

their feet. It is a competitive grant program, and the largest grant is \$75,000.

The trade adjustment assistance for something called the firms program was created back in 1974, under Gerald Ford, to help small businesses and small manufacturers adjust to increased imports and increased international competition. The 2011 trade adjustment assistance bill passed last week authorized this program at \$16 million and said the EDA should manage it. The CJS follows the authorizing direction, as we should.

The Trade Adjustment Assistance for Firms Program, for small businesses, helps them adjust, retool, and stay competitive in an increasingly global economy. In 2010, this program enabled 330 firms to devise strategies to help get back on track. What did it help them do? It helped them identify new markets, improve efficiencies in their operation, and also helped them identify additional financing. Ninety-eight percent of the companies that participated are still in business after 5 years. Without the TAA for Firms Program, many of these companies would be out of business.

Since 2006, it is estimated that over 50,000 manufacturing jobs were saved because of this. Manufacturing is the backbone of America. One of the reasons we are in the economic turmoil we are in now is that we have lost so much manufacturing. We give all kinds of tax breaks to send jobs overseas. We also do bailouts to help the really big boys, such as the automobile industry. And we had to help them. I understand that. But these small to medium-sized businesses, some of which I have visited in my own State, need this kind of help when they are whacked by often subsidized imports. Many Maryland companies know how to compete with other companies, but they often feel they are competing with other countries. They know what to do, and we need to be able to help them do it. Trade adjustment assistance is important. If we don't invest in helping our manufacturers stay in the global game, we are going to lose out. So we would hope that we would defeat the McCain amendment.

During the Senate consideration of the trade adjustment bill, our colleague, the other Senator from Arizona, offered an amendment to strike the program then. It failed 43 to 54. I hope this amendment fails again. Let's use some of the Federal help to help those who are creating jobs. If we really want to talk about creating jobs and creating jobs in manufacturing, let's leave this program—modest, small. For \$15 million, we could really help small businesses and medium-sized businesses learn how to get back on their feet after they have been whacked often by unfair and anticompetitive trade practices.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 739

Mr. McCAIN. If it is agreeable to the managers, I will discuss two of my amendments—one, the amendment to prohibit the use of transportation enhancement grants to fund certain projects, and the other, No. 740, to eliminate funding for trade adjustment assistance for firms.

Is that agreeable?

I thank the Senator from Maryland.

First, I would like to talk about the amendment that would remedy the misplaced priorities of Congress by focusing valuable transportation dollars on improving our Nation's crumbling infrastructure.

Under current law, 10 percent of funding provided from the Surface Transportation Program must be used for transportation enhancement activities. Let me make it clear. When you pay your tax on a gallon of gasoline and send it to Washington, 10 percent—10 cents out of every one of those dollars—has to be used for transportation enhancement activities. If the State's priority is to rebuild a bridge, 10 percent of it has to go to transportation enhancement, but if the State's priority is to build a new freeway, then too bad—10 cents out of every dollar still must be spent on "transportation enhancement activities," such as transportation museums like the Corvette Museum in Kentucky, the White Squirrel Sanctuary in Tennessee, landscaping along Las Vegas highways, walkways, and bike paths, and other activities. Many of these programs may be valuable, and they could be valuable, but rather than a mandated 10 percent be used for those purposes, shouldn't the States and the local authorities be the ones to make those decisions if they think the money could be better spent on other priorities rather than we here in Congress mandating that 10 percent should be used for transportation enhancement activities?

Everybody knows and the President has spoken eloquently about our Nation's highways, roads, and bridges that are crumbling and in need of repair. So it doesn't make sense to mandate any Federal dollars to something other than those, especially since the priorities of the State and local governments may be very different.

The amendment would prohibit funding in the bill for 7 of the 12 transportation enhancement activities. Specifically, funding would be prohibited for scenic or historic highway programs, including tourist and welcome centers, landscaping and scenic beautification, historic preservation, rehabilitation, and operation of historic transportation building structures or facilities, control and removal of outdoor advertising, archeological planning and research, and establishment of transportation museums. I will be the first to say some of those are good programs. Some of those may be necessary. But none of them need to be mandated.

This amendment does not prohibit funding for pedestrian and bicycle fa-

cilities, pedestrian and bicycle safety and education activities, conversion of abandoned railway corridors to trails, environmental mitigation of highway runoff pollution, reducing vehicle-caused wildlife mortality, maintaining habitat connectivity, and acquisition of scenic easements and scenic or historic sites. Frankly, I would like to see it all eliminated, but I can understand an argument for the five that are not included in this amendment.

We are talking about real money. According to the Department of Transportation, almost \$1 billion was slated for transportation enhancement funds in 2011. Since 1992, more than \$12 billion has gone to these programs. My colleagues can argue that these are important. I argue that it makes more sense to stop forcing States to spend this money on flowers and museums and allow them to spend it on 146,633 deficient bridges in this country. My home State of Arizona alone has 903 deficient bridges. If the State of Arizona should want that money spent to repair bridges, it seems to me they should be allowed their priorities rather than 10 percent of it being mandated for any purpose, much less those seven that are outlined in the amendment.

We know what the debt is—\$14.8 trillion. We have to spend our money in a fiscally responsible manner and not on special interest projects. For example, the State of Tennessee has more than 3,800 deficient bridges. Because of this Federal mandate, however, States are forced to spend valuable and limited transportation dollars on transportation enhancement projects such as the White Squirrel Sanctuary in Kenton, TN. Kenton, the home of the white squirrel, has spent \$269,404 on the sanctuary. The funding for the White Squirrel Sanctuary was used for construction of walking trails, including brick crosswalks, a foot bridge, and trailhead parking within Kenton to provide for the safe observation of white squirrels.

The Lincoln Highway, a 200-mile roadside museum in Pennsylvania, received \$300,000 in enhancement funding to commemorate the historical roadway with several items along the 200-mile route. These funds were used for items such as signs, "colorful vintage gas pumps painted by local artists," and this refurbished coffee pot pictured on this poster board. Meanwhile, Pennsylvania ranks first out of all States for deficient bridges. Yet it seems to be more important to refurbish large roadside coffee pots.

Instead of spending money on fixing California's 7,091 deficient bridges, federally mandated tax dollars were spent on antique bike collections, a dragon gateway, and a sculpture for a parking lot in Laguna Beach. Specifically, the University of California received \$440,000 to purchase and display 60 antique bikes for its bicycle museum collection. Los Angeles spent \$250,000 to aid in the construction of the Twin Dragons Gateway entrance to the Chinatown area.

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The National Corvette Museum in Kentucky received \$198,000 to build a national Corvette museum simulator theater, while over 1,300 bridges in Kentucky are deficient and 3,000 are functionally obsolete, meaning they do not meet current design standards.

I must say, in the interest of full disclosure, I have a special feeling for the Corvette. My first means of transportation on graduation from the Naval Academy was a modest model of the Corvette, and I almost wanted to take this out. But since a national Corvette museum simulator theater has very little to do with transportation enhancement, I felt compelled to add this.

Nevada spent millions of Federal transportation dollars to make Vegas's highways beautiful. In 2008, Nevada received \$2.6 billion in transportation grants. Instead of spending money on road upgrades or repairing 804 deficient bridges, the money was used for landscaping projects, for instance \$498,750 went for "decorative rocks, native plants, some pavement graphics, a few walls and some great big granite boulders" to beautify an interchange to Las Vegas's 215 Beltway.

I think it is a very beautiful boulder.

Nevada also spent \$319,000 on more landscaping projects that included more rocks and more plants on a highway beautification project only a few miles down the road.

Let me say again, I think highway beautification projects are very important. When local and State officials wanted to have that kind of beautification along many of the freeways in my State, we planted cactus and bougainvillea and others. I think that is wonderful. But the fact is, when we have bridges that are actually dangerous for our constituents to use, then obviously we have to make some prioritization. As I mentioned, local officials who discussed the projects were quoted as saying—I am talking about the Nevada graphics and big, giant boulders and rocks—"We applied for the Federal enhancement dollars and those can only be used for landscaping and pedestrian-type improvements." In other words, local officials in Nevada said they had no choice as to what to spend the money on.

In addition, the N-DOT Nevada transportation deputy director for southern Nevada was quoted as saying: "It's really getting out of hand to where these pots of money have those constraints associated with them and you can't spend money where you want to."

Florida spent \$3.4 million of stimulus transportation enhancement funding for a wildlife ecopassage. The wildlife crosswalk will be used by turtles and other animals that live in Lake Jackson, FL. The turtle tunnel will consist of a series of fences that will direct all the animal traffic to a 13-foot tunnel that will go under the road. Even though Florida has received millions in stimulus funds for the tunnel, the permanent ecopassage is only in the design stage and is not fully funded. It

needs \$6 million more, and it is unclear how long it will take to get the project built. Meanwhile, Florida has over 1,800 bridges in need of repair or improvements.

Other examples of wasteful and unnecessary mandated transportation enhancement projects include: \$400,000 for a Pennsylvania trolley museum; \$23 million for a Tennessee bicentennial history memorial; \$234,000 for an Art Walk in Vermont; \$160,000 for a Roman bathhouse renovation in West Virginia; \$500,000 for the renovation of the Toledo Harbor Lighthouse in Ohio; \$150,000 for a salamander crossing in Vermont; \$1 million for the North Carolina Transportation Museum; \$78,000 for a railroad caboose relocation and renovation; \$210,790 for the Merchant and Drivers Tavern Museum in New Jersey; \$40,000 spent on a new town sign in Iowa; \$216,000 for fencing around oil wells in Oklahoma; \$500,000 for a Santa Ana train station mural; \$120,000 to restore Crandall Farm in Rhode Island; \$44,500 on welcome signs in South Carolina; \$150,000 to print and produce brochures on landscaping and replace a brochure display case in Kansas; \$3 million on landscaping and a pedestrian walkway at the Indiana State Fairgrounds.

So here we are with \$1 billion spent just last year, more than \$12 billion gone since 1992, and the numbers go up. I hope my colleagues will vote to find it necessary that these kinds of funding would be prohibited for the programs such as I have outlined.

I have to be honest with my colleagues. If I had my way, about 80 cents out of every \$1 in gas taxes would stay in my home State of Arizona and in every State of America where it is collected and then we would let the Governors and city councils and mayors and county authorities make the decisions as to what that money should be spent on.

I remind my colleagues that we enacted the gas tax during the Eisenhower administration in order to build a national highway system. Long ago, the National Highway System was completed. Yet the money still goes from our citizens directly to the Federal Government, when it should be going to the States to make the decisions which they can make best. I doubt if many State authorities would have made the decisions such as I have just described there. I also believe a lot of the authorities and officials in various States would agree with the deputy director of the Nevada Department of Transportation, director for southern Nevada, who was quoted as saying:

It is really getting out of hand to where these pots of money have these constraints associated with them and you can't spend money where you want to.

I hope my colleagues will vote in favor of that amendment.

## AMENDMENT NO. 740

Madam President, according to a previous agreement, I will discuss amendment No. 740, which is to eliminate

funding for trade adjustment assistance for firms—I emphasize for firms. Again, in the interests of full disclosure, I believe trade adjustment assistance is a compromise that was made back under President Clinton's administration, when certain free-trade agreements, specifically as I recall NAFTA, was agreed to. The Trade Adjustment Assistance Program was set up for individuals who would be adversely affected as a result of the enactment of free-trade agreements.

We would not have enacted the free-trade agreements if we did not believe that the overwhelming effect of free-trade agreements would be beneficial to business in the United States and would result in hiring and jobs and a better economy. But I also understand there may be individuals in specific cases where these free-trade agreements hurt the businesses in certain places in the country.

I must say I opposed the increase in the trade adjustment assistance which was part of the deal made in order to ensure passage of the three free-trade agreements that were just concluded in this body a short time ago—the free-trade agreements with South Korea, Colombia, and Panama. But I do believe there are some aspects of this program we should examine more carefully.

The TAA for Firms Program provides matching grants of up to \$75,000 to firms that have been impacted by trade so the firms can hire private sector consultants to help them become competitive. The program is administered through a network of regional non-profit trade adjustment assistance centers that are chosen noncompetitively. It is my experience that wherever the Federal Government abandons competition, the American taxpayer usually loses. These TAACs have been known to charge exorbitant overhead rates of 60 percent of grant funding, and the Government Accountability Office has questioned the program's effectiveness and administrative costs. According to the President, this President, this administration sent over a termination list with its fiscal year 2012 budget. According to the President's own proposal in his own fiscal year 2012 budget: "The Administration proposes to eliminate the Economic Development Administration Trade Adjustment Assistance for Firms program."

That is not the proposal of the Senator from Arizona, although it is in this amendment. It is the proposal of the President of the United States. I think it would be hard for my colleagues on the other side of the aisle to argue he is insensitive to the plight of firms and individuals and companies that are affected by free-trade agreements.

According to the President's termination list, a message he sent over to Congress, the justification goes on to say: "The Administration believes that

it would be more effective to concentrate EDA's resources on public investments in infrastructure and institutions that promote innovation and entrepreneurship."

The inclusion of this program in the President's termination list is strong evidence we should no longer be funding the program. It also begs the question: Why are we choosing to spend almost \$16 million on a program we don't need and has consistently had its effectiveness questioned? This is money we don't have and don't need to spend.

As I said before, I have always been skeptical of trade adjustment assistance and similar programs such as this one for firms. I believe these programs are potential vehicles for government waste, where market interference unfairly puts the government in the position of choosing winners and losers. I believe the evidence stating that trade adjustment assistance and similar programs achieve their goals is suspect as well.

That fight is over, at least for the time being. But I might add there are still many questions about the TAA Program. We need to analyze whether the TAA Program is doing what it was intended to do. The following are some of the questions and concerns we should consider.

Does the TAA Program provide overly generous benefits to a narrow population? According to analysis from the Heritage Foundation, based on statistics from the Bureau of Labor Statistics, in the third quarter of fiscal year 2009, only 1 percent of mass layoffs were a result of import competition of overseas relocation.

Another question: Is there evidence that trade adjustment assistance benefits and training helped increase participants earnings? An analysis by Professor Kara M. Reynolds of American University found "little evidence that it (TAA) helps displaced workers find new, well-paying employment opportunities." In fact, TAA participants experienced a wage loss of 10 percent.

The same study found that in 2007 the Federal Government appropriated \$855.1 million to TAA programs. Of this amount, funding for training programs accounted for only 25 percent.

In 2007, the Office of Management and Budget rated the TAA Program as "ineffective." The OMB found that the TAA Program fails to use tax dollars effectively because, among other reasons, the program has failed to demonstrate the cost-effectiveness of achieving its goals. The American people are hurting. Unemployment remains at unacceptable levels and is estimated to continue to grow. We need to cut unnecessary spending, such as this program, at a time when our national debt has reached this unsustainable level. The American people face painful choices about how to cut our Federal budget.

I wish to conclude again by saying I don't believe the trade adjustment is a viable program. I also understand what

was decided by both sides of the House, with the support of some of my Republican colleagues, that trade adjustment was the price for passage of the three trade agreements that have been signed by the President of the United States. I think, in this case on this particular program, where the President of the United States has asked for its termination because of its ineffectiveness and its—and I believe it would be more effective to concentrate these resources on public investment in infrastructure and institutions that promote innovation and entrepreneurship—I hope we would abide by the recommendation of the President of the United States with whom, as my colleagues know, I am not always in total agreement.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. I wished to respond to my colleague from Arizona on a couple points. I rise in opposition to his amendment. I think there is a lot we agree on, based on the remarks he gave about making sure the program works and is efficient and delivers results for taxpayers. I don't agree with eliminating the program in this case.

I appreciate the words he said about trade adjustment assistance and his recognition that workers are going through a tough time right now. This amendment is a disagreement about what we do about firms. In this case, it is pretty simple. We have trade adjustment assistance that helps individual workers, and I think there is a lot of agreement on that. This particular program is about individual companies. Basically, what we are talking about is 265 firms in the country. The average quantum of assistance is a little more than \$62,000 per firm. Part of that is as simple as having an expert come into a company—because of foreign competition and I would say unfair foreign competition—and helping them with their process, being able to produce a product in a more efficient way, changing an assembly line or giving advice in a way that a company is not able to figure out on its own. It provides that technical assistance.

The other part about this is, it is an effort to make sure these firms can better compete in a very tough environment, frankly, that has often been undermined by trade agreements. That is my perspective. I know some don't share that.

The other number I would point to, in terms of the effectiveness of the program, is that 90 percent of the companies that received this trade adjustment assistance help for their technical assistance or otherwise are in business more than 5 years later. So I would debate the question about the effectiveness. It is the same spirit or the same belief that underlies trade adjustment itself. When a worker is thrown out of a job because of unfair foreign competition or the ravages of a tough economy, we say to that worker we are

going to retrain them to get them back into the workforce and that is the purpose of the worker part of this.

The same is true of a company. Sometimes a company gets its legs knocked out from under it in a bad economy, and we say we will have a program to allow an expert to come in and help them get through this period. It is not unlimited. There is a limited amount of money available nationally for those 265 firms. I think there is a lot of agreement about a basic disagreement about the need for a particular Trade Adjustment Assistance Program for the companies.

I would respectfully rise in opposition to the amendment of my friend from Arizona.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from Pennsylvania, and I will be very brief.

The President of the United States weighed in heavily in favor of renewal and even expansion of the Trade Adjustment Assistance Program. This amendment only applies to portions of the Trade Adjustment Assistance Program that the President and the administration specifically pointed out as being ineffective and sent over as a program for which they recommended termination. I hope my colleagues are not confused that this is an attack on an amendment which would destroy TAA. It would not. It only focuses very narrowly on the trade portion of the Trade Adjustment Assistance Program that the President and the administration pointed to as being ineffective and a program they requested be terminated. Frankly, I don't think it would have a dramatic effect on the entire Trade Adjustment Assistance Program. I am sorry to say.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

ALASKA DAY

Mr. BEGICH. I first wish to say I know my colleague from Alaska was on the floor talking. Today is Alaska Day. It was a great day for our country when the final transfer from Russia to the United States resulted in the great State of Alaska, which has incredible resources from which this country has benefited. I want to wish all the people back home a great Alaska Day.

AMENDMENT NO. 739

I came down to the floor because I know my friend from Arizona, Senator MCCAIN, has offered an amendment on elimination of transportation enhancements. Let me speak about two parts.

One, as a former mayor who dealt with this issue over and over but also as someone whose family has been in the business industry and understands the power of a great community and what it can do for the long-term economic health of the community when the infrastructure is designed and built right and also someone who was in the real estate industry.

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First, as a former mayor, we debated these issues a great deal on transportation enhancements. I know there will be issues at times, and it doesn't matter if it is this program or the Defense Department or Interior Department. I can name any department over the years that has had issues that have come up that have not had the most appropriate expenditure of the dollar. When we look at transportation enhancements, they are an incredible asset. I will tell you, from the aspect of Alaska and having served as the mayor of Anchorage for 5½ years, we built more roads than the last three mayors combined. In 5 years, we built a ton of roads to enhance our communities. But the roads of the 1950s and 1960s are no longer the viable roads of the future.

In the old days, they built them, paved them, maybe put a curb on, maybe a sidewalk, and that would be considered the road, the transportation network. Things have changed quite a bit. The roads we built in Anchorage not only had the curb, the sidewalk, the transportation enhancements, the landscaping that goes along with it—because when we put all of that into play, the net result is we get a better transportation network. One can utilize it, as we have done with a couple roads in our neighborhoods, to slow down traffic so they will not be a danger to the children within the zone. In the case of some, where we built pedestrian multi-use trails—which I can point to several within our own area when I was mayor in Anchorage—where these trails became huge enhancements for the neighborhood but also to our visitors.

When the visitors came and spent money on our economy, maybe they went to a place to visit or they went out fishing, but maybe they came back and went out after dinner to take a walk. These trails that were well designed and landscaped properly would be another experience they would see and feel and take back to their home and hometown.

This amendment Senator MCCAIN has brought forward is opposed by not only the U.S. Conference of Mayors but the National Tour Association, the U.S. Travel Association, the Southeastern Tourism Society, and many others are growing on the list because they see not only the value for improving the road infrastructure, but they see the value of attracting quality of life that makes the property values better around these enhancements, the tourism that comes along with it, and the value of economic development. I think there is just a lack of understanding by some Members because they like to pick one or two—and I would agree we have to constantly review these programs to make sure they are used for the right purposes. In this case, I will tell you—and I can show you project after project in Alaska where we saw a great value. It could be the Water Street improvements in Ketchikan, which during my time in the Senate in

the last 2½ years, I have seen that development change the Front Street of their community; the Kenai River Trail improvements—which many people know the great Kenai River has incredible fishing for salmon—to ensure that the trails are safe.

Why do we want the trails improved? If people are crawling over the banks, they deteriorate the banks, they create erosion and they destroy the habitat and destroy the great Salmon Creek. In Anchorage, where we improved Ship Creek with the same kinds of enhancements, why did we do that? Again, to make it safer for the pedestrians who viewed it and also to ensure that the \$600 million fishery that was and is in Anchorage would thrive because we are not damaging the habitat.

I can go on and on about project after project, where we saw great improvement of the road projects. I know some will believe the road projects are asphalt and maybe a little drain and that is it. I can tell you, from putting my hat on from the real estate industry—I spent many years in the real estate industry—what people looked for is the quality of the environment around them. If you were on a strip-paved road or barely a paved road with a little drain or curb, it had a certain value. If you were on a road that had a nice pedestrian pathway, nice curb and gutter and landscaping, I guarantee you those property values were stronger and better. The local community benefited from that because it now had stronger property taxes because of the higher property value. The homeowner benefited because they had an investment that would maintain its value because of the quality of the infrastructure. The roads, water, sewer system, in this case, the enhancements were of high quality.

Those who brush it off as wasteful expenditures, I can show you again project after project where we took substandard roads, enhanced them with transportation enhancement resources, dollars, and the net result was we had economic development occur around it. We had quality of life improve. We had better values in our properties that are owned by the private sector, whether it be commercial or residential.

Again, I would strongly recommend to my friend from Arizona that I know it is easy—because the staff who run around here always want to give the worst-case scenario of everything. We can always do that. That is easy to do. We can always find one project somewhere about something. But that is not what this is about. It is about the 90-plus percent or the 98-percent of projects that are incredible enhancements to the community. As a mayor and someone who was in the real estate industry, I have seen the value of these.

As I mentioned also, the organizations that don't support these, the tourism industry folks I mentioned who don't support these because they understand that when one is traveling

to a community, it is not just about the one item. They go in there—and let's use Alaska as an example—for king salmon fishing or maybe in the wintertime skiing, whatever it might be, there are these other pieces people experience.

In Alaska, we have some great trail systems that people rave about and they talk about. Whenever I go around the country and I run into someone who visited Alaska, they will tell me the name of the community they were visiting or talk about this trail or that trail. Ship Creek Trail is a beautiful trail that at lunchtime tons of people utilize. It is a huge benefit for producing the quality of life for downtown.

I would encourage—and I recognize there are things I agree with, with Senator MCCAIN, multiple things that I worked on with the Defense authorization, but this one I beg to differ on his rationale of getting rid of this resource. It is important for local communities. I wish to emphasize, the best part of this is these are not congressional earmarks. It is money set aside that the local communities, through their metropolitan planning efforts or in the State, through their efforts, decide on how to spend this money. It is the best way to allow local communities less Federal control to do the right thing based on some framework and guidelines here.

If we want less Federal Government, this is one of those programs that allows flexibility on the local end to do the right thing and do what they think will enhance our road improvements and communities, be it small neighborhoods or major highways.

As I have always done, I invite Senator MCCAIN to Alaska. I will take him on the bypass where we can drive, see some incredible beluga whales, go down to Girdwood and see an incredible rain forest at the same time. I will take him to four or five of these projects. He will want to pull over and take photos. Those will be federally funded projects that made it possible for him to do that.

Why is that important? Because if you drive the new Seward Highway from Anchorage to Girdwood, it is not the safest highway. These pullouts, these waysides, these enhancements have made it a safer place. You can pull over and see Dall sheep walking on the side of the mountains right there. Instead of stopping on the road and pulling off on the side there a little bit, you actually pull off into a wayside. It is safer, better for tourism. It does the right thing, ensuring that the project is a better project.

Again, I would challenge my friend from Arizona that I will gladly take him on many of these projects and show him the value of what we have done with them, the economic opportunity that goes along with them, the jobs that are created with them, the long-term benefit to the values of the properties that is associated with these

improvements that are in the private sector.

Madam President, I thank you for allowing me a few minutes. I again wish my friends and all my constituents back home a great Alaska Day. But I also wanted to talk about an important amendment that I think would be the wrong direction if we vote for it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. KOHL. Madam President, I ask unanimous consent that at 4:35 p.m., the Senate proceed to votes in relation to the following amendments: Cornyn No. 775, as modified with the changes that are at the desk; and McCain No. 740; that the time until 4:35 p.m. be equally divided between the two leaders or their designees; that no amendments or points of order be in order prior to the votes other than budget points of order; and that there be 2 minutes equally divided between the two votes; further, after the votes in relation to those amendments, the following Senators be recognized to offer the amendments listed: Vitter No. 769, Collins No. 804, Sanders No. 816, and Landriou No. 781.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The amendment (No. 775), as modified, is as follows:

After section 217 of title II of division B, insert the following:

SEC. 218. No funds made available under this Act shall be used to allow the knowing transfer of firearms to agents of drug cartels where law enforcement personnel of the United States do not continuously monitor or control such firearms at all times.

Mr. LEAHY. Mr. President, it is not a good idea to legislate law enforcement tactics on an appropriations bill. To the extent the amendment by the Senator from Texas that has been modified with the help of the subcommittee chair restates Department of Justice policy, it is unneeded. To the extent it seeks to create a well-intentioned implementation of that policy, it does so in a way that may adversely affect FBI operations and other law enforcement efforts, including joint task forces among Federal, State, and local law enforcement, without really adding to what the Attorney General has already said and done to ensure that certain tactics from Operation Fast and Furious not be used again.

The Department of Justice's Inspector General's Office has not yet completed its independent investigation of Operation Fast and Furious, which was a Bureau of Alcohol, Tobacco, Firearms and Explosives operation in Phoenix that apparently followed on the practices used in Tucson during the Bush administration in Operation Wide Receiver. I expect to examine the inspector general's report through briefings, and possibly a hearing, when that investigation is concluded. It is important to remember that there are ongoing and highly sensitive criminal in-

vestigations involved here, and I do not think anyone wants to unduly hamper the efforts of law enforcement agents to stem the fight against violent drug cartels in Mexico.

I appreciate that the Senator from Texas, like all of us, is deeply concerned. When he wrote to me asking for a hearing about the southern border, I asked Senator DURBIN, who then chaired the Crime Subcommittee, to work with him and accommodate his request. I certainly hope that congressional attention did not add to the pressure felt by law enforcement officers and agents to utilize aggressive and risky methods with inadequate resources.

Of course, we all mourn the loss of all of the agents who have died in the line of duty, including members of our Customs and Border Patrol and Immigration and Customs Enforcement. I have spoken previously about the loss of Jaime Zapata. This year we also mourn Hector Clark and Eduardo Rojas. Last year we lost five Department of Homeland Security, DHS, agents: Vincent Gallagher, John Zykas, Mark Van Doren, Floyd Collins, and, of course, Brian Terry. The year before that we lost another four agents: Nathaniel Afolayan, Cruz McGuire, Robert Rosas, Jr., and Trena McLaughlin.

Senator CORNYN has offered an amendment he describes as prohibiting funding for intentional "gun walking" programs. The Department of Justice already has a longstanding policy against the knowing transfer of firearms to criminals without proper monitoring or controls. I appreciate that the Senator from Texas, like all of us, is deeply concerned about law enforcement operations that could allow firearms to fall into the hands of violent criminals in Mexico.

I was concerned that the original text of his amendment would actually make it more difficult to investigate and prosecute gun traffickers. I am glad to see that Senator CORNYN has worked with Senator MIKULSKI to address some of my operational concerns with his amendment concerns that were also voiced by the Department of Justice. I am not sure that in the short time available to us that we have been able to rectify all of the unintended, collateral consequences this language might occasion, however. For example, I know the FBI has voiced serious operational concerns about the impact this amendment could have on their system of background checks through the National Instant Criminal Background Check System, NICS. I hope Senator CORNYN and others will continue to work with the Department of Justice, the FBI, and other law enforcement agencies to ensure that whatever final language may be included in law does not unduly hamper the ability of law enforcement, including efforts against violent drug cartels in Mexico.

The Attorney General recently reiterated that longstanding Department of Justice policy already prohibits the

transfer of firearms to known criminals without the proper monitoring or controls by law enforcement. Indeed, when Attorney General Holder testified about Operation Fast and Furious before the Senate Appropriations Subcommittee for Commerce, Justice, and Science in March, he stated that he had made it clear to the Department of Justice, including the U.S. Attorney's Offices and ATF agents nationwide, that "letting guns walk is not something that is acceptable." I also understand that earlier this year, this policy was expressly reiterated to prosecutors and agents in the field through guidance issued by the Deputy Attorney General. Accordingly, this amendment attempts to legislate a policy that is already in effect.

I am also concerned that Senator CORNYN has offered this amendment without the benefit of all of the facts. As I have noted, there is an independent investigation by the Department of Justice inspector general that is ongoing. Moreover, there is an ongoing criminal investigation and prosecution related to the tragic murder of Agent Brian Terry. I am sure Senator CORNYN would agree that we should all ensure that the FBI and the prosecutors assigned to the case can continue that criminal investigation without any interference or impediment. Contrary to Senator CORNYN's statement, there has been no conclusive evidence indicating that either of these guns connected to Operation Fast and Furious were "used" to murder Agent Terry.

Although the revised text of Senator CORNYN's amendment has addressed some of my operational concerns, I remain concerned with language that purports to require U.S. law enforcement personnel to continuously monitor and control any firearms that may be transferred during an operation. I cannot believe that is what is really intended. Many law enforcement operations are joint operations through joint task forces with State and local law enforcement. I do not believe the Senator from Texas means to construct a rigid protocol of tactics for such operations. Given the potential for operational problems that might arise from an overly literal application of the language, I am left to wonder whether this language is intended to apply to joint operations at all, since it would not make sense on the ground.

Again, I appreciate the intent of Senator CORNYN's amendment, and as I have demonstrated, I share his concern with the violence, drugs, and illegal gun trafficking along our borders. The strategy and tactics being used to fight these problems need to be both smart and effective. At the same time, I am confident the Senator from Texas would agree with me that we must also continue to support and honor the efforts of the thousands of Federal, State, and local law enforcement officers who are working tirelessly to keep our border safe.

October 18, 2011

## CONGRESSIONAL RECORD—SENATE

S6649

Mr. KOHL. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time in the quorum call be divided equally between both sides.

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

The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. KOHL. Madam 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.

The Senator from Wisconsin.

Mr. KOHL. Madam President, I ask for the yeas and nays on the Cornyn amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 775, as modified.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—99

Akaka	Gillibrand	Mikulski
Alexander	Graham	Moran
Ayotte	Grassley	Murkowski
Barrasso	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Hatch	Nelson (FL)
Bennet	Heller	Paul
Bingaman	Hoeben	Portman
Blumenthal	Hutchison	Pryor
Blunt	Inhofe	Reed
Boozman	Inouye	Reid
Boxer	Isakson	Risch
Brown (MA)	Johanns	Roberts
Brown (OH)	Johnson (SD)	Rockefeller
Burr	Johnson (WI)	Rubio
Cantwell	Kerry	Sanders
Cardin	Kirk	Schumer
Carper	Klobuchar	Sessions
Casey	Kohl	Shaheen
Chambliss	Kyl	Shelby
Coats	Landrieu	Snowe
Coburn	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Lee	Thune
Coons	Levin	Toomey
Corker	Lieberman	Udall (CO)
Cornyn	Lugar	Udall (NM)
Crapo	Manchin	Vitter
DeMint	McCain	Warner
Durbin	McCaskill	Webb
Enzi	McConnell	Whitehouse
Feinstein	Menendez	Wicker
Franken	Merkley	Wyden

NOT VOTING—1

Conrad

The amendment (No. 775), as modified, was agreed to.

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

Mr. REID. Madam President, we have been making progress on this bill. We are going to have one more vote now. We have already set up a vote in the morning. We have an agreement to do

so. There will be a little debate prior to that vote.

We hope to be able to work our way through some other amendments. If people have amendments they want to offer, they should do it, because time is wasting. We need to move through this appropriations bill and finish it this week.

AMENDMENT NO. 740

The ACTING PRESIDENT pro tempore. There will now be 2 minutes of debate on the McCain amendment.

The Senator from Arizona.

Mr. MCCAIN. Madam President, as usual, I am offering an amendment that is in compliance with the request of the President of the United States. The administration proposes to eliminate the Economic Development Administration Trade Adjustment Assistance Programs for firms, the TAAAF Program. That is the President's message on termination. I remind my colleagues that this provides matching grants so that firms can hire private sector consultants. On behalf of the President and my colleagues, I ask for an "aye" vote.

The Senator from Texas wishes to speak. Where is she? She deserted me. On Senator HUTCHISON's behalf, she supports the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I oppose the McCain amendment and OMB's recommendation. Trade adjustment assistance is an effective and modest program, and it is only \$15.8 million. The average grant is \$75,000. From 2006 to 2010, it has helped over 830 firms and created about 50,000 jobs.

I urge defeat of the McCain amendment.

The ACTING PRESIDENT pro tempore. Is there further debate?

If not, the question is on agreeing to the amendment.

Mr. MCCAIN. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays having been ordered.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD) is necessarily absent.

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

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—44

Alexander	Crapo	Kirk
Ayotte	DeMint	Kyl
Barrasso	Enzi	Lee
Blunt	Grassley	Lugar
Boozman	Hatch	McCain
Burr	Heller	McCaskill
Chambliss	Hoeben	McConnell
Coats	Hutchison	Moran
Coburn	Inhofe	Murkowski
Cochran	Isakson	Paul
Corker	Johanns	Portman
Cornyn	Johnson (WI)	Risch

Roberts  
Rubio  
Sessions

Shelby  
Thune  
Toomey

Vitter  
Wicker

NAYS—55

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

NOT VOTING—1

Conrad

The amendment (No. 740) was rejected.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask unanimous consent that the four amendments listed in the previous order and the following amendments from Senator COBURN, No. 791 and No. 792, be the only amendments in order to be offered this evening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maine.

AMENDMENT NO. 804 TO AMENDMENT NO. 738

Ms. COLLINS. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up my amendment, No. 804.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. UDALL of Colorado, Mr. CRAPO, Mr. RISCH, Ms. SNOWE, Ms. AYOTTE, Mr. JOHANNIS, Mr. NELSON of Nebraska, Mr. HOEVEN, Ms. MIKULSKI, Mr. JOHNSON of Wisconsin, and Mr. KOHL, proposes an amendment numbered 804 to amendment No. 738.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds to implement a rule that sets maximum limits on the serving of vegetables in school meal programs or is inconsistent with the recommendations of the most recent Dietary Guidelines for Americans for vegetables)

At the end of title VII of division A, add the following:

SEC. \_\_. None of the funds made available by this Act may be used to implement an interim final or final rule that—

(1) sets any maximum limits on the serving of vegetables in school meal programs established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); or

(2) is inconsistent with the recommendations of the most recent Dietary Guidelines for Americans for vegetables.