

Aside from the Military Construction/VA portion of the omnibus, I also regret I cannot register my support for certain parts of the State, Foreign Operations appropriations bill. I favor a number of provisions in the latter bill including funding for Israel, support for our allies in the war on terror and monies for Burmese refugees.

Finally, there are segments of the other four bills in this package that reflect Kentucky priorities that were included at my request and that I am supportive of.

In closing, it is unfortunate that the majority continues to avoid regular order. I am hopeful that the majority's effort in this regard does not presage further legislative shortcuts on matters of national importance.

The ACTING PRESIDENT pro tempore. Who yields time?

Time will be charged equally.

Mr. BENNET. Mr. President, I ask unanimous consent that the time during the quorum call be divided equally and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEVIN. Mr. President, if the Senator will withhold that.

Mr. BENNET. I will.

ARBITRATION PROCESS

Ms. STABENOW. Mr. President, I would like to discuss with the chairman of the Financial Services and General Government Appropriations Subcommittee, Senator DURBIN, as manager of the Financial Services Subcommittee section of the bill before the Senate, language included in the bill that creates a binding arbitration process for auto dealers associated with General Motors and Chrysler whose contracts were terminated as part of the manufacturers' restructuring efforts this year.

The difficult decisions made during the last year have highlighted the interconnectedness of the industry and have shown the impact that these companies have in every State in the country. I particularly understand how difficult this situation has been for Michigan auto dealers. My father and grandfather ran the Oldsmobile dealership in Clare, MI, where I grew up. My very first job was washing cars on that lot.

Thousands of employees, either directly employed by the companies or through the thousands of dealerships and suppliers, depend on the viability of the auto manufacturers. Without the manufacturers, there is no dealer network, and small businesses across the country would close, adding more devastating job losses as our economy is trying to recover. What we do here must continue to ensure a healthy future for the auto companies as they work towards a profitable future. When negotiating an agreement for arbitration was it the Chairman's intent that the dealers entitled to this arbitration process would only be the dealers that were terminated as a result of the bankruptcy?

Mr. DURBIN. Yes, it is my understanding that the only dealerships en-

titled to arbitration are those dealerships that were terminated as a result of the manufacturers' bankruptcy, rather than those that may have closed for other business reasons.

Ms. STABENOW. The statutory language for the arbitration process provides criteria that will be used to review each case. Is it the Chairman's goal that by considering the economic interest of the public at large the arbitrator should focus on maximizing the return of taxpayer dollars that have been invested in the company?

Mr. DURBIN. Yes, the economic interest of the public at large must be considered to ensure that the investments will be recovered as quickly as possible.

Ms. STABENOW. Additionally, when reviewing the cases, does the statutory language ensure arbitrators take into consideration the stability and protection of the existing dealer network?

Mr. DURBIN. Yes, the statutory language will allow arbitrators to review the potential impact of reinstating a dealership on the existing dealer network for the covered manufacturer, as well as on any dealer retained by the covered manufacturer in a given market territory.

Ms. STABENOW. I thank the Chairman for these clarifications and for his ongoing efforts to ensure a fair process for all stakeholders as the auto industry continues to restructure.

Mr. LEVIN. Mr. President, I would like to discuss with the chairman of the Financial Services and General Government Appropriations Subcommittee, Senator DURBIN, as manager of the Financial Services Subcommittee section of the bill before the Senate, two aspects of the provision included in that bill that establishes an arbitration process for review of decisions made by Chrysler and GM to terminate or wind down auto dealerships earlier this year. Under the process laid out in this provision, an arbitrator is to balance the economic interests of the covered dealership, the covered manufacturer, and the public at large by considering a number of factors. Those factors include the covered dealership's profitability, the covered manufacturer's overall business plan, the covered dealership's satisfaction of the performance objectives of the franchise agreement, and the covered dealership's performance in relation to the criteria used to terminate the dealership.

Is it the chairman's understanding that in looking at these factors, and in particular in looking at the dealership's profitability and the manufacturer's overall business plan, that the arbitrator will consider the profitability of the dealership with respect to the new vehicles sales of the covered manufacturer?

Mr. DURBIN. Yes, that is my understanding. In making decisions about the makeup of the dealership network, profitability in terms of new vehicles sales for that manufacturer is what is

critically important to the long-term financial health of the manufacturer. That manufacturer's long-term health is also vitally important to the Federal Government because of the significant taxpayer investment in these companies.

Mr. LEVIN. I thank the chairman for his assurances and his clarification.

I would also like to raise a question about the arbitration process established in this bill. The statutory language could be interpreted to allow for potentially as many as hundreds or thousands of arbitrators each involved in individual reviews of dealership decisions. I am concerned that a very large number of arbitrators would be unduly burdensome and impractical to the point of being unworkable. The statutory language requires that arbitrations be conducted in the State where the covered dealerships are located. It is my hope that the arbitration process could be managed in a given State so that there would be one arbitrator or a small manageable panel of arbitrators within any given State. Does the chairman believe that the statutory language would allow for management of arbitration in this way?

Mr. DURBIN. Yes, the statutory language would allow for that. The primary intent of this provision is to ensure that covered dealerships have a fair and impartial review of the termination decision. I agree with the Senator from Michigan that we should try to avoid a situation where there would be hundreds or even thousands of individual arbitrators.

Mr. LEVIN. Mr. President, I want to highlight several provisions of the legislation now before us that I believe will provide important benefits to Michigan and the Nation, and one that I think does not serve the Nation's interests.

The Consolidated Appropriations Act of 2010 contains provisions that will improve our health care system, ensure that contracting dollars do not flow to companies avoiding income taxes by incorporating overseas, improve Federal oversight of our financial system, and improve educational opportunity for our citizens.

I am especially pleased to see an increase in funding for health information technology, HIT. This bill will provide \$61 million to the Office of the National Coordinator for Health Information Technology. These funds will help increase administrative efficiency and move our current system away from paper-based organization. This will help ensure that doctors and patients have the necessary information easily accessible when working together to make important health care decisions and ensure that health records of individuals remain confidential. Improving the interoperability of our HIT systems will not only enhance the quality of care, experts believe that improved HIT will reduce health care costs for all Americans, streamlining

billing practices and reducing administrative costs that waste so many billions of dollars.

I strongly support the bill's language continuing the prohibition on Federal contracts with "inverted" corporations. Corporate inversions—the practice of incorporating some or all of a U.S.-based company's businesses overseas—are transparent tax-avoidance schemes. There is no reason we should provide taxpayer dollars to firms that dodge their tax obligations, and I am pleased that we will continue to bar such companies from Federal contracting unless doing so would damage national security.

The bill also includes an increase of \$151 million in funding for the Securities and Exchange Commission. This increased funding will support enhanced enforcement, capital market oversight, and investor protection activities, including investigations of accounting fraud, market manipulation, insider trading, and investment scams that target seniors and low-income communities. This is a wise investment in protecting our citizens and our economy from those who seek to profit by fraud or from taking excessive risks that endanger the financial system.

Also included are a number of important education provisions. The legislation would increase the maximum Pell grant award by \$200, to \$5,500; provide funding for disadvantaged, disabled and first-generation college students; and restore \$1.5 billion in title I funding for disadvantaged public school students. Of particular importance is \$11.5 billion in funding for Individuals with Disabilities Education Act programs, which marks a historic Federal commitment to education of those with disabilities.

There are also important measures that will help boost Michigan's economy and its future. I am pleased that this bill includes \$1 million I requested for the Thunder Bay National Marine Sanctuary and Underwater Preserve in Alpena. Part of the National Oceanic and Atmospheric Administration's sanctuary system, the Thunder Bay Sanctuary protects well-preserved shipwrecks that are a valuable piece of Michigan's history and our Nation's. The funding provided in this bill will allow for expansion of the Great Lakes Maritime Heritage Center to include a Science Hall and other facilities that will allow more people to explore and learn about Michigan's maritime history.

The bill also includes important language that will bring the Woodward Avenue Light Rail Project closer to reality, an important economic development project in the heart of metropolitan Detroit. The conferees retained language regarding the Woodward Avenue project similar to language I authored for the Senate bill.

These all are important provisions worthy of support. But I am disappointed that the legislation includes a provision requiring General Motors and Chrysler to submit to binding,

third-party arbitration in disputes with auto dealerships closed as part of those companies' restructuring efforts.

There is widespread agreement among auto industry analysts that GM and Chrysler needed to consolidate their dealer structure in order to compete. The Federal Government has made a substantial—and wise—investment in these companies, which are key components of our manufacturing sector. Submitting to arbitration of decisions already approved in bankruptcy court risks hampering the recoveries these companies and their workers are fighting so hard to achieve. My vote in favor of this act follows reassurances I received from the chairman of the Financial Services and General Government Appropriations Subcommittee, Senator DURBIN, in response to my concerns about a number of provisions in the arbitration language.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

All time has expired.

The question is on agreeing to the conference report.

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

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. DORGAN), the Senator from Oregon (Mr. MERKLEY), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

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

The result was announced—yeas 57, nays 35, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—57

Akaka	Burriss	Collins
Baucus	Byrd	Conrad
Begich	Cantwell	Dodd
Bennet	Cardin	Durbin
Bingaman	Carper	Feinstein
Boxer	Casey	Franken
Brown	Cochran	Gillibrand

Hagan	Levin	Schumer
Harkin	Lieberman	Shaheen
Inouye	Lincoln	Shelby
Johnson	Menendez	Specter
Kaufman	Mikulski	Stabenow
Kerry	Nelson (NE)	Tester
Kirk	Nelson (FL)	Udall (CO)
Klobuchar	Pryor	Udall (NM)
Kohl	Reed	Warner
Landrieu	Reid	Webb
Lautenberg	Rockefeller	Whitehouse
Leahy	Sanders	Wyden

NAYS—35

Alexander	Enzi	McCain
Barrasso	Feingold	McCaskill
Bayh	Graham	McConnell
Bennett	Grassley	Murkowski
Brownback	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Corker	Isakson	Webb
Cornyn	Johanns	Snowe
Crapo	Kyl	Thune
DeMint	LeMieux	Vitter
Ensign	Lugar	Wicker

NOT VOTING—8

Bond	Dorgan	Murray
Bunning	Inhofe	Voinovich
Coburn	Merkley	

The conference report was agreed to.

Mr. DURBIN. Mr. 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 Republican leader is recognized.

SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009

Mr. MCCONNELL. Mr. President, I think you are going to report the bill. Regular order.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, is not the regular order to return to the health care bill?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

Pending:

Reid amendment No. 2786, in the nature of a substitute.

Dorgan modified amendment No. 2793 (to amendment No. 2786), to provide for the importation of prescription drugs.

Crapo motion to commit the bill to the Committee on Finance, with instructions.

The PRESIDING OFFICER. The Republican leader is recognized.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, we have been trying for days to get an agreement to have votes on the health care measure, which our friends on the other side have said is so important to the American people and must be acted upon before Christmas. Specifically, the pending Crapo amendment has been there since last Tuesday. It now becomes clear to me the majority simply does not want to have any more votes, presumably pending these discussions that are going on behind closed doors on a bill that almost nobody in the Senate has seen.