Constitution means. The Constitution protects an individual's right to keep and bear arms to protect himself, his home, and his family. The Constitution protects our right to protest our government, speak freely and practice our religious beliefs.

The American people will be watching this week when the Senate votes on Judge Sotomayor's nomination. She is a judge who has foresworn judicial activism in her confirmation hearings, but who has a long record of it prior to 2009. And should she engage in activist decisions that overturn the considered constitutional judgments of millions of Americans, if she uses her lifetime appointment on the bench as a perch to remake law in her own image of justice, I expect that Americans will hold us Senators accountable.

Judicial activism demonstrates a lack of respect for the popular will that is at fundamental odds with our republican system of government. And, as I stated earlier, regardless of one's success in academics and in government service, an individual who does not appreciate the common sense limitations on judicial power in our democratic system of government ultimately lacks a key qualification for a lifetime appointment to the bench. For this reason, and no other, I am unable to support Judge Sotomayor's nomination.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, before I address the matter I came to the Senate floor to address today, I congratulate the Senator from Arizona for his thoughtful description of the process by which he has made a decision on the extraordinarily important issue we will have before the Senate later this week; that is, the confirmation of Judge Sotomayor for the Supreme Court. PERSONAL COMPUTER[J]079060-A03AU6-003-*****-*****-Payroll No.: 96940 -Name: b7 -Folios: 303-303/4 -Date: 8/3/09 -Subformat:

HEALTH CARE WEEK IX, DAY I

Mr. MCCONNELL. Mr. President, over the past 2 months, I have come to the floor time and again to talk about one of the most important issues we face as a Nation: and that is the need for commonsense health care reforms which address the serious problems that all Americans see in the system as it is. I have done this in the context of a larger debate about a proposed reform that, in my view, could actually make our current problems worse. And I have had solid support for that view from a number of well-respected sources.

First and foremost is the independent Congressional Budget Office, which has refuted several estimates by the administration about the effect its health care proposals would have on the economy in general and health care costs in particular.

The Director of the CBO has said the Democrat proposals we have seen would not reverse the upward trend of health care costs and would significantly increase the government's share of those costs. The CBO says these proposals would add hundreds of billions of dollars to the national debt. It says that one section of one of the proposals would cause 10 million people to lose their current health plans. And it says a so-called Independent Medicare Advisory Council designed to cut costs probably wouldn't.

These findings have helped clarify the debate over health care—and they have added to a growing perception that, though the administration is trying very hard, economic estimates are not the administration's strong suit.

First there was the stimulus. In trying to account for rising unemployment after a stimulus bill that was meant to arrest it, the administration said it misread the economy. It also said the stimulus would ''create or save'' between 3 and 4 million jobs, though now it says it can't measure how many jobs are created or saved. Meanwhile we have lost 2 million of them since the stimulus was passed.

Last week we saw the administration's tendency to miss the mark on economic estimates again with the so-called cash for clunkers program.

We were told this program would last for several months. As it turned out, it ran out of money in a week, prompting the House to rush a $2 billion dollar extension before anybody even had time to figure out what happened with the first billion.

There is a pattern here, a pattern that amounts to an argument—and a very strong argument at that: when the administration comes bearing estimates, it is not a bad idea to look for a second opinion. All the more so if they say they are in a hurry.

Americans are telling us that health care is too important to rush. They are saying it is too important to base our decisions on this issue solely on the estimates that we are getting from the same people who brought us the stimulus and cash for clunkers.

The American people want to know what they are getting into when it comes to changing health care in this country. And while I have no doubt the administration is trying, Americans need some assurance that the estimates they are getting are accurate. And if recent experience is any guide, they have reason to be as skeptical as the car dealer who said this to a reporter last week:

> If they can't administer a program like this, I'd be a little concerned about my health insurance.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. MCCAIN. Mr. President, what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business.

Mr. MCCAIN. What time does the Senate intend to move back to consideration of the fiscal year 2010 Agriculture appropriations bill?

The ACTING PRESIDENT pro tempore. The majority still has 8 minutes remaining in morning business.

Mr. MCCAIN. Mr. President, I ask unanimous consent that at this time we return to the Agriculture appropriations bill that was pending before the Senate.

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

Mr. MCCAIN. I thank the Chair.

The ACTING PRESIDENT pro tempore. Morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2997, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2997) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

> Kohl/Brownback amendment No. 1908, in the nature of a substitute.
>
> Kohl (for Tester) amendment No. 2230 (to amendment No. 1908), to clarify a provision relating to funding for a National Animal Identification Program.
>
> Brownback amendment No. 2229 (to amendment No. 1908), to establish within the Food and Drug Administration two review groups to recommend solutions for the prevention, diagnosis, and treatment of rare diseases and neglected diseases of the developing world.
>
> Kohl (for Murray/Baucus) amendment No. 2225 (to amendment No 1908), to allow State and local governments to participate in the Conservation Reserve Program.
>
> Kohl (for Nelson (FL)) amendment No. 2226 (to amendment No. 1908), to prohibit funds made available under this act from being used to enforce a travel or conference policy that prohibits an event from being held in a location based on a perception that the location is a resort or vacation destination.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 1910 TO AMENDMENT NO. 1908

Mr. MCCAIN. I ask unanimous consent to call up amendment No. 1910 which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1910 to Amendment No. 1908.

Mr. MCCAIN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike a setaside for certain grants authorized under the Rural Electrification Act)

On page 49, strike line 7 and all that follows through ''U.S.C. 918a):'' on line 12.

Mr. MCCAIN. Mr. President, I intend to have three amendments considered. I discussed with the majority leader and the Republican leader how we would proceed. So at this time, after I make a brief remark about amendment No. 1910, I will be calling up amendment No. 1912 and amendment No. 2030, both of which are at the desk.

Amendment No. 1910 eliminates, as suggested and recommended strongly by the President of the United States, the U.S. Department of Agriculture's High Energy Cost Grant Program. This is a $17.5 million subsidy designed to pay for energy generation systems in rural areas. This program was proposed for termination by the administration because it is duplicative of existing programs, including USDA's own Rural Utilities Service Loan Program.

Under the fiscal year 2010 budget, the Rural Utilities Service Program would provide $6.6 billion in electric loans at no cost to the taxpayers. In comparison, providing $17.5 million in grants, as opposed to a loan, actually costs the taxpayer $17.5 million. Moreover, Senators should know there is $20 million in unobligated high energy cost grants still available from the previous year.

This is the submission to Congress, the budget of the U.S. Government for fiscal year 2010, by the Office of Management and Budget. Guess what. In there is a page that is titled ''Termination: High Energy Cost Grant, Department of Agriculture.'' It goes on to say:

The administration proposes to eliminate the High Energy Cost Grants program because it is duplicative of and less effective than the Rural Utilities Service's electric loan program.

Those are not my words, those are the words of the Director of the Office of Management and Budget, who, at the direction of the President of the United States, prepared this document of certain programs that should be eliminated.

It goes on to say:

The 2010 budget proposes elimination of the duplicative High Energy Cost Grants program in favor of electric loans, which are more cost effective from the standpoint of the taxpayer. Using loans to provide support is less expensive than using grants because loans provide more support . . . with fewer appropriated dollars. For example, the 2010 budget provides for $6.6 billion in electric loans at no cost to the taxpayer. In comparison, providing $18 million in grants costs the taxpayers $18 million. In addition, the funds for High Energy Cost Grants have not been obligated in a timely manner and $20 million in balances from previous year funding are still available.

In other words, this amendment eliminates a duplicative, unnecessary program, according to the Director of the Office of Management and Budget, and at the President's request, he has sent over one of the programs they want eliminated. So somehow it ends up back in the appropriations bill.

It seems to me it is a pretty clear-cut case again that at some point we have to try to make some kinds of cost savings. I admit, as we are throwing around billions and trillions of dollars, as we do here lately, $17.5 million is probably not much money given the kind of behavior the Congress and the administration have been up to lately. I would still argue, though, to millions of Americans, including those in my home State of Arizona, $17.5 million—in the view of the administration and a clear argument, it is not a complicated issue—should be eliminated.

I hope we will be able to vote on this amendment.

AMENDMENT NO. 1912 TO AMENDMENT NO. 1908

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1912 which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1912 to amendment No. 1908.

The amendment is as follows:

AMENDMENT NO. 1912 TO AMENDMENT NO. 1908

(Purpose: To strike a provision relating to certain watershed and flood prevention operations)

On page 31, strike line 20 and all that follows through page 32, line 10.

Mr. MCCAIN. This amendment eliminates the U.S. Watershed and Flood Prevention Operations Program, also known as the Small Watersheds Program.

This program is a textbook example of how reckless earmarks can devastate a government program. Like the previous four Presidents' budgets, the administration proposes to terminate this account because Congress has earmarked virtually all of this program in recent years, meaning that the agency is unable to prioritize projects on any merit-based criteria such as cost effectiveness.

According to the Congressional Research Service, the Small Watersheds Program was 97 percent earmarked in fiscal year 2009, which severely marginalized the USDA's ability to evaluate and prioritize projects. Earmarks may partly be to blame for the findings of a 2003 Office of Management and Budget study that showed this program has a lower economic return than any other Federal flood prevention program, including those in the Army Corps of Engineers and the Federal Emergency Management Agency.

The onslaught of earmarks over the years has almost certainly contributed to the current backlog of about 300 unfunded authorized small watershed projects totaling $1.2 billion. As it was originally intended, the Small Watersheds Program may be a worthwhile program. I am sure we will hear a vigorous defense of this program. But by inundating it with so-called congressionally designated projects, the program is challenged to function properly to the point where the administration would rather see it gone.

Note this. Our friends on the Appropriations Committee have not given up on plundering it yet. This bill provides $24.3 million for this program, including $16.5 million in earmarks for projects such as $2 million for the Pocasset River in Rhode Island, which is not authorized; $1.5 million for Dunloup Creek in West Virginia, which is not authorized; and $1 million for the DuPage County Watershed in Illinois, which is not authorized, to name a few.

I refer back again to the Office of Management and Budget publication entitled ''Terminations, Reductions and Savings,'' where the administration proposes to terminate watershed and flood prevention operation programs. Congress has earmarked virtually all of this program in recent years, meaning that agencies are unable to prioritize projects on any merit-based criteria such as cost effectiveness.

So, again, these first two amendments, the President of the United States, the Office of Management and Budget, most any casual observer would argue need to be eliminated.

AMENDMENT NO. 2030 TO AMENDMENT NO. 1908

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2030, which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2030 to amendment No. 1908.

The amendment is as follows:

AMENDMENT NO. 2030

(Purpose: To prohibit funding for an earmark)

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. None of the funds made available under this Act may be used for the Iowa Vitality Center, Iowa State University.

Mr. MCCAIN. This amendment is very simple. It prohibits funding of the $250,0000 earmark for the Iowa Vitality Center at Iowa State University.

This earmark is a textbook example of how difficult it is to stop funding for

an earmark once it starts. According to the Web site of the earmark sponsor, since fiscal year 2001, the Iowa Vitality Center has received $2,579,000. For what? What is so vital about the Iowa Vitality Center that it has required over $2.5 million of scarce taxpayer funds?

Well, according to their own Web site, the purpose of the Iowa Community Vitality Center is to serve as a catalyst in fostering collaborative public-private partnerships among nonmetro community interests to stimulate vitality and address barriers to growth.

I am not making that up. I am not making it up. That is what the Web site says. Let me repeat. We spent $2.5 million. The purpose of the Iowa Community Vitality Center is to serve as a catalyst in fostering collaborative public-private partnerships among nonmetro community interests to stimulate vitality and address barriers to growth.

Is there anyone who has a clue as to what that means? I wanted to be clear. I am not questioning the merits of this program, but I am questioning the process. Why was this funding earmarked? If the Vitality Center is such a critical national priority at this time, why wasn't the funding authorized since 2001 or requested by the President in his budget submission?

The funding for the Vitality Center is often justified as helping communities ''plan strategically'' and as ''representing diverse interest across the state.'' However, the sponsors of the earmark neglect to explain why 10 years of strategic planning have been insufficient to accomplish this center's stated purpose.

Our current economic situation and our vital national security interest concerns require, now more than ever, that we prioritize our Federal spending. We need to prove to the American people that we are serious about changing the way we do business and we should start with ending the practice of earmarking. We need to put our national priorities first and eliminate unnecessary wasteful earmarks such as the Iowa Vitality Center.

The Agriculture appropriations bill for the year 2010 spends about $123 billion in direct and mandatory spending, an amount that is approximately $234 million above the administration's budget request. We debate this legislation in the shadow of the fiscal year 2009 omnibus bill, the omnibus bill which doled out $108 billion for U.S. Department of Agriculture programs, as well as the infamous economic stimulus package which provided another $26.5 billion in agricultural spending. So 2009 is certainly a good year to be a U.S. Department of Agriculture program office.

I acknowledge that many of the programs funded by this are valid for providing important services to the agricultural community at large. I commend the members of the Senate Appropriations Committee for reporting this bill in a timely manner. I agree we should ensure that our farmers stay out of the red and that some Federal involvement is necessary to assist low-income families under the nutrition programs.

Unfortunately, Congress once again has conformed to the practice of diverting precious taxpayer dollars into an array of special interest projects which have not been authorized or requested, and in the case of two of these, they have been requested to be terminated by the administration.

The committee report accompanying this bill contains 296 congressionally directed spending items, a fancy new term for ''earmarks,'' totaling over $220 million. None of these projects was requested by the administration. Many of them were not authorized or competitively bid in any way. No hearings were held to judge whether these were national priorities worthy of scarce taxpayer dollars. They are in this bill for one reason and one reason only—because of the prerogatives of a select few Members of the Senate to serve their own interests over those of the American taxpayer.

Let's take a look at some of the earmarks. Let's take a look at some of the earmarks that are in this bill and its accompanying reports. There is $250,000 for gypsy moth research in New Jersey. Don't gypsy moths travel all over the country? Why just New Jersey? Over the past 10 years, the taxpayer has funded $42.8 million worth of gypsy moth research.

There is $500,000 for the hemlock woolly adelgid at the University of Tennessee. This is an aphid-like insect. That is a lot of money for that bug.

There is $235,000 for noxious weed management in Nevada. I think a better term for this one is obnoxious. Over the past 10 years, over $15.4 million has been earmarked for Nevada noxious weed management.

There is $200,000 for cotton research at Texas Tech University. Congress subsidizes the industry, the cotton industry, to the tune of $3 billion a year.

There is $300,000 for floriculture at the University of Hawaii. Nearly $3.5 million has been earmarked for floriculture in the past 10 years.

There is $165,000 for the Maple Research Center at the University of Vermont. According to the center's director, Tim Perkins, Maple syrup science is a nose-and-mouth science. The technical term is organoleptic, which means you put it in your mouth and taste it, says Perkins. We get people who know the flavor of maple syrup, and off-flavors, and they try each one. Laboratory tests using gas chromatography provide a breakdown of the many compounds in the syrup, which supplements the tastebud approach. Since 1998, the University of Vermont Proctor Maple Research Center has received over $2.1 million in earmarks.

There is $75,000 for farm safety education for children in Iowa. Who better than a bureaucrat in Washington to teach a farmer's children to be safe. The 10-year total for earmarks for Iowa farm safety education—over $4.2 million.

There is $300,000 for shrimp aquaculture research at the University of Southern Mississippi Thad Cochran Marine Agricultural Center. Over the past 10 years, we have earmarked over $30.4 million on shrimp aquaculture research.

There is $1 million for potato research at Oregon State University. We have earmarked, over the past 10 years, $7.1 million for potato research.

There is $600,000 which is gobbled down by the National Wild Turkey Federation for projects in Nebraska, Georgia, Mississippi, and South Carolina. Since fiscal year 2004, the National Wild Turkey Federation has received over $1.7 million in earmarks.

There is $265,000 for minimizing blackbird damage to sunflowers in North and South Dakota. This is an earmark ''regular'' for the Agriculture appropriations bill. Evidently the South Dakota sunflowers have a rather serious Alfred Hitchcock ''Birds'' problem. According to the USDA, blackbird management in North and South Dakota has received over $1.2 million over the past 5 years.

There is $200,000 for Washington State University to study goatgrass. Since 2003, $767,000 has been earmarked for goatgrass research.

There is $372,000 for the University of Pennsylvania to study dairy farm profitability. If you are relying on a federally mandated study to make your dairy farm profitable, you might want to find a new business plan, because nearly $3.8 million has been earmarked for dairy farm profitability over the last 10 years.

There is $288,000 for the Iowa Soybean Association. Since 2002, over $3.3 million has been earmarked for the Iowa Soybean Association. There is $1 million for Mormon cricket control in Nevada; the 10-year total for Mormon cricket control, nearly $13.7 million. There is $260,000 for wine grape research at Washington State University. According to Washington State University's own Web site, the wine industry generates $3 billion in their State, so we are going to pour another $260,000 into it. There is $350,000 for the Wisconsin Department of Agriculture to support the ''specialty meats industry.'' Specialty meats industry? Since 2004, the Wisconsin specialty meats industry has received over $12.7 million in earmarks. There is $340,000 for the Center for Beef Excellence in Pennsylvania. According to their own press release, the center was established by the Pennsylvania Department of Agriculture just last year. At least we can agree that a $340,000 handout from Congress is quite a good start. Over $1 million has been earmarked to the Center for Beef Excellence since 2005. There is $450,000 for the University of Northern

Iowa to study agriculture-based lubricants. They have received over $3 million in the last 10 years.

It is not surprising that the largest earmark in this bill goes to Hawaii. The Aloha State bags $5 million to continue construction of an Agricultural Research Service center to study agricultural practices in the Pacific. As my colleagues might know, ARS construction is one of the most heavily earmarked accounts in government, so much so that the President's budget actually proposed zeroing out Agricultural Research Service center construction for fiscal year 2010 because ''Congress routinely earmarks small amounts of funding for [these projects] located throughout the nation. The result of scattering funding in this manner is that . . . few, if any, of the projects are able to reach the critical threshold of funding that would allow construction to begin. Funding construction over such a long time significantly increases the amount of money needed to fully complete these projects as well as postponing their completion for many years.''

So here we have a program that is earmarked so severely that it delays and drives up the cost of approved construction projects. Not only are we defiantly funding this Hawaiian facility, the bill provides a total of $47 million for a list of 15 of these facilities ranging from $4 million for a fruit lab in West Virginia to $2 million for an animal waste research facility in Kentucky.

Another amendment I have filed proposes striking the $50.7 million contained in this bill for USDA's Resource Conservation and Development Program, known as RC&D. The RC&D Program was created in 1962 to promote resource conservation through community-based conservation leadership councils. The RC&D councils have helped to leverage local funding for efforts such as soil mapping or erosion control for rural areas. The administration supports terminating this program because, in their own words:

After 47 years, the goal of the RC&D program has been accomplished. These councils have developed sufficiently strong state and local ties . . . and are now able to secure funding for their continued operation without Federal assistance. The program has been in operation for decades and these councils have a proven track record of success, showing that they have outlived the need for Federal funding.

A half-century-old program proposed for termination by this administration, yet retained by appropriators for its spoils.

I could go on for a long time.

This bill funds several other government programs that were proposed for termination in the President's budget. I filed amendments to strike these programs as well as zero out the ARS construction account. If successfully adopted, these amendments would save taxpayers over $144.5 million. As I have said throughout my comments, some of these programs may have merit and may be helpful to the designated communities. But considering our current budgetary crisis, it is inappropriate to include them in this year's agricultural spending bill, especially when they have been identified for termination or reduction.

I hope my colleagues will agree that we have higher spending priorities that are directly related to the purposes of this Agriculture bill. This bill is intended to address farmers, women, children, and rural communities with the greatest need and should not be used as a vehicle for piggybacking pet projects to get the support of special interest constituents.

It is no surprise that many of these earmarks are not included for practical purposes. I know many of my colleagues have spoken about the economic struggles of America's hard-working farmers and low-income families. The farmers and struggling families I know are tired of watching their hard-earned money go down the drain. I intend to fight every single unnecessary, unrequested, unauthorized earmark in this and every other appropriations bill.

I filed 313 amendments to this bill. The bulk of those amendments seek to strike the 296 earmarks, now humorously called ''congressionally directed spending items,'' in the committee report on this bill. I have now offered only three of these amendments. Let me assure my colleagues I have no problem with offering, debating, and voting on each and every one of the amendments I have filed. The time has come to end this practice.

This first amendment, which we may vote on today, I want to emphasize, eliminates, as recommended by the President and the Office of Management and Budget, the U.S. Department of Agriculture's High Energy Cost Grants Program, a $17.5 million subsidy designed to pay for energy generation systems in rural areas. It was proposed for termination by the administration because it is duplicative of existing programs. Under the fiscal year 2010 budget, the rural utility service program would provide $6.6 billion in electric loans at no cost to the taxpayers. Senators should know there is $20 million in unobligated high energy cost grants still available from last year.

I urge a ''yes'' vote on my amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KOHL. Mr. President, the Senate began work on the Agriculture appropriations bill last Thursday. Senator BROWNBACK and I were here then to consider amendments Senators might wish to offer. We were back on the bill Friday, and we were again prepared to consider amendments. It is my hope we can complete action on the bill today. The filing deadline for first-degree amendments was 3:30, and a cloture vote is scheduled for 5:30. Once we finish this bill, the Senate still has important work to do this week before the start of the August recess. I hope any Senator who has an amendment to offer will come to the floor in the next few hours to see if we can dispose of all remaining issues and make it possible to go to final passage as early as this evening.

AMENDMENT NO. 2233 TO AMENDMENT NO. 1908

I ask unanimous consent to set aside the pending amendment and call up the following amendment which is at the desk and ask for its immediate consideration: Kohl amendment No. 2233.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 2233 to amendment No. 1908.

Mr. KOHL. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide the Food and Drug Administration the ability to collect user fees as authorized by the Family Smoking Prevention and Tobacco Control Act)

On page 59, line 22, strike ''2,995,218,000'' and insert ''3,230,218,000''.

On page 60, line 9, strike ''and''.

On page 60, line 12, after ''expended'', insert ''; and $235,000,000 shall be derived from tobacco product user fees authorized by the Family Smoking Prevention and Tobacco Control Act (Public Law 111–31) and shall be credited to this account and remain available until expended''.

On page 60, line 14, strike ''and'', and insert after '', and tobacco product'' after ''generic drug''.

On page 61, line 12, strike (7) and insert ''(8)''; after ''Research;'' insert ''(7) $216,523,000 shall be for the Center for Tobacco Products and for related field activities in the Office of Regulatory Affairs;''; and strike ''$115,882,000'' and insert ''$117,225,000''.

On page 61, line 15, strike ''(8)'' and insert ''(9)''.

On page 61, line 16, strike $168,728,000'' and insert ''$171,526,000''.

On page 61, line 17, strike ''(9)'' and insert ''(10)''.

On page 61, line 18, strike ''$185,793,000'' and insert ''$200,129,000''.

Mr. KOHL. I ask unanimous consent for the adoption of this amendment and the Tester amendment No. 2230 which has been approved by both sides.

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

The amendments (Nos. 2233 and 2230) were agreed to.

Mr. KOHL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BROWNBACK. Mr. President, I ask my colleagues, if people have amendments, that they come down to the floor now and start working on these. It would be my hope we can move through this bill as fast as possible so that we can get to the debate on Judge Sotomayor and have as much time as possible to deal with that. I urge colleagues to start working with us on these issues. By unanimous consent, the cloture vote has been scheduled for 5:30 today. There are things we need to get resolved; they should be taken care of now.

AMENDMENT NO. 2229, AS MODIFIED

Mr. BROWN. I send a modification to my amendment No. 2229 to the desk and ask unanimous consent that it be accepted as modified.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. (a) The Commissioner of Food and Drugs may establish within the Food and Drug Administration a review group which shall recommend to the Commissioner of Food and Drugs appropriate preclinical, trial design, and regulatory paradigms and optimal solutions for the prevention, diagnosis, and treatment of rare diseases: *Provided,* That the Commissioner of Food and Drugs shall appoint 8 individuals employed by the Food and Drug Administration to serve on the review group: *Provided further,* That members of the review group shall have specific expertise relating to the development of articles for use in the prevention, diagnosis, or treatment of rare diseases, including specific expertise in developing or carrying out clinical trials.

(b) The Commissioner of Food and Drugs may establish within the Food and Drug Administration a review group which shall recommend to the Commissioner of Food and Drugs appropriate preclinical, trial design, and regulatory paradigms and optimal solutions for the prevention, diagnosis, and treatment of neglected diseases of the developing world: *Provided,* That the Commissioner of Food and Drugs shall appoint 8 individuals employed by the Food and Drug Administration to serve on the review group: *Provided further,* That members of the review group shall have specific expertise relating to the development of articles for use in the prevention, diagnosis, or treatment of neglected diseases of the developing world, including specific expertise in developing or carrying out clinical trials: *Provided further,* That for the purposes of this section the term ''neglected disease of the developing world'' means a tropical disease, as defined in section 524(a)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360n(a)(3)).

(c) The Commissioner of Food and Drugs shall—

(1) submit, not later than 1 year after the date of the establishment of review groups under subsections (a) and (b), a report to Congress that describes both the findings and recommendations made by the review groups under subsections (a) and (b);

(2) issue, not later than 180 days after submission of the report to Congress under paragraph (1), guidance based on such recommendations for articles for use in the prevention, diagnosis, and treatment of rare diseases and for such uses in neglected diseases of the developing world; and

(3) develop, not later than 180 days after submission of the report to Congress under paragraph (1), internal review standards based on such recommendations for articles for use in the prevention, diagnosis, and treatment of rare diseases and for such uses in neglected diseases of the developing world.

Mr. BROWNBACK. This is an amendment that has been cleared by both sides. It is on neglected and rare diseases. Senator BROWN has asked to be a cosponsor. I ask unanimous consent that the pending amendment be set aside and that this be considered the pending amendment and that it be passed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. If there is no further debate on the amendment, the question is on agreeing to amendment No. 2229, as modified.

The amendment (No. 2229), as modified, was agreed to.

Mr. BROWNBACK. What we are trying to do is to work through the amendments to the degree we can. We certainly want to. I ask our colleagues to bring those to the floor as soon as they possibly can.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. HAGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

SOTOMAYOR NOMINATION

Mrs. HAGAN. Mr. President, today I am pleased to rise in support of Judge Sonia Sotomayor's nomination to be an Associate Justice of the Supreme Court of the United States. Judge Sotomayor's background demonstrates that she is an extremely well-qualified, mainstream judge who has the utmost respect for precedent and believes in fidelity to the law.

I have always said I do not believe in a litmus test for judicial nominees, and I will look at the nominee's record as a whole. Judge Sotomayor's record, in its entirety, is nothing short of impressive. With 17 years on the Federal bench, she has more Federal judicial experience than any Supreme Court nominee in 100 years.

Judge Sotomayor has a compelling, ''pull yourself up by your bootstraps'' personal story. She was raised by a single mom who emphasized education as she struggled to support her family while working as a nurse. With her mother's strong work ethic and focus on education deeply ingrained in her, Judge Sotomayor went on to graduate summa cum laude from Princeton University, and she received her law degree from Yale Law School, where she was editor of the Yale Law Journal.

She then became a prosecutor in the Manhattan District Attorney's office, where she was tough on criminals and gained valuable perspective for her later career as a judge. She also became active in many areas of her community, showing her desire to serve others and promote justice in society. Having served as a volunteer for many efforts in my hometown of Greensboro, North Carolina, I know how serving others can enhance one's understanding and appreciation of the world.

After her time as a prosecutor, Judge Sotomayor went into practice as a commercial litigator, where she dealt with business and finance law—an area of importance to my State of North Carolina. In 1991, upon the recommendation of then-Senator Daniel Patrick Moynihan of New York, she was nominated by President George H.W. Bush to serve as a Federal judge for the Southern District Court of New York, and in 1992 she was unanimously confirmed for that position by the Senate.

While serving as a district court judge, she was known for her toughness, fairness, and dedication to the law—characteristics of a strong judge. Because of her outstanding record on the district court level, Judge Sotomayor was nominated, in 1997, by President William Jefferson Clinton, to serve as a judge on the U.S. Court of Appeals for the Second Circuit. In 1998, the Senate confirmed her by a wide margin.

Among the Senators voting for her confirmation was former North Carolina Senator Jesse Helms. I would like to think that Senator Helms saw in Judge Sotomayor the same qualities President Obama saw: fairness of mind, supreme intellect, and an unsurpassed devotion to the law and to our system of government.

Some opponents have repeatedly brought up a few select comments made by Judge Sotomayor to suggest that she will not be impartial. However, Judge Sotomayor has made it clear she does not let her background influence her interpretation of the law. Her statements to the Judiciary Committee and her 17-year record on the bench confirm this.

As Judge Sotomayor has said:

> My record shows that at no point or time have I ever permitted my personal views or sympathies to influence an outcome of a case. In every case where I have identified a sympathy, I have articulated it and explained to the litigant why the law requires a different result.

Judge Sotomayor has also said that as much as her experiences influence her perspective, they have also taught

her to be aware of other people's perspectives. In 2001, she said:

I am reminded each day that I render decisions that affect people concretely and that I owe them constant and complete vigilance in checking my assumptions, presumptions and perspectives and ensuring that to the extent that my limited abilities and capabilities permit me, that I reevaluate them and change as circumstances and cases before me require.

As Judge Sotomayor said in her confirmation hearing, her underlying judicial philosophy is ''fidelity to the law.'' In an independent study, Supreme Court expert Tom Goldstein looked at 97 race-related cases in which Judge Sotomayor participated while on the Second Circuit. He found that she and the rest of her panel ''rejected discrimination claims roughly 80 times and agreed with them 10 times.'' The circuit rejected discrimination claims by a margin of 8 to 1. Goldstein wrote: ''Of the 10 cases favoring claims of discrimination, 9 were unanimous'' and ''of those 9, in 7, the unanimous panel included at least one Republican-appointed judge.''

''Given that record,'' Goldstein concluded, ''it seems absurd to say that Judge Sotomayor allows race to infect her decisionmaking.''

Judge Sotomayor has also demonstrated she does not legislate from the bench, and she gives deference to Congress in clarifying the intent of laws. In her dissent to the majority's opinion in Hayden v. Pataki, Judge Sotomayor wrote:

The duty of a judge is to follow the law, not to question its plain terms. I do not believe that Congress wishes us to disregard the plain language of any statute or to invent exceptions to the statutes it has created.

She also said:

I trust that Congress would prefer to make any needed changes itself, rather than have courts do so for it.

Additionally, a comprehensive study of Judge Sotomayor's criminal appellate decisions by the majority staff of the Senate Judiciary Committee found, as an appellate judge, Sotomayor sat with Republican-appointed judges on more than 400 criminal cases. In those cases, she agreed with all Republican-appointed judges 97 percent of the time; and she agreed with at least one Republican-appointed judge 99 percent of the time.

Judge Sotomayor's sensible attitude toward following the law and her ability to objectively evaluate all angles of her cases has resulted in high ratings and endorsements by numerous organizations.

The American Bar Association unanimously found Sotomayor to be ''well qualified,'' which is the highest rating the ABA gives to judicial nominees. The Congressional Research Service conducted an analysis of her opinions and concluded:

As a group, the opinions belie easy categorization along any ideological spectrum. . . . Perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to the doctrine of stare decisis, i.e., the upholding of past judicial precedents.

Judge Sotomayor has an impressive list of law enforcement endorsements and supporters, including the International Association of Chiefs of Police; the National Association of Police Organizations; the National District Attorneys Association; the Fraternal Order of Police; the National Latino Peace Officers Association; the Federal Law Enforcement Officers Association; the Federal Hispanic Law Enforcement Officers Association; the National Organization of Black Law Enforcement Executives; and the National Sheriffs' Association.

Judge Sotomayor has also been endorsed by the U.S. Chamber of Commerce, which stated:

The Chamber evaluated Judge Sotomayor's record from the standpoint of legal scholarship, judicial temperament, and an understanding of business and economic issues. Based on the Chamber's evaluation of her judicial record, Judge Sotomayor is well-qualified to serve as an Associate Justice of the U.S. Supreme Court.

The nonpartisan Brennan Center for Justice reviewed all of Judge Sotomayor's constitutional law decisions and said:

Based on this exhaustive review, the conclusion is unmistakable: in constitutional cases, Judge Sotomayor is solidly in the mainstream of the Second Circuit.

Judge Sotomayor's former law clerks wrote a letter endorsing her nomination, in which they said:

As former law clerks to Judge Sotomayor, each of us can attest to her intellectual prowess, extraordinary work ethic, and commitment to the rule of law. Working for Judge Sotomayor is an awe-inspiring experience. We each had the privilege of working closely with her as she confronted, and resolved, incredibly complex and intellectually demanding legal challenges. Judge Sotomayor approaches each case with an open mind and arrives at her decision only after carefully considering all of the pertinent facts and applicable rules of law.

The law clerks said they agree with many of Judge Sotomayor's other colleagues, who ''respect her intellectual dynamism, collegiality, and balanced, fair jurisprudence.''

I would like to thank and congratulate the members of the Judiciary Committee for holding an extraordinarily civil and open Supreme Court nomination process. I commend President Obama for selecting a woman, a Hispanic, and, above all, an extremely well-qualified nominee. I am thrilled to have the opportunity to be a part of this historic moment, and if she is confirmed, I believe she will serve our country well.

Based on my conversations with the nominee, her statements in her confirmation hearings, and my review of her record, I intend to support her confirmation when it is voted upon later this week, and I urge my colleagues to do the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I join my colleagues in congratulating Senator LEAHY and Senator SESSIONS for their work on the Sotomayor nomination. The process was fair to both sides, and, most importantly, fair to the nominee.

I am pleased to rise in support of Judge Sotomayor, an individual whose life story is an inspiration to millions of Americans. A child of immigrants with modest means, Judge Sotomayor has risen by dint of exemplary academic accomplishment and hard work to the cusp of confirmation to our Nation's highest Court.

But Judge Sotomayor is much more than just a story of accomplishment. She has shown herself to be a judge truly worthy of elevation to the Supreme Court. Both on the bench and before this committee, Judge Sotomayor has proved she has the necessary character, competence, and integrity to serve on the Supreme Court. Her distinguished 17-year record on the bench demonstrates a commitment to fair and impartial application of the law and respect for the values which make up our Constitution.

At her hearing, Judge Sotomayor assured us she will listen with an open mind to all sides of an argument and that she will be mindful of the very real impact her decisions will have on each and every American. She pledged fidelity to the Constitution and to the Court's precedent, as well as a responsibility to cautiously review precedent when justice requires.

As we conclude the Senate's action on Judge Sotomayor's nomination this week, I believe we need to reflect upon the role that confirmation hearings play in the Senate's duty to advise and consent. While I have no reservations about my support for Judge Sotomayor, I share the concerns expressed by many Americans, legal commentators, and others on the Judiciary Committee about our committee's ability to have candid and substantive conversations with nominees about the issues Americans care about.

We all know the confirmation process is crucial. It is the public's only opportunity to learn about a nominee before he or she serves for life on the highest Court in our land. But, for many years now, we have seen a familiar pattern from nominees—Democratic and Republican alike—who have learned the path of least resistance is to limit their responses and cautiously cloak them in generalities.

Understandably, nominees do not want to risk their confirmation by saying anything that might provoke potential opponents. We cannot ask nominees to disclose how they would vote on cases that might come before them. But it is reasonable for us to ask them to speak more openly about past Supreme Court decisions and how they would decide cases that are close calls—what reasoning they would use and what factors they would consider.

The concerns I raise do not reflect any personal criticism about Judge

Sotomayor. I think she responded to our committee's questions with great intellect and sincerity and that she has rightly earned bipartisan praise.

However, going forward, I hope together we can explore ways to achieve the greater candor that the confirmation process demands and deserves. For example, we could convene a bipartisan group of Judiciary Committee members, members of the bar, constitutional scholars, and perhaps even members of the media who have experience following the Court and our hearings to help us determine what specific questions we can and should expect substantive answers about. If we can do this, then the committee's unique opportunity to engage nominees in the great legal questions facing our Nation will more effectively serve the Senate as we fulfill our constitutional duty.

In the meantime, I commend President Obama for nominating Judge Sotomayor—a woman of great ability who has demonstrated an enduring commitment to public service and to the law. I look forward to her tenure on the Court.

AMENDMENT NO. 2241 TO AMENDMENT NO. 1908

Mr. JOHANNS. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may call up amendment No. 2241.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. JOHANNS], for himself and Mr. NELSON of Nebraska, proposes an amendment numbered 2241 to amendment No. 1908.

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

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

The amendment is as follows:

(Purpose: To provide funding for the tuberculosis program of the Animal and Plant Health Inspection Service)

On page 19, line 9, before the period, insert the following: "': *Provided further*, That of the amount available under this heading, at least $17,764,000 shall be used for the tuberculosis program (including at least $3,000,000 for tuberculosis indemnity and depopulation)".

Mr. JOHANNS. Mr. President, I rise to discuss my amendment to increase funding for USDA's tuberculosis program by $2 million.

In early June, TB was discovered in a beef cattle herd in Rock County, NE. As many of my colleagues know, this is a disease that can spread very quickly among cattle. It is also transmissible to humans.

This is not just a Nebraska issue or a Midwest issue. As I speak, California, Michigan, Minnesota, and New Mexico are battling the effects of TB. Other States, including Colorado, South Dakota, and Texas have had TB scares as well. Although, thankfully, up to this point they have not seen any change in their TB status. This problem could impact the beef industry nationwide, and it is critical that we do everything we can to eliminate it immediately when it is discovered.

In Nebraska, thankfully, only two animals in the entire herd tested positive for the disease, and they were put down to prevent further spread. Since that time, Nebraska State officials have worked side by side with USDA officials to test the infected herd, as well as several neighboring herds, which is the process. Based on the latest reports from home, 8,900 cattle have been tested to date, and all have, thankfully, tested negative for TB. That is great news.

I commend the efforts of the veterinarians and the government officials on the ground in Nebraska. I thank those officials for their efforts. They have been aggressively dealing with this issue every day since the initial discovery. I wish to thank the USDA specifically for providing significant expertise and personnel to assist with the ongoing testing. The Department's assistance has been sound and it has been steady. We greatly appreciate it, but the work is not yet done. The testing is not quite complete. Hopefully, the results will keep coming back negative, but, regardless, we are going to remain vigilant.

We must make sure the USDA has the resources on hand to respond in the event that further cases of TB are discovered. That could be anywhere in this country. TB can have a crippling impact on a State's beef industry. It can negatively impact the ability of State producers to shift cattle State to State, and, of course, potentially it can have an impact on export markets.

Ranchers cannot afford to have their State lose its TB-free status. Anytime a disease such as TB is discovered in a herd, it is absolutely critical the infected herd be depopulated immediately. I say that from my experience as a former Secretary of Agriculture. Depopulation is oftentimes essential. Doing so significantly decreases the likelihood of the spread of the disease. It also reassures the rest of the beef industry that we will always respond decisively to combat the spread of the animal disease.

We need to send a strong signal to our producers that they will have our support if they come forward when they discover the herd has a problem. If depopulation indemnity funds are not available, a producer literally may hesitate to disclose the information. Then the problem festers and it festers and it spreads. We simply cannot take that kind of risk. Consumer confidence and producer trust are far too important.

It is imperative that we make sure USDA has the funding and the tools on hand to deal with existing TB problems and to take swift action in the event of future TB discoveries. That is why I am offering this amendment—to make sure the resources are there.

At this point I ask unanimous consent that a letter supporting my amendment from the National Cattlemen's Beef Association be printed in the RECORD.

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

NATIONAL CATTLEMEN'S BEEF ASSOCIATION,
Washington, DC, August 3, 2009.

Hon. MIKE JOHANNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHANNS: I am writing today in support of your amendment to the Fiscal Year 2010 Agriculture Appropriations bill that increases United States Department of Agriculture (USDA) funding for bovine tuberculosis (TB) indemnity and depopulation. Bovine TB is a contagious animal disease that the cattle industry and Federal government have been working to eradicate for close to 100 years. In order to eventually eradicate this disease, infected herds must be depopulated quickly and the fanner or rancher must be compensated in a fair and equitable way for the value of lost cattle. Your amendment will go far in helping with this effort.

The work done by the Animal and Plant Health Inspection Service (APHIS), the Food Safety Inspection Service (FSIS), and state and industry partners, has been critical in containing and managing this disease. FSIS maintains a robust TB surveillance program at harvesting facilities to ensure that no cattle with TB enter the food supply. This illustrates the effectiveness of the food safety measures utilized in the beef industry. In recent years, APHIS has intensified their TB surveillance and has indicated that the disease has nearly been eradicated. We also know that wildlife play a critical part in the transmission of the disease, and industry is working with both Federal and state governments to address this.

In our combined effort for eventual eradication, the national tuberculosis eradication program has successfully reduced the incidence of the disease in U.S. cattle. There continues, however, to be a low incidence of TB as evidenced by the handful of newly identified infected herds over the past several years. These additional cases are in part due to intentional intensified surveillance activities, and the infected animals, along with their herd mates, are then quarantined in order to control the disease and minimize its impact on cattle movement and markets. This has proven to be the most effective method to protect our domestic cattle herd since the national program began in 1917.

We support USDA's efforts to eradicate this disease, but historically we have not seen enough funding to adequately compensate farmers and ranchers for cattle that had to be depopulated. It is evident with the limitations of current technology, the wildlife vector, and the complicated nature of TB, that the current amount of Federal funding is not adequate. More funding and research is needed to provide better answers and solutions. Until those solutions are found, we need timely and adequate funding to depopulate any current beef herds and compensate cattle producers for their losses. Since TB is a concern across the country, this amendment will help to provide that needed compensation and allow the TB eradication program to be successful.

We urge the Senate to vote YES on your amendment during floor consideration of this bill. Thank you for your leadership and support of U.S. cattle producers.

Sincerely,

GARY VOOGT,
President.

Mr. JOHANNS. Finally, I urge my colleagues to support this very important amendment to make the resources available to the USDA, and I urge my colleagues, if they have any questions, to get in touch with us. This is a very important issue.

With that, I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. KOHL. Mr. President, the Senator's amendment would increase the amount in this bill from $15.7 million to $17.7 million. The amendment would require at least $3 million to compensate producers for losses. The Secretary currently has access to the Commodity Credit Corporation to compensate producers, and we hope the Secretary will use those funds as needed.

Since this amendment would reduce other animal and plant health activities, I must oppose it at this time.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I ask unanimous consent to speak as in morning business for such time as I may consume.

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

GUANTANAMO BAY

Mr. BROWNBACK. Madam President, the reason I ask that on this bill—and I do urge my colleagues to come forward to speak on the Agriculture appropriations bill. We have already cleared some amendments, and we need to move forward.

Something happened yesterday that affected my State directly, and that was the statement by the administration—or leak from the administration—that they are considering moving Guantanamo Bay detainees to my State, associated with Fort Leavenworth. This has riled up everybody. I was just there this morning, and we had 100 people who came out after very short notice. It is virtually unanimous in their opinions—not everybody but close to everybody is opposed to this idea for a multiple set of reasons.

Moving the Guantanamo Bay detainees to Fort Leavenworth and the Fort Leavenworth area would not work, to start off with, and will significantly hurt the core educational and international mission of the fort. On top of that it is totally unnecessary. I hope the administration will start to rethink this idea of moving the Guantanamo Bay detainees. I think it is a bad idea that we replicate the facility we already have at Guantanamo Bay somewhere in the United States because we already have a facility to hold the detainees. We already have a facility to try the detainees. It is all set up. I was there. I led a congressional delegation a couple of months ago. They are being humanely treated, and if they are not, and if there are credible reports that they are not, then let's work on fixing Guantanamo Bay rather than moving the detainees to the United States.

If there are problems, let's fix them rather than just say we are going to change the name of the place and we are going to move the detainees from Guantanamo Bay to Leavenworth. We are not going to change the opinion of the world of the United States one iota by substituting the name ''Leavenworth'' for the name ''Guantanamo Bay,'' creating a replica of what we already have at Guantanamo Bay, only somewhere else. It would cost hundreds of millions of dollars we don't have when we already have an $11 trillion debt, and it is growing at a rate of nearly $2 trillion a year. So why would we spend hundreds of millions of dollars doing something that is not going to change world opinion, replicating a facility that we already have, that slows the process? This doesn't make any sense.

On top of that, what is being considered at Leavenworth would not work. The fort at Leavenworth—if I could just talk to my colleagues about this, and I hope they will look at the factual setting. Fort Leavenworth is one of the smallest Army bases we have around the world. It is 8 square miles. It butts up in and is a part of an urban area of Kansas City. It has on its border a river and a train that goes through about every 25 minutes. It is not the secure facility one would need to have for these detainees. We don't have any setbacks like we have in a number of other facilities, and it has one of the highest population densities per square mile or square foot of any of our military bases because it houses the Command and General Staff College of the military.

If I could just point out that facility to my colleagues—and I hope some of them come and attend and address the Command and General Staff College. We get students from around the world on a regular basis at that facility. Generally, some 90 countries at any one point in time have students at the Command and General Staff College. Of these 90 countries that send students for their Army training for their military, half of those students will become general flag officers before their career is done. A number of them will become civilian leaders in their own country as well. So you get the cream of the crop from around the world. They come here. They also meet with our future military leaders, and this is the training center they have. It is the Command and General Staff College at Fort Leavenworth.

The primary mission of Fort Leavenworth is that training as well as that relationship and integration between our U.S. Army forces and forces of militaries, Army forces from around the world, which is critically important when you go into places such as Pakistan or Afghanistan or you are working with the Jordanians or the Egyptians, just to name a few. They send leaders from all of those countries, future flag officers to Fort Leavenworth to be trained. We have already heard in canvassing students from Jordan, Egypt, and Pakistan that they will pull their students from Fort Leavenworth if the detainees are moved there. They don't want to have their military leaders, their future military leaders at the same place that the detainees are being held in the United States, and they have already stated that to us.

So we are going to hurt the core mission of Fort Leavenworth in a facility that doesn't have setbacks to safely handle this for no gain. I would point out that I spoke with the commanding general at Fort Leavenworth yesterday. I called him after I heard about this report on MS-NBC. That was how I got the news of it. My wife was on the Internet, and she was on MSNBC's Web site and she sees that they are thinking about moving the Gitmo detainees to either Leavenworth or Michigan. That didn't set very well with me, that that is how I learned about this to start off with.

As I started calling around, I called the commanding general, and he said he learned about it pretty late as well and has difficulties, although he is a military man. He will salute and take orders and do what he is directed to do, but he is not—he needs to be asked and brought in to testify about what his opinion would be about this issue. I talked to the Governor in Kansas last night. The Governor, a Democratic Governor, has issued a statement previously opposed to this move taking place to Fort Leavenworth. The Congresswoman from the area was there this morning opposed to this move. The mayor of Leavenworth was there opposed to this move.

We have voted in this body virtually unanimously—close to a unanimous vote—that you have to work with local officials before the Gitmo detainees can be moved anywhere into the United States. Well, the local officials are uniformly opposed to this at Leavenworth, and we wake up and it is in the morning paper and nobody has been consulted about it.

I wish to say the detainees in my estimation deserve appropriate humane treatment. They deserve to be treated under our international obligations. If they are not getting that, then that needs to be changed, and it needs to be changed at Guantanamo Bay. I hope we would have international investigations to tell us what is not being met that we are required to do, that is not being done. I have not seen any credible international reports that say there are things we are not doing that we should do at Guantanamo Bay. There is a gray category that is involved where you have enemy combatants who don't represent a foreign country, and that is a big part of our problem. There is also a very tough area, and that is—I saw this when I was at Guantanamo Bay—a number of the detainees are continuing the fight

today. While in prison, at Gitmo, they continue the fight. So whoever gets these or takes these detainees is going to have to be prepared to have the continuation of the war on terrorism happening near them and happening in the prison facility. That is not everybody, but some of them continue to fight in prison. That is going to be a difficult situation for whoever is to handle it.

On top of that, our folks at Leavenworth—we have prisoners in there, and the town is proud of their ability to handle various prisoners. Their concern is not keeping the detainees in, because you can staff up for that, but it is keeping out people who seek to get in or make a statement in that area. Plus, they would have to scale up their facilities.

We have a medium-security Bureau of Prisons facility. It is not maximum security. We have a dominated medium-security disciplinary barracks there, and we have space for 25 maximum-security prisoners—only 25. You would have to move out all of the current military personnel convicted in military courts who are held in the disciplinary barracks. We are not situated to handle this. It would cost a huge amount of money, and it would not be safe to do it at Leavenworth. It is a bad idea for us to do that there.

I ask the President to come to Leavenworth. He was invited by the mayor this morning. He can look at the facility and examine it himself. The Attorney General can come and examine the facility, look at it, and see what estimation they come up with after examining and looking at the facility. I understand they are looking at some sort of hybrid facility. We don't have the situation to be able to house it in Kansas.

On top of that, I ask the President to really listen to the American people. The American people don't want these detainees moved to the United States. They don't want to hurry up artificial timelines set for moving the detainees to the United States, and they feel the President should be listening to them and not to European leaders or somebody around the world who doesn't like the Guantanamo Bay facility and thinks it has a bad name. Listen to the American people on this issue.

I ask that the President come and talk to the Members of Congress who may be impacted by this and ask our opinions and look at what is taking place. This is being rushed. It is on an artificial time deadline. It doesn't need to happen. It is replicating a facility we have, at a cost of hundreds of millions of dollars, and it will slow the process down. It is a bad idea chasing a bad idea with an artificial time limit. I ask that the President not do that.

My colleague and I from Kansas will fight every step of the way to keep this facility from being moved to Kansas. We are representing our constituents, who don't want these detainees moved to Kansas. We are going to fight it every step of the way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KOHL. Madam President, I received a Statement of Administration Policy from the Executive Office of the President relating to the Agriculture appropriations bill. I will read from that document at this time:

> The administration strongly supports Senate passage of H.R. 2997, with the Committee-reported text of S. 1406, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2010.
>
> A strong, vibrant rural America is central to the Nation's future. The bill, as reported by the Committee, makes important investments in infrastructure so economic progress does not bypass rural communities. The legislation also provides the resources necessary to keep food and medicines safe and reliable. It provides critical support for farmers to continue the Nation's leading role in feeding the world. In addition, this legislation addresses chronic problems facing Americans, including poverty, nutrition, and housing.
>
> Moreover, the legislation responds to the President's call for investments in programs that work while ending programs that do not. This legislation gives priority to merit-based funding in critical infrastructure programs. The Administration urges the Congress to continue to apply high standards to funding decisions so taxpayer money is spent efficiently and effectively.

Madam President, I am grateful that the executive branch has recognized the good work done to craft this bill in a way that meets the serious requirements of our country. Again, I thank the ranking member, Senator BROWNBACK, for his help. This is a good bill, and I urge all Senators to support its passage.

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. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent to speak as in morning business for 12 minutes.

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

SOTOMAYOR NOMINATION

Mr. UDALL of New Mexico. Madam President, I rise today to talk about Judge Sotomayor's experience, and I also want to talk about empathy.

In the period since President Obama nominated Sotomayor, some of her opponents have done their best to give empathy a bad name. I think that is a shame. It would be sad for us to confirm Sonia Sotomayor but allow her empathy to be discredited as a human emotion and a judicial asset.

During his confirmation hearings, Clarence Thomas said:

> What I bring to this Court, I believe, is an understanding and the ability to stand in the shoes of other people across a broad spectrum of this country.

Justice Thomas's description of empathy captures one thing Sotomayor would bring to this Court: a diversity of experience and the ability to stand in the shoes of other people.

During her opening statement before the Judiciary Committee, Judge Sotomayor talked about her experience as a prosecutor in New York for legendary district attorney Bob Morgenthau. She said:

> I saw children exploited and abused. I felt the pain and suffering of families torn apart by the needless deaths of loved ones. I saw and learned the tough job law enforcement has in protecting the public.

According to those who knew and worked with her, Judge Sotomayor was an excellent prosecutor. She knew the law, she studied the facts, and she did the hard work to keep people safe from crime. In this difficult job, she benefited from her empathy. Judge Sotomayor felt the pain and suffering of families destroyed by crime. She felt the difficulties law enforcement officers face, and she understood that her job was not just about enforcing the law, it was about ending the suffering crime brings.

During her testimony, Judge Sotomayor talked about the ''Tarzan'' case, a famous burglary and murder case she prosecuted. A quarter century later, she still feels deeply the impact of that crime. I was struck by her description of how the murder of a son devastated the lives of his mother and grandmother, how one act of violence produced ripples that destroyed a family and weakened a community, and how the family and the community demanded justice.

When I served as a Federal prosecutor, I learned that empathy is every bit as important as legal knowledge and good judgment. A prosecutor who reads the facts of a crime and cannot empathize with those involved is not just a strange person, he or she is likely to be an ineffective lawyer. A proper respect for the law demands a recognition that individuals involved in a legal dispute are not abstractions; they are sons, daughters, sisters, and brothers, men and women who deserve justice. Empathy allows us to recognize that, and that is essential to the practice of law. It is also an essential quality for judges.

Some Members of this body have suggested that empathy is inconsistent with impartial judgment. I disagree. Judges must, first and foremost, apply law to facts. But this process is not a mechanical calculation; it requires attention to the human impact of legal decisions. Legal reasoning that ignores

the human dimension risks inhuman outcomes to human problems. Law without empathy produces decisions such as Dred Scott and Plessy v. Ferguson. It gives you reasoned arguments and unreasonable results.

When the Supreme Court ruled in Dred Scott, its members were applying the law to the facts as they saw them. One fact they took for granted was that Dred Scott was so different as to be unworthy of legal protections. The Taney Court could not put themselves in Scott's shoes, and the result was such a rebuke to the values of this Nation that it helped drive us to civil war.

When the Court wrote in Plessy that ''the enforced separation of the two races [does not stamp] the colored race with a badge of inferiority,'' they were not misinterpreting the law. They just could not feel the sting of segregation. Or to put it another way, they failed to show empathy, and generations of Black citizens paid the price.

Of course, a judge with empathy must also determine with whom to empathize. One of my colleagues has argued that empathy for somebody is always discrimination against somebody else. Again, I disagree. I believe that justice is not a zero-sum game. Equal justice for minorities does not mean less justice for others. A judge who feels compassion for those who face the legacy of codified bigotry is not less able to sympathize with a White firefighter who has been denied a promotion. The law respects the humanity of every individual. Judges can and should do the same.

Judge Sotomayor has explained that her experience has helped her to ''understand, respect and respond to the concerns and arguments of all litigants who appear before me.'' All litigants.

As a prosecutor, Judge Sotomayor sympathized with the victims of crime. But she could also look at a defendant and see a fellow human being—somebody who deserves fairness, if not freedom. As a judge, she has ruled for civil rights claimants, and she has ruled against them. She has ruled for prosecutors and for defendants. Her compassion has not led her to come down on one side or the other. It has helped her to be both wise and fair—to treat every individual with the respect he or she deserves.

President Obama has nominated a Supreme Court Justice with a wealth of both personal and professional experience. Her experience has given her the intelligence to understand the law and the wisdom to apply it.

But it has also given her something more. Judge Sotomayor has seen housing projects and Ivy League dorms. She has defended those whom society ignores and prosecuted those who ignore society's rules. At the trial and appellate level, she has seen the human drama of American law play out in countless ways.

This experience has given her compassion for the diverse experiences that make up the American experiment. She understands in a deep and personal way that we all deserve equal justice under law. I can think of no more important qualification for a Supreme Court Justice.

She has earned her right to serve on the Nation's highest Court. I look forward to supporting her confirmation.

Madam President, 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.

Mr. BROWNBACK. Madam 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. 2253, AS MODIFIED, TO AMENDMENT NO. 1908

Mr. BROWNBACK. Madam President, we are attempting to work through some amendments. I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 2253 on behalf of Senator CHAMBLISS, and the amendment be modified with the changes at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for Mr. CHAMBLISS, for himself and Mr. HARKIN, proposes an amendment numbered 2253, as modified, to amendment No. 1908.

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

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

The amendment is as follows:

(Purpose: To require a report on the status of the reorganization of the Foreign Agricultural Service and future plans to modify office structures)

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. Not later than 60 days after the date of enactment of this Act, the Administrator of the Foreign Agricultural Service shall submit to Congress a report that describes the status of the reorganization of the Foreign Agricultural Service and any future plans of the Administrator to modify office structures to meet existing, emerging, and new priorities.

Mr. BROWNBACK. Madam President, it is my understanding this amendment has been cleared on both sides, so I ask unanimous consent that the amendment, as modified, be agreed to.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment No. 2253, as modified.

The amendment (No. 2253), as modified, was agreed to.

Mr. BROWNBACK. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

CLEAN ENERGY JOBS

Mr. UDALL of New Mexico. Madam President, as I rise today, the world is engaged in a high-stakes competition. The country that wins this competition will not only produce jobs today, it will dominate the industries of the future. The competition is the race to create clean energy jobs. I want America to win, and the Congress will play a key role in deciding whether we do.

But before I talk about the decision we have to make, I want to be clear about a decision that America does not have to make. We don't have to decide whether clean energy will be the industry of the future. It will. The clean energy industry is primed to produce millions of jobs in the coming years. The question is whether these jobs will be in America. We have to answer this question now.

If we put our minds to it, Americans can produce the clean energy technologies that will power the future. The country that invented the light bulb, the automobile, and the Internet is not going to finish last when it comes to developing new ideas. But we need policies that promote innovation. Right now, we are falling behind.

Progressive policies have given other countries a lead. With a population roughly one-quarter as large as America's, Germany has more than twice as many workers developing wind energy and solar photovoltaic technologies. By 2020, more Germans will be producing clean energy than are producing German cars. Spain has almost five times as many workers in the solar thermal industry as the United States. China has more than 300 times as many. Do we want to lose this race to Germany, to Spain, to China?

Some have argued that America cannot lead on climate change; that we need to wait for countries such as China and India to act first. This would be incredibly shortsighted. If America solves its energy problems first, every country on Earth will be begging for the technologies we develop. If we don't, we will be begging for technologies developed elsewhere.

Americans always prosper by being one step ahead. We mass produced the car, and American manufacturing built the middle class. We sparked the IT revolution, and our high-tech industry still gives us high-paying jobs. Today, being one step ahead means developing

the clean energy technologies of the future before anybody else does. Waiting for China to address its emissions problems before we address ours is like waiting for an opponent to finish the race before we start to lace up our shoes.

China is not waiting for America to act. It has already implemented strong policies to promote clean energy. Chinese fuel efficiency economy standards are higher today than ours will be in 2020. They have already set a 15-percent renewable energy standard for 2020, and their government recently said they could reach 20 percent. In 2009, China became the world's largest clean energy investor. It plans to spend nearly half a trillion dollars over 10 years to ensure clean energy jobs come to China.

China's policies have already begun to pay off. It is now the leading manufacturer of wind turbines and it has 65 percent of the world's solar thermal water heating market. China even beats us in industries we created. America invented solar photovoltaics, but China now dominates that market, while America comes in tenth.

I am not content to let other countries keep beating us at our own game. It is time to act. The clean energy bill currently being developed in Congress is the kind of action we need. It is a distinctly American solution to this global problem because it relies on private markets and private businesses, and that is why it provides real change with minimal cost.

Of course, some people will claim this plan breaks the bank. Defenders of the status quo never run out of excuses to do nothing. They have made huge profits polluting our air, and clean energy is a threat to them. The same people who denied the science of global warming will tell you that a clean energy solution is too expensive. They were wrong about the science then, and they are wrong about the economics now.

In 1990, polluters told America we could not afford the Clean Air Act, a bipartisan bill signed by a Republican President. History has shown that the act actually cost one-fortieth of what they said it would. The best independent estimate about this bill comes from the nonpartisan Congressional Budget Office, and they say it will cost Americans less than 50 cents per day, and the CBO numbers likely overestimate costs. To keep their analysis simple, they ignore the impact of increased efficiency. When you factor in efficiency, New Mexicans will probably end up ahead about $4 per month on their energy bills, and low-income New Mexicans will save even more. The most expensive energy policy America can pursue is the status quo.

In 2006, I introduced a clean energy bill similar to the bill we are considering now. The month I introduced it, gas prices were at about $2.25 per gallon. Critics claimed clean energy would drive up prices and Congress never acted. By 2008, the price of gas had nearly doubled to a high of $4.11.

Much of the money America spends on gas flows right out of this country. Today, the United States is importing nearly 70 percent of its oil. We sent roughly $4,280 per U.S. family out of the country in 2008 to pay for oil, and too much of that money goes to individuals who finance terrorism and regimes that don't like Americans.

Some will say the solution is increased oil production, and I support increased production. My home State of New Mexico is one of 10 that produces more oil than it consumes, and I am proud that we help meet America's energy needs. But increased production alone is not enough. America has only 3 percent of the world's oil reserves. More than 66 percent of those reserves—those that are left—are in Russia, Iran, and six other countries in the Middle East. The more we depend only on fossil fuels, the more American money will flow to these countries.

When it comes to energy, we have to do it all and we have to do it now. Since comprehensive clean energy legislation was first introduced in 2003, we have sent trillions of dollars abroad every year to pay for oil—in fact, $700 billion a year. We cannot afford 6 more years of delay.

But the status quo doesn't just threaten our economy and our security; it threatens the basis of our way of life. Scientists predict that global warming could give my home State of New Mexico the same climate as the Sonoran Desert in Chihuahua, Mexico. If that happens, farmers who have worked the land for generations will be forced out of business. Forest fires will become more common and more dangerous. Our communities will face a bleak economic future. For the children of my State and our country, we cannot afford to stay on this path.

Fortunately, America has what it takes to change course. Even without progressive policies on the national level, New Mexico has begun to create massive numbers of clean energy jobs. Between 1998 and 2007, clean energy jobs grew 25 times faster than other jobs. We call these the jobs of the future. Increasingly, they are also the jobs of today.

There are too many success stories to tell, but I want to mention one. Three weeks ago, a company called Schott Solar opened its second renewable technologies plant in Albuquerque, NM. The plant currently employs 300 people, and it comes 2 months after the company opened a plant that will eventually employ 1,500. Schott decided to locate these plants in New Mexico after our State passed a series of clean energy incentives.

What I like most about this story is that Schott is a German company. It looked at New Mexico's policies and decided to invest German money in creating American jobs. For years, while American policymakers failed to act, American investors sent our capital to Germany. New Mexico's forward-looking policies are helping to reverse the flow. What that tells me is that with the right policies, America can lead the world in this crucial industry. We can stop creating jobs in Saudi Arabia and start creating them in Socorro, NM. We can stop letting China develop our technologies and sell them back to us.

We can win the clean energy revolution the same way we won the high-tech revolution—by getting there first—or we can wait and watch the world pass us by. I think the choice is clear. I hope my colleagues do as well, and I hope they will join me in supporting the Senate's clean energy legislation when it comes to the floor.

Madam President, 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.

Ms. MURKOWSKI. Madam 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. 1910

Ms. MURKOWSKI. Madam President, I would like to take a few minutes this afternoon to speak to an amendment to the agriculture bill that has been introduced. This is amendment No. 1910. It has to do with the high energy cost grants. This is a program within the rural utility service.

I would like to lay out for my colleagues a bit about this program. The high energy cost grants are available for improving and providing energy generation, transmission, and distribution facilities that serve communities with average home energy costs that exceed 275 percent of the national average. So 275 percent of the national average—you have to see your home energy costs exceed this level in order to make yourself available to this High Energy Cost Grant Program.

These grant funds can be used for on-grid and off-grid renewable energy projects, energy efficiency, and energy conservation projects serving these eligible communities.

Some have suggested this is somehow an Alaska aid program. It certainly does help in my State, but it has provided aid to utilities in more than a dozen States, including Alabama, Arizona, California, Florida, Hawaii, Idaho, Kentucky, Maine, Massachusetts, Nevada, New Mexico, New York, and Washington. In addition to these States, applications have been submitted by other eligible communities in more than eight States. This is in Colorado, Minnesota, Montana, North Dakota, Rhode Island, South Dakota, Wisconsin, Wyoming, and also out in Puerto Rico, the Virgin Islands, Guam, and American Samoa.

In addition, these are community-driven projects. They reflect the local priorities for addressing energy challenges. Some of the projects that are

currently underway with these high energy cost grants are replacing failing transmission and distribution lines that serve communities in my State and in Arizona, Idaho, Maine, and Nevada.

As we think about how we are going to move our energy, particularly our renewable energy sources, we have to do more within our transmission systems. This program allows us to replace our older or failing transmission and distribution lines.

Some of the other projects extend electric distribution lines to connect homes in rural communities in States such as Alaska, Arizona, California, and Washington, including some homes on Indian reservations.

The other projects replace old inefficient diesel generators in many of the remote Alaska villages with more efficient, less polluting units, with heat recovery systems. These funds from the high energy cost grants go toward constructing community-owned renewable energy projects, including wind and solar, small hydroelectric and biomass systems. Again, the States where you see these projects are Alaska, Arizona, Hawaii, Maine, New Mexico, New York, Washington, to the Marshall Islands.

The last area of the program provides cost savings, energy efficiency, and weatherization upgrades for rural homes and community facilities in Alabama, Alaska, Florida Hawaii, Kentucky, and Massachusetts.

I go through this list of where these projects are to ensure that Members know we are not just talking about a benefit to a State such as Alaska, where our energy costs are enormously high, but States such as Alabama, where they might not be facing the cold winters but they are certainly facing the hot summers and how they, too, can be more energy efficient; how they, too, can benefit from programs that help to reduce the high energy costs they face in their State.

This program has been one of the smartest things Congress has done since the passage of the rural electrification programs back in the 1930s. It has provided assistance to run modern power lines on Indian reservations, helped to propel economic activity where it is needed most in this country. It has provided aid to towns off the interstate transmission grid and a number of towns in the West that are isolated and not so connected to that grid, thus more subject to the blackouts and brownouts.

This program also motivated many States to step up their individual efforts to increase funding for these programs. In my home State of Alaska, despite the very dramatic decrease in revenues, we are investing tremendous resources toward energy solutions. In the State's fiscal year 2010 capital and operating budgets, they include $25.5 million for Alaska energy authority projects; $25 million for renewable energy; $38 million for power cost equalization; and $26.4 million for heating assistance. That is a total of about $115 million in funding that is coming from the State to help, alongside funding for the high energy cost grants.

If funding sources continue to be eliminated or reduced, the Nation's efforts to address the high cost of energy by increasing energy efficiencies and renewable resource development are going to be severely hindered. This is at a time when we can least afford to do this.

This program has helped with installation of renewable energy systems, whether it be solar or wind or hydro, biomass or geothermal projects. These are generally financed through guaranteed loans. This is exactly in keeping with existing congressional intent and the intent of this administration to expand renewable energy and to reduce carbon emissions and greenhouse gas emissions and their potential climate impacts. It has done so economically. The program has a 4-percent cap on planning and administrative expenses. I wish all Federal programs did this.

The program has an excellent track record. According to the Congressional Research Service, it has such a low default rate on its loans that the guarantee program has a zero subsidy cost; loans being secured by the borrower's electric system and assets.

Earlier on the floor it was argued that this program is somehow duplicative of other existing programs, but it is not. The existing USDA Rural Utilities Service Loan and Grant Program cannot make loans to school districts or to Indian reservations, such as the Navajo projects that have been made in Arizona or to off-grid utilities. The program can only make loans for electricity programs, not for renewable energy projects to tie into grids.

This is exceptionally important, the fact that the programs currently can only make those loans to electricity programs and not the renewable energy projects.

The program was authorized, the High Energy Cost Grant Program was authorized by Congress back in the 2000 Rural Electrification Act, simply because it covered a gap in existing programs that desperately needed to be filled.

This amendment might not only kill this program in the future, but it also might pull the rug out from under the projects that have expended funds and which have started and which are waiting for the Federal funds to be delivered.

This program actually lowers Federal unemployment and economic assistance costs over time because helping to reduce our energy costs is one of the best things we can be doing in government to support sustainable economic development in a State or in the region.

I certainly support the need for fiscal responsibility—absolutely, especially given the size of our deficit. Cutting the High Energy Cost Grants Program is likely to not only lessen economic activity in rural areas but also worsen our overall economy and unemployment across the Nation. There is no reason to delete the continuation of funding that is proposed for this program.

I urge my colleagues to vote against this amendment when the time comes.

I yield the floor.

Madam 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. KOHL. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. KOHL. I ask unanimous consent the Senate proceed to vote in relation to the McCain amendment, No. 1910, after the cloture vote with respect to the Kohl-Brownback substitute amendment No. 1908, and that prior to the vote with respect to amendment No. 1910, there be 4 minutes of debate, equally divided and controlled in the usual form, with no amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma.

Mr. COBURN. Reserving the right to object, I was asked to come down and get my amendments pending. I checked with the staff. All I would like to do is get several amendments up, have them pending, and then we will have the debate after the cloture vote. Is that agreeable?

Mr. KOHL. That is agreeable.

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

The Senator from Kansas is recognized.

AMENDMENT NO. 2240 TO AMENDMENT NO. 1908

Mr. BROWNBACK. Madam President, I have been asked by Senator BARRASSO to ask unanimous consent the pending amendment be set aside so I may call up amendment No. 2240 on behalf of Senator BARRASSO.

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

The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Kansas [Mr. BROWNBACK], for Mr. BARRASSO, for himself, and Mr. VITTER, Mr. HATCH, Mr. ROBERTS, Mr. ENZI, Mr. THUNE, and Mr. JOHANNS, proposes an amendment numbered 2240 to amendment No. 1908.

Mr. BROWNBACK. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the Secretary of Agriculture to conduct a State-by-State analysis of the impacts on agricultural producers of the American Clean Energy and Security Act of 2009 (H.R. 2452, as passed by the House by Representatives on June 26, 2009)

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. (a) Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a State-by-State analysis of the impacts on agricultural producers of the American Clean Energy and Security Act of 2009 (H.R. 2452, as passed by the House of Representatives on June 26, 2009) (referred to in this section as ''H.R. 2452'').

(b) In conducting the analysis under subsection (a), the Secretary shall—

(1) use a range of peer-reviewed analyses of H.R. 2454 conducted by public and private entities, including land grant universities;

(2) consider a scenario in which the fertilizer industry does not receive any free allowances under H.R. 2454;

(3) consider the impacts of H.R. 2454 on a range of fishing, aquaculture, livestock, poultry, and swine production and a variety of crop production, including specialty crops; and

(4) analyze projected land use changes, afforestation patterns, and other market incentives created by H.R. 2454 that may impact food or agriculture commodity prices, including specific acreage estimates of parcels of land planted with trees in the United States.

Mr. BROWNBACK. I wanted to get this for Senator BARRASSO. We will be handling that at a later point in time.

I yield the floor.

AMENDMENT NO. 2243 TO AMENDMENT NO. 1908

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2243 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2243 to amendment No. 1908.

Mr. COBURN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To eliminate double-dipped stimulus funds for the Rural Business-Cooperative Service account)

At the appropriate place, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, each amount provided under the heading ''RURAL BUSINESS—COOPERATIVE SERVICE'' in title III is reduced by the pro rata percentage required to reduce the total amount provided under that heading by $124,800,000.

AMENDMENT NO. 2244 TO AMENDMENT NO. 1908

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent that the pending amendment be set aside and amendment No. 2244 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2244 to amendment No. 1908.

Mr. COBURN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To support the proposal of the President to eliminate funding in the bill for digital conversion efforts of the Department of Agriculture that are duplicative of existing Federal efforts)

On page 51, beginning on line 10, strike '': *Provided further,*'' and all that follows through ''technologies'' on line 20.

AMENDMENT NO. 2245 TO AMENDMENT NO. 1908

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2245 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2245 to amendment No. 1908.

Mr. COBURN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike a provision providing $3,000,000 for specialty cheeses in Vermont and Wisconsin)

Beginning on page 75, strike line 16 and all that follows through page 76, line 3.

AMENDMENT NO. 2248 TO AMENDMENT NO. 1908

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2248 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2248 to amendment No. 1908.

Mr. COBURN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit no-bid contracts and grants)

At the appropriate place, insert the following:

PROHIBITION ON NO-BID CONTRACTS AND GRANTS

SEC. ____. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation;

(2) awarded by grant not subjected to merit-based competitive procedures, needs-based criteria, and other procedures specifically authorized by law to select the grantee or award recipient; or

(3) spent on a congressionally directed spending item, as defined by Rule XLIV of the Standing Rules of the Senate, not subjected to merit-based competitive procedures, needs-based criteria, and other procedures specifically authorized by law to select the grantee to perform the activity to be provided by the congressionally directed spending item.

(b) This prohibition shall not apply to the awarding of contracts or grants with respect to which—

(1) no more than one applicant submits a bid for a contract or grant; or

(2) Federal law specifically authorizes a grant or contract to be entered into without regard for these requirements, including formula grants for States.

Mr. COBURN. I now call for the regular order on amendment No. 2226 and send a second-degree amendment to the desk, ask for its immediate consideration, and ask any consideration be delayed until after the cloture vote and that the second-degree amendment is my amendment No. 2246.

The PRESIDING OFFICER. Was there a unanimous consent request?

Mr. COBURN. Yes, unanimous consent is requested for that.

The PRESIDING OFFICER. Is there objection?

Mr. KOHL. I object and suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor. Objection is heard.

The Senator from Oklahoma.

AMENDMENT NO. 2246 TO AMENDMENT NO. 2226

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2246 be called up.

The PRESIDING OFFICER. Is there objection?

The amendment is drafted as a second-degree amendment to amendment No. 2226.

Mr. COBURN. I will change the drafting.

I yield the floor, and 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. COBURN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COBURN. I call for the regular order on amendment No. 2226, and I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2246 to amendment No. 2226.

The amendment is as follows:

(Purpose: To provide additional transparency and accountability for spending on conferences and meetings of the Department of Agriculture)

In lieu of the matter proposed to be inserted, insert the following:

SEC. 7____. (a) In this section, the term ''conference'' means a meeting that—

(1) is held for consultation, education, awareness, or discussion;

(2) includes participants who are not all employees of the same agency;

(3) is not held entirely at an agency facility;

(4) involves costs associated with travel and lodging for some participants; and

(5) is sponsored by 1 or more agencies, 1 or more organizations that are not agencies, or a combination of such agencies or organizations.

(b) Not later than September 30, 2011, the Secretary of Agriculture shall submit to the appropriate committees of Congress and post on the public Internet website of the Department of Agriculture (referred to in this section as the ''Department'') in a searchable, electronic format, a report on each conference for which the Department paid travel expenses during fiscal year 2010 that includes—

(1) the itemized expenses paid by the Department, including travel expenses and any Department expenditure to otherwise support the conference;

(2) the primary sponsor of the conference;

(3) the location of the conference; and

(4) in the case of a conference for which the Department was the primary sponsor, a statement that includes—

(A) a justification of the location selected;

(B) a description of the cost efficiency of the location;

(C) the date of the conference;

(D) a brief explanation of how the conference advanced the mission of the Department; and

(E) the total number of individuals whose travel or attendance at the conference was paid for in part or full by the Department.

(c) Notwithstanding any other provision of this Act, the aggregate amount made available under this Act for expenses of the Department relating to conferences in fiscal year 2010, including expenses relating to conference programs, staff, travel costs, and other conference matters, may not exceed $12,000,000.

Mr. KOHL. I send to the desk a second-degree amendment to amendment No. 2246.

The PRESIDING OFFICER. Amendment No. 2246 is a second-degree amendment.

Mr. KOHL. I ask unanimous consent that amendment No. 2248 be pending.

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

AMENDMENT NO. 2288 TO AMENDMENT NO. 2248

Mr. KOHL. I send to the desk a second-degree amendment to amendment No. 2248.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 2288 to amendment No. 2248.

The amendment is as follows:

(Purpose: To provide requirements regarding the authority of the Secretary of Agriculture and the Commissioner of Food and Drugs to enter into certain contracts)

In lieu of the matter proposed to be inserted, insert the following:

SEC. 7____. None of the funds appropriated or otherwise made available by this Act may be used by the Secretary of Agriculture or the Commissioner of Food and Drugs to enter into any Federal contract unless the contract is—

(1) entered into in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation described in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)); or

(2) otherwise authorized by law to be entered into without regard to the laws cited in paragraph (1).

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

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

AMENDMENT NO. 2289 TO AMENDMENT NO. 1908

Mr. KOHL. I ask unanimous consent to set aside the pending amendment, and I send to the desk an amendment and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself and Mr. BROWNBACK, proposes an amendment numbered 2289 to amendment No. 1908.

Mr. KOHL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

Mr. KOHL. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2289) was agreed to, as follows:

(Purpose: To ensure the compliance of the United States regarding obligations under international trade agreements)

On page 85, line 16, strike ''inspections.'' and insert the following:

inspections: *Provided further*, That this section shall be applied in a manner consistent with United States obligations under international trade agreements.

Mr. KOHL. Madam President, I move to reconsider that vote.

Mr. BROWNBACK. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENTS NOS. 2254 AND 2255 TO AMENDMENT NO. 1908

Mr. BROWNBACK. Madam President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 2254 on behalf of Senator CHAMBLISS and 2255 on behalf of Senator VITTER en bloc.

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

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for Mr. CHAMBLISS and Mr. VITTER, proposes amendments en bloc numbered 2254 and 2255.

Mr. BROWNBACK. I ask unanimous consent that the reading of the amendments be dispensed with.

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

Mr. BROWNBACK. I understand these amendments have been cleared on both sides. I offer them for Senators CHAMBLISS and VITTER. I ask unanimous consent that the amendments be agreed to en bloc.

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

The amendments (Nos. 2254 and 2255) were agreed to, as follows:

AMENDMENT NO. 2254

(Purpose: To prohibit the use of funds to assess greenbook charges to agencies or to use previously assessed funds)

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. None of the funds made available by this Act may be used to pay the salaries and expenses of any employee of the Department of Agriculture to assess any agency any greenbook charge or to use any funds acquired through an assessment of greenbook charges made prior to the date of enactment of this Act.

AMENDMENT NO. 2255

(Purpose: To require the Commissioner of Food and Drugs to conduct a study on imported seafood)

On page 85, between lines 16 and 17, insert the following:

SEC. 7____. The Commissioner of Food and Drugs, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, shall conduct a study and, not later than 240 days after the date of enactment of this Act, submit a report to Congress on the technical challenges associated with inspecting imported seafood. The study and report shall—

(1) provide information on the status of seafood importation, including—

(A) the volume of seafood imported into the United States annually, by product and country of origin;

(B) the number of physical inspections of imported seafood products conducted annually, by product and country of origin; and

(C) a listing of the United States ports of entry for seafood imports by volume;

(2) provide information on imported seafood products, by product and country of origin, that do not meet standards as set forth in the applicable food importation law, including the reason for which each such product does not meet such standards;

(3) identify the fish, crayfish, shellfish, and other sea species most susceptible to violations of the applicable food importation law;

(4) identify the aquaculture and mariculture practices that are of greatest concern to human health; and

(5) suggest methods for improving import inspection policies and procedures to protect consumers in the United States.

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

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

AMENDMENT NO. 2259, AS MODIFIED

Mr. KOHL. I ask unanimous consent to set aside the pending amendment and call up the following amendment, which is at the desk, and ask for its immediate consideration: Landrieu amendment No. 2259, as modified.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Ms. LANDRIEU, proposes an amendment numbered 2259, as modified, to amendment No. 1908.

Mr. KOHL. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To require a report on increasing the participation of rural small businesses in tourism activities)

On page 85, between lines 16 and 17, insert the following:

SEC. __745. REPORT ON TOURISM FOR RURAL COMMUNITIES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall report to the Committees on Appropriations of the House of Representatives and of the Senate on developing the tourism potential of rural communities.

(b) CONTENT OF THE REPORT.—The report required by subsection (a) shall—

(1) identify existing Federal programs that provide assistance to rural small businesses in developing tourism marketing and promotion plans relating to tourism in rural areas;

(2) identify existing Federal programs that assist rural small business concerns in obtaining capital for starting or expanding businesses primarily serving tourists; and

(3) include recommendations, if any, for improving existing programs or creating new Federal programs that may benefit tourism in rural communities.

Mr. KOHL. This amendment has been approved by both sides, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 2259, as modified.

The amendment (No. 2259), as modified, was agreed to.

Mr. KOHL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 1908 to H.R. 2997, the Agriculture Appropriations Act for Fiscal Year 2010.

John D. Rockefeller, IV, Tom Udall, Mark L. Pryor, Edward E. Kaufman, Blanche L. Lincoln, Kent Conrad, Kay R. Hagan, Mark Begich, Byron L. Dorgan, Max Baucus, Ben Nelson, Herb Kohl, Daniel K. Inouye, Michael F. Bennet, Mary L. Landrieu, Charles E. Schumer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1908 to H.R. 2997, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2010, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Mississippi (Mr. COCHRAN).

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

The yeas and nays resulted—yeas 83, nays 11, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—83

Akaka	Feinstein	Murray
Alexander	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Bayh	Graham	Pryor
Begich	Grassley	Reed
Bennet	Hagan	Reid
Bennett	Harkin	Risch
Bingaman	Hatch	Roberts
Bond	Hutchison	Rockefeller
Boxer	Inhofe	Sanders
Brown	Inouye	Schumer
Brownback	Isakson	Sessions
Burr	Johnson	Shaheen
Burris	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coburn	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
Dodd	McCaskill	Whitehouse
Dorgan	McConnell	Wicker
Durbin	Merkley	Wyden
Feingold	Murkowski	

NAYS—11

Barrasso	Ensign	Kyl
Bunning	Enzi	McCain
Corker	Gregg	Vitter
DeMint	Johanns	

NOT VOTING—6

Byrd	Kennedy	Menendez
Cochran	Lieberman	Mikulski

The PRESIDING OFFICER. On this vote, the yeas are 83, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENT NO. 1910

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided on the McCain amendment No. 1910.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, this amendment eliminates the U.S. Department of Agriculture's High Energy Cost Grant Program which is a $17.5 million subsidy that is designed to pay for energy generation systems in rural areas.

The 2010 budget from the President of the United States and the Office of Management and Budget have recommended a number of programs be eliminated. Concerning this High Energy Cost Grant Program, it says:

The administration proposes to eliminate the High Energy Cost Grant Program because it is duplicative of and less effective than the Rural Utility Services Electric Loan Program.

This recommendation by the administration to eliminate this program is because it is both duplicative and unnecessary and there is a $6.6 billion program in electric loans at no cost to the taxpayer.

I recommend we agree with the President of the United States and eliminate this unnecessary $17.5 million subsidy.

I yield.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Alaska.

Ms. MURKOWSKI. Madam President, I stand in opposition to this amendment. The funds contained within this High Cost Energy Program are designed to improve energy generation, transmission, and distribution. These are designed to do exactly what we are working so hard in this body to do: to improve our energy generation, our transmission facilities, our distribution facilities, and we are doing this through a program where the qualifications in order to comply are you have to serve communities in which the average residential home energy costs are 275 percent of the national average.

There are 14 States across the country that have projects that focus on these very high energy areas. We are trying to reduce our energy costs for renewables and through the standard energy mechanisms but, quite honestly, when your energy costs are 275 percent above the national average, it is pretty darn tough.

So these are funds made available to communities in the State of Alaska, but also communities in Arizona, California, Florida, Hawaii, Idaho, Kentucky, Maine, Massachusetts, Nevada, New Mexico, Washington, and the Marshall Islands, and it allows them to have energy at a more affordable cost.

I urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, this bill includes the programs the amendment would strike. The Senator from Alaska has spoken eloquently and I believe correctly. So I do oppose the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is agreeing to the amendment.

Mr. KYL. Madam 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 41, nays 55, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—41

Alexander	Enzi	McCain
Barrasso	Feingold	McCaskill
Bayh	Graham	McConnell
Bunning	Grassley	Menendez
Burr	Gregg	Merkley
Cardin	Hutchison	Nelson (NE)
Chambliss	Inhofe	Sessions
Coburn	Isakson	Shaheen
Conrad	Johanns	Thune
Corker	Kaufman	Udall (CO)
Cornyn	Klobuchar	Vitter
DeMint	Kyl	Voinovich
Dorgan	Lugar	Whitehouse
Ensign	Martinez	

NAYS—55

Akaka	Feinstein	Reed
Baucus	Franken	Reid
Begich	Gillibrand	Risch
Bennet	Hagan	Roberts
Bennett	Harkin	Rockefeller
Bingaman	Hatch	Sanders
Bond	Inouye	Schumer
Boxer	Johnson	Shelby
Brown	Kerry	Snowe
Brownback	Kohl	Specter
Burris	Landrieu	Stabenow
Cantwell	Lautenberg	Tester
Carper	Leahy	Udall (NM)
Casey	Levin	Warner
Cochran	Lincoln	Webb
Collins	Murkowski	Wicker
Crapo	Murray	Wyden
Dodd	Nelson (FL)	
Durbin	Pryor	

NOT VOTING—4

Byrd	Lieberman
Kennedy	Mikulski

The amendment (No. 1910) was rejected.

Mr. KOHL. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Madam President, I ask unanimous consent to speak as in morning business for 12 minutes.

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

HEALTH CARE REFORM

Mr. WICKER. Madam President, in the ongoing debate on health care reform, it has become clearer and clearer that this is a competition of two very different philosophies of government. On the one hand, there are those who think government ought to be the primary sponsor of almost everything, including our American health care system. These persons basically hope and fervently believe things would be better in this country if only the Federal Government took control of more aspects of our society.

The other approach is one that I have advocated. It is the philosophy held by those of us who look at history and realize that government doesn't run things very well. We believe government can and should set standards, establish goals, and create incentives for the right behavior, but we do not believe the Federal Government should run health care or, for that matter, is capable of running the American health care system.

The debate so far this year has been very instructive for this Congress and for the taxpayers. Here are some things we have already learned as a result of the very thorough process we have gone through.

First, we know instead of saving money for our economy, as we were promised during the 2008 campaign, health care spending will actually go up under the Democrats' proposal. This is true both short term and in the long run.

Second, we have been informed by the nonpartisan Congressional Budget Office that both the House and Senate bills would add to the Federal deficit.

Third, according to a CBO letter, dated July 17, ''millions of Americans would lose their private health care coverage if these plans are enacted, and millions more would be forced into a government plan.'' That is not me talking, it is the nonpartisan Congressional Budget Office.

Fourth, small businesses and other job creators will pay higher taxes, including specifically $163 billion in penalties and $543 billion in other taxes if the Democrats' plans are enacted.

Fifth, the provisions of these risky schemes could reduce job creation. Again quoting the nonpartisan CBO:

> The play or pay provision could reduce the hiring of low-wage workers.

One has to wonder, if you are a job applicant out there in our economy looking to earn a living, applying for a job, would you rather see a Federal takeover of the health care system or would you rather have a job? I think most American job seekers, given that choice, would say: I want a job. Don't reduce my chances of getting that job.

Then we learned just a few days ago that the Medicaid provisions of these proposals could amount to a massive cost shift to the States. The outcry against this has been loud and it has been bipartisan.

Here is what two-term Democratic Tennessee Governor Phil Bredesen had to say recently. He called the proposal ''the mother of all unfunded mandates.'' Governor Bredesen went on to say:

> Medicaid is a poor vehicle for expanding coverage. It is a 45-year-old system originally designed for women and children. It's not health care reform to dump more money into Medicaid.

The words of Democratic Governor Phil Bredesen of Tennessee.

And Governor Bredesen is not an isolated example. At the National Governors Association meeting in Biloxi, Gov. Brian Schweitzer, a Democrat, said the legislation currently making its way through Congress would unfairly burden States. Here is some good advice from Governor Schweitzer:

> What we need Congress to do is cost control.

Cost control is something that would actually help in health care reform. I appreciate Governor Schweitzer calling for it. I am grateful to Governor Schweitzer for his honest assessment.

In fact, the American people owe a debt of gratitude to Democratic and Republican Governors for speaking the truth. These Governors may have saved us from a catastrophe by speaking out and telling us what the consequences are, as States struggle to meet their current obligations. Indeed, there is a great deal of bipartisanship emerging on the issue of health care reform, and that bipartisanship is coming in the form of alarm—alarm about what the bill proposes to do to State budgets, to small businesses, to job creation, and to choice in health care.

We are also learning that when it comes to the discussion of the so-called public plan or public option, there is a great amount of bait and switch lurking about. Bait and switch is basically a form of fraud or trickery that, unfortunately, goes on in our economy. It is such a problem that the U.S. Federal Trade Commission has issued guidelines warning the public about this practice.

Here is a direct quote from 16 CFR part 238 entitled ''Guides Against Bait Advertising.'' The FTC says this:

> Bait advertising is an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise in order to sell something else. . . .

One thing is advertised and the other is attempted to be sold. I think this is exactly what is going on in the debate over the public option. We are being offered the promise of genuine competition between the public plan and private insurance plans when, in fact, the purpose is to switch Americans to a European-style, single-payer plan down the road.

By now, it is abundantly clear that citizens of the United States do not want to risk putting our country on a path toward a single-payer plan such as the ones in Canada or Great Britain.

Americans do not want a single-payer system. The leadership of both parties, House and Senate, understands this fact. The American public does not want a wholesale government takeover of one-sixth of our economy. We do not want waiting lists such as in Canada. We do not want rationing such as in the United Kingdom.

Realizing where public opinion is on this pivotal issue, the advocates of these congressional Democratic plans have gone to great lengths to assure people they do not want a single-payer option either. These reassurances have come from as high as the White House itself. Just last week in North Carolina, President Obama said:

> Nobody is talking about some government takeover of health care. . . .These folks need to stop scaring everybody.

I wish that were true. But with due respect to our Chief Executive, there is a reason people are frightened. They are paying attention, and they see that sponsors of this legislation are, in fact, advocating a government takeover.

I found it interesting that just 1 day after the President's remarks, I turned on the news to see one of the most senior Democratic chairmen in the House of Representatives seem to contradict the President. Here is the exact quote from this leading Member of the House on the consequences of a public option. He said:

> I think if we get a good public option, it could lead to a single payer and that is the best way to reach single payer.

I wonder what the Federal Trade Commission would say about that type of advertisement. To me, it says: Let's lure people into going along with a public plan when we know it will eventually lead to a single payer down the road. I don't want to take that risk.

Another leading House advocate of the public option had this to say about a path to a single-payer system:

> This is a fight about strategy about getting there——

Meaning the single-payer option——

and I believe we will.

I think most folks would call this a classic legislative bait and switch.

I recently ran across a blog from Dr. Michael Swickard of New Mexico, cautioning about this very tactic. Here is what Dr. Swickard said:

> Given the track record of our government in bait and switch, all of the promises of national health care are just that—promises to be broken. Maybe there will be a few years before the full impact of the bait and switch is felt by citizens. But given the past actions of our government when implementing programs, our future is clear.

I hope we can avoid that future for our country, but the writer's point is this: It may take a while, but the pattern is there. The future he fears includes a single-payer takeover that very few Americans would vote for today.

I say to my colleagues, there is much to be said about the ill effects of the health care proposals being put forward by the House and Senate committees. But among the most troublesome aspects of this so-called reform is the enactment of a public plan which will inevitably lead to a single-payer system Americans don't want and don't need.

Don't take my word for it on the cost, on the loss of choice, and on the effect on small business job creators. Just read the words of the nonpartisan Congressional Budget Office. On the issue of massive, unsustainable cost shifting to State governments, don't take my word for it. Listen to the experienced Democratic Governors pleading with us not to go down this road. And when it comes to whether the goal of this whole exercise is to move us to a European single-payer plan, it is no longer necessary to heed the warnings of the political conservatives. When you listen closely, the leading advocates of the House and Senate legislation, in their unguarded moments, are willing to admit that a single-payer government takeover is their ultimate dream. I hope we do not go down that road.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I yield to my colleague from Vermont.

AMENDMENTS NOS. 2276 AND 2271 TO AMENDMENT NO. 1908

Mr. SANDERS. Madam President, I seek unanimous consent to set aside the pending amendment so that I may call up my amendments Nos. 2276 and 2271.

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

The legislative clerk read as follows:

> The Senator from Vermont [Mr. SANDERS] proposes amendments numbered 2276 and 2271, en bloc, to amendment No. 1908.

The amendments are as follows:

AMENDMENT NO. 2276

(Purpose: To modify the amount made available for the Farm Service Agency)

On page 24, line 12, strike ''$1,253,777,000'' and insert ''$1,603,777,000''.

AMENDMENT NO. 2271

(Purpose: To provide funds for the school community garden pilot program, with an offset)

On page 52, lines 22 and (23), strike ''$16,799,584,000, to remain available through September 30, 2011,'' and insert ''$16,802,084,000, to remain available through September 30, 2011, of which $2,500,000 shall be used to carry out the school community garden pilot program established under section 18(g)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(g)(3)) and shall be derived by transfer of the amount made available under the heading 'ANIMAL AND PLANT HEALTH INSPECTION SERVICE' of title I for the National Animal Identification program''.

Mr. INOUYE. Madam President, the Senate is considering the fiscal year 2010 appropriations bill for the Department of Agriculture, rural development, the Food and Drug Administration, and related agencies. I thank our two managers, Senators KOHL and BROWNBACK, for their hard work on this measure.

The bill was reported by the Appropriations Committee more than 3 weeks ago on a bipartisan basis with all members voting in support of the measure.

As my colleagues are aware, as the new chairman of the Appropriations Committee this year one of my goals was to increase transparency and accountability in the appropriations process. In many respects I have followed the lead of former Chairman Senator BYRD in this regard. To this end, the Agriculture bill and report have been available on the Internet and in printed form for several weeks. All Members have had ample time to review the material in this bill.

As the Senate considers this measure it will find a bill that will meet our Nation's critical requirements to support agriculture and related programs which are vital to our economy and, frankly, our Nation's livelihood.

Our Nation has been blessed with a wealth of natural resources which allows us to be the world's leader in agriculture. This bill offered by Senators KOHL and BROWNBACK will help to ensure that we maintain that position.

There is a total funding of $123.9 billion included in this bill, of which $23.05 billion is for discretionary programs, the same as the 302(b) allocation. While this represents an 11-percent increase in funding when compared with fiscal year 2009, not including supplemental spending, my colleagues should recognize that for too long funding for our Agriculture and Rural Development Subcommittee has been severely constrained.

Even with this level of funding, the subcommittee has had to find savings in farm programs to live within this allocation.

I very much thank our two managers for their work in preparing this bill. The Committee on Appropriations has offered its unanimous support. I believe the full Senate should do the same.

MORNING BUSINESS

Mr. DODD. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

HEALTH CARE REFORM

Mr. DODD. Madam President, I thank my colleagues this evening. I am going to momentarily turn to my colleagues from Iowa, Ohio, Vermont, and Rhode Island—all of whom participated with us nearly 3 weeks ago in the markup of our bill, the Affordable Health Choices Act, which took up an inordinate amount of time, longer than I think any markup certainly in the history of our committee, maybe the longest in the history of this body. We actually spent about 56 hours, 23 sessions, and 13 days on this bill. We considered just shy of 300 amendments, of