greatest increased water flows to Walker Lake; and

(2) $5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

AMENDMENT NO. 476, AS MODIFIED

Mr. COCHRAN. Mr. President, I make the same request with respect to modification of the amendment previously agreed to by the Senate on behalf of Senator BYRD.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, $4,000,000 may be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. COCHRAN. I thank the Chair and yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:17 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

## EMERGENCY SUPPLEMENTAL APPROPRATIONS ACT, 2005—Continued

Mr. FRIST. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, Senators have until 4:30 p.m. today to file second-degree amendments to both the Mikulski amendment and the underlying bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## UNANIMOUS-CONSENT REQUEST

Mr. FRIST. Mr. President, given the objection to the Foreign Relations Committee meeting, I ask unanimous consent that the Senate stand in recess until 4:20.

Mrs. BOXER. I object.

Mr. REED. I object.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate recess until 4:20.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

| | | |
|---|---|---|
| Coburn | Cornyn | Frist |

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. FRIST. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—91

| | | |
|---|---|---|
| Akaka | Domenici | McConnell |
| Alexander | Dorgan | Murkowski |
| Allard | Ensign | Murray |
| Bayh | Enzi | Nelson (FL) |
| Bennett | Feinstein | Nelson (NE) |
| Biden | Frist | Pryor |
| Bingaman | Graham | Reed |
| Bond | Grassley | Reid |
| Brownback | Gregg | Roberts |
| Bunning | Hagel | Rockefeller |
| Burns | Harkin | Salazar |
| Burr | Hatch | Santorum |
| Byrd | Hutchison | Sarbanes |
| Cantwell | Inhofe | Schumer |
| Carper | Inouye | Sessions |
| Chafee | Isakson | Shelby |
| Chambliss | Jeffords | Smith |
| Clinton | Johnson | Snowe |
| Coburn | Kennedy | Specter |
| Cochran | Kerry | Stabenow |
| Coleman | Kohl | Stevens |
| Collins | Kyl | Sununu |
| Conrad | Landrieu | Talent |
| Cornyn | Lautenberg | Thomas |
| Corzine | Levin | Thune |
| Craig | Lieberman | Vitter |
| Crapo | Lincoln | Voinovich |
| Dayton | Lott | Warner |
| DeMint | Lugar | Wyden |
| DeWine | Martinez | |
| Dole | McCain | |

NAYS—7

| | | |
|---|---|---|
| Allen | Dodd | Mikulski |
| Baucus | Feingold | |
| Boxer | Leahy | |

NOT VOTING—2

| | |
|---|---|
| Durbin | Obama |

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

## MOTION TO RECESS

Mr. FRIST. Mr. President, I modify the pending motion to recess until 5 p.m. I send the motion to the desk.

The PRESIDING OFFICER. The motion is so modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FRIST. I ask unanimous consent that at 5 p.m., Senator MIKULSKI have 5 minutes before the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object.

Mr. WARNER. Mr. President, as a cosponsor, I would like to have 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is the Senator saying we are going to go immediately to cloture on the whole bill or the Mikulski amendment at 5 o'clock?

Mr. FRIST. For clarification, at 5 o'clock Senator MIKULSKI will be given 5 minutes before the cloture vote on her amendment.

Mrs. HUTCHISON. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, as a cosponsor, may I have 2 minutes?

Mr. FRIST. Mr. President, I think that will be fine, with the leadership on both sides for 2 additional minutes, Senator MIKULSKI for 5 minutes, and Senator WARNER for 2 minutes.

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

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—56

| | | |
|---|---|---|
| Alexander | DeWine | McCain |
| Allard | Dole | McConnell |
| Allen | Domenici | Murkowski |
| Bennett | Ensign | Roberts |
| Bond | Enzi | Santorum |
| Brownback | Frist | Sessions |
| Bunning | Graham | Shelby |
| Burns | Grassley | Smith |
| Burr | Gregg | Snowe |
| Chafee | Hagel | Specter |
| Chambliss | Hatch | Stevens |
| Coburn | Hutchison | Sununu |
| Cochran | Inhofe | Talent |
| Coleman | Isakson | Thomas |
| Collins | Kohl | Thune |
| Cornyn | Kyl | Vitter |
| Craig | Lott | Voinovich |
| Crapo | Lugar | Warner |
| DeMint | Martinez | |

NAYS—42

| | | |
|---|---|---|
| Akaka | Dorgan | Lincoln |
| Baucus | Feingold | Mikulski |
| Bayh | Feinstein | Murray |
| Biden | Harkin | Nelson (FL) |
| Bingaman | Inouye | Nelson (NE) |
| Boxer | Jeffords | Pryor |
| Byrd | Johnson | Reed |
| Cantwell | Kennedy | Reid |
| Carper | Kerry | Rockefeller |
| Clinton | Landrieu | Salazar |
| Conrad | Lautenberg | Sarbanes |
| Corzine | Leahy | Schumer |
| Dayton | Levin | Stabenow |
| Dodd | Lieberman | Wyden |

NOT VOTING—2

Durbin Obama

The motion was agreed to.

RECESS

Thereupon, the Senate, at 3:16 p.m., recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

AMENDMENT NO. 387

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland, Ms. MIKULSKI, will be recognized for 5 minutes, and the Senator from Virginia, Mr. WARNER, will be recognized for 2 minutes.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to ask my colleagues to support cloture on the amendment I offered last week on the H–2B visas. This amendment is desperately needed by small and seasonal business throughout the United States. This amendment is identical to the bipartisan bill I introduced in February called the Save Our Small and Seasonal Business Act. It is designed to be a temporary solution to the seasonal worker shortage that many coastal and resort States are facing.

My amendment helps keep American jobs, keep American companies open, and yet retains control of our borders. Small and seasonal businesses all over our country are in crisis. They need seasonal workers before the summer can begin so they can survive. For years they relied on an H–2B visa program to meet their needs. The program allows businesses to hire temporary seasonal foreign workers with a mandated return to their home country when no other American workers are available. But this year they can't get temporary labor. They have been facing this for the last couple of years because they have been shut out of the program because there is a cap and the cap is reached by the wintertime.

My amendment will help these employers by doing three things. One, it temporarily exempts good actor workers from the H–2B cap so employers can apply for and name employees who have already come back and forth to the United States. It protects against fraud, and it provides a fair and balanced allocation of the H–2B visas between winter and summer people.

Let me be clear about my amendment. First, it protects American jobs. Second, it is a short-term remedy because it is only a 2-year solution. What it does is exempt seasonal workers from the cap. That means there are no new workers. There are no new immigrants. It means no more new guest workers. It means people who have worked here before, who have played by the rules and gone back home, are the only ones who will be eligible. They have to have been here in the last 3 years, worked in absolute compliance with the law, and returned back home to Mexico as required. So it is not new people who will be exempt. It is an employment program for them and for us.

The employer has to go through the whole Department of Labor and Homeland Security process so we are in compliance with labor rules and we also ensure our national security.

Like my colleagues, I worry about fraud, so we have very strong antifraud provisions. We also make the system better by creating this fair allocation. We recognize that States need them in the winter, but summertime people need them, too.

There is a crisis. Thousands of small businesses are affected by this. Hitting the cap so early had a great impact on my own State of Maryland. We had a lot of summer seasonal business, particularly over there on the Eastern Shore, working that wonderful, fabulous Chesapeake Bay I share with my colleagues from Virginia. Many of our businesses used this program year after year. First they hire all the American workers they can find. Then they turn to the H–2B to find additional workers. I could give example after example, but I can tell you, if they don't get this legislation, they will have to either lay off their permanent workers or close their doors.

So what my legislation is all about is a simple legislative remedy with strong bipartisan support. It is realistic. It is specific. It is narrow. It stands up for American companies, protects our borders.

I know there is great urgency about this. We absolutely need it. Many of my companies have been around for 100 years working in the Chesapeake Bay. Many of them provide the livelihoods not only on the Eastern Shore but because of our fabulous seafood processing industry. We provide jobs also in Baltimore and Bethesda and other parts. We have to pass this legislation because if they can't start to hire within the next few weeks, we are going to close American companies and end up with an even more porous border.

I urge the adoption of my amendment, but now I urge my colleagues to vote for cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Maryland. We have in the Senate a great respect and admiration for the junior Senator from Maryland for her commitment for the little person. I cannot think of another example in her long and distinguished career in the Senate where there is a clearer case for the small business, that individual who is struggling to make an honest living and provide jobs for others.

We have before us today a tremendous challenge as it relates to immigration on a wide range of issues. This program works. It is very small in comparison to others, but it works. It serves the small businesses, not only seafood, which we have talked about before in the context of this amendment, but other small things—the bed and breakfasts, the small hotels that are so important in our respective States and elsewhere in America.

I say to our colleagues, as they come to join us, it is essential that we pass this to help this category of small businesspersons and to lend credence to a program that works. For every one of these individuals who is brought in, it would be my judgment—and I concur, with my distinguished colleague—that there are two or three permanent American workers whose jobs are supported by their efforts. Oftentimes most of these come in for a short period, some several months, largely in the summertime; some in the fall. Then they go back to their homes beyond the borders of the United States. But the American worker then takes their work product and it enables them to have a full-time, 12-month means of employment.

This is one on which my colleagues will be proud to vote for cloture. In effect, it will enable this legislation to pass.

On behalf of the leadership of the Senate, I ask unanimous consent that the filing deadline for second-degree amendments be extended until the beginning of the cloture vote on the Mikulski amendment.

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

Ms. MIKULSKI. Mr. President, I yield whatever time I have remaining to the other Senator from Virginia.

Mr. WARNER. Do I not have a bit of time on mine? On behalf of my colleague from Virginia, I ask unanimous consent that he proceed for 2 minutes.

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

The Senator from Virginia.

Mr. ALLEN. Mr. President, I thank my colleague from Virginia and the Senator from Maryland. I urge my colleagues to support the cloture motion on this amendment. It is an immigration issue, but it is more importantly a small business issue.

There are a lot of small businesses that are seasonal in nature. It may be construction, landscaping, tourism, or the seafood industry. It is vitally important that we get this immigration, this H–2B visa issue, in order logically. These are law-abiding citizens who want to keep their small business in operation, providing the services that people in their communities so desire.

I thank the Chair and my colleagues. I hope all colleagues will vote for small businesses, to keep them operating in States all across the Nation and bring some common sense with this temporary remedy, to bring some common sense and reasonableness to a program that every year ends up in a crisis. I thank Senator MIKULSKI of Maryland and my colleague from Virginia, Senator WARNER, of course. All of us are