Baucus	Heller	Reed
Begich	Hoeven	Reid
Bennet	Johnson (SD)	Roberts
Bingaman	Kerry	Rockefeller
Blumenthal	Landrieu	Sanders
Brown (MA)	Leahy	Schatz
Brown (OH)	Levin	Schumer
Cantwell	Lieberman	Shaheen
Cardin	Manchin	Snowe
Casey	McConnell	Stabenow
Collins	Menendez	Tester
Conrad	Merkley	Udall (CO)
Durbin	Mikulski	Udall (NM)
Feinstein	Moran	Whitehouse
Franken	Murkowski	Wyden
Gillibrand	Murray	
Hagan	Nelson (NE)	

## NOT VOTING—5

Boxer	Kirk	Warner
DeMint	Lautenberg	

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

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that when the Senate reconvenes at 2 p.m., we debate the next two Coburn amendments in order and that upon the use or yielding back of time on those amendments, the Senate proceed to vote in relation to the Coburn amendments, with all provisions of the previous order remaining in effect.

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

Ms. MIKULSKI. Mr. President, simply what this means is this—and I am really asking for Senators to pay attention because they are very keenly interested in the schedule. I thank the distinguished Senator from Mississippi, Mr. COCHRAN, for working on the expeditious disposition of our amendments.

Senators should be aware that after 2 p.m., they should be in the Chamber to vote on these amendments. These are 10-minute votes, and we do not intend to hold the votes beyond the time. The leadership on both sides of the aisle will be going to the White House to discuss the really critical, crucial matters before the Nation. They must go to the White House, but they will want to exercise their vote. So let's cooperate with the leadership.

At 2 o'clock, Senator COBURN will make his debate. We will have an orderly, crisp rebuttal. Then we will go right to those votes, and then the leadership will be able to leave for the White House. Remember, we have to have that first vote done in a timely way so that both Senator REID and Senator MCCONNELL can leave to have the designated meeting with President Obama.

Mr. COCHRAN. Mr. President, let me join with the Senator from Maryland in commending all Senators for the expeditious way we have been able to move this bill but in particular the chairwoman herself, who has provided strong leadership, capable leadership, and fairness, a sense of fairness for all Senators. I thank her for the honor of serving with her on this committee.

## RECESS

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

Thereupon, the Senate, at 12:42 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. MANCHIN).

DEPARTMENT OF DEFENSE  
APPROPRIATIONS ACT—Continued

The PRESIDING OFFICER. Under the previous order, there will now be up to 8 minutes of debate equally divided prior to the votes in relation to amendments Nos. 3382 and 3383 offered by the Senator from Oklahoma, Mr. COBURN.

## AMENDMENT NO. 3382

Mr. COBURN. Mr. President, amendment No. 3382 would require the use of

competition for all Federal contracts awarded after the date of the enactment of this act for disaster assistance. It would also require the Federal agencies to review and recompetite no-bid contracts that had been awarded prior to it. There is no penalty if it is a no-bid contract, but as that goes forward, additional payments on that would have to come in to review. All this is, is about good government and getting value for the dollars we are going to spend.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New York.

Mr. SCHUMER. Mr. President, I rise in opposition to the amendment. I guess I have 2 minutes for that since it is 4 minutes equally divided between the amendments. I know my colleague from Maryland will debate the other amendment.

I urge a strong "no" vote on this amendment. This would require a huge amount of time and bureaucratic red-tape at a time of emergency between disaster victims and the Federal assistance they deserve.

Competitive bidding is generally a good thing. It can save on costs as well as provide transparency and fraud prevention. It is important that Federal disaster assistance not be used as a slush fund for crony contracts.

Folks, we are dealing with an emergency. In most States, it takes 90 days or more. It can take 3 to 6 months. We have people who desperately need help, and we would slow the process down to a fare-thee-well if we had to invoke the same competitive bidding practice we invoke for other contracts that are not under emergency.

In fact, this is sort of catch-22. Many of our Republican colleagues say the money is spent out too slowly, and then they want to put more levels of redtape and bureaucracy slowdown. What if the contract is challenged in court? Businesses would lay fallow, homes will not be built, and it would leave shorelines unprotected and naked.

Generally, I have been a supporter of competitive bidding, but as the Scripture says: There is a time and a place for everything. When we are dealing with many aspects of an emergency, that should not happen.

My colleague on the other side, for whom I have great respect, is a true gentleman. He does what he believes and says what he believes. He votes against interests that might affect his own State when he does it. In this case, he has not made any exceptions, and that makes no sense. This will hurt people and hurt them badly. In many instances, this will end up costing us more.

Many competitively bid contracts—we have all been through this—end up in court and take years. Years during an emergency? I don't believe we should start that as a new precedent. I