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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

From the rising of the Sun to its setting, O God, Your Name is great among the nations. Thank You for the wonder of Your grace. Today, help our Senators to be energized by Your amazing grace. May this favor enhance their talents and impart to them the wisdom to choose the right path. As they walk on the road that glorifies You, help them to use their individual abilities to supplement the talents of their colleagues, producing a bipartisan harvest of accomplishments. May they commit themselves this day to Your care, for You are their mighty rock and fortress. Lord, lead and guide them so Your Name will be honored. We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BENNET thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Hawaii.

SCHEDULE

Mr. INOUYE. Mr. President, today the Senate will resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act, and Senators will offer and debate amendments to the bill. Rollcall votes are expected to occur this afternoon.

RECOGNITION OF THE MINORITY LEADER

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

ECONOMIC STIMULUS

Mr. MCCONNELL. Mr. President, according to news reports, President Obama called congressional Democrats down to the White House the other night to talk about treating this bill more like a stimulus and less like a free-for-all. I commend him for the effort, and I appreciate it. But after yesterday, it looks like they might need a little stronger medicine.

The day after meeting with President Obama, Democrats offered several amendments, and every single one of them added to the total cost of what is already nearly a $1 trillion spending bill—$11 billion here, $25 billion there, another $6 billion somewhere else. In other words, real money. By the end of the first day of debate, the Democrats had added more than $41 billion to a bill that just about everybody else in America already thought was way too large.

On this side, Republicans offered some amendments too. All but one of them, however, sought to reduce the cost to the taxpayer. The President has tried to set some priorities. Unfortunately, Democrats keep throwing more money on top of an already incredibly bloated bill. At some point, we are going to have to learn to say no. If we are going to help the economy, we need to get hold of this bill. Making it bigger isn't the answer.

The President seems to recognize the problem. Last night, he repeated his call for discipline and restraint in a letter from OMB Director Peter Orszag. Its message was clear: The Nation is in a financial crisis and this bill should be stripped of everything that doesn't aim to solve the crisis. As Mr. Orszag put it:

> We need to recognize that this recovery and reinvestment plan is an extraordinary response to an extraordinary crisis. It should not be seen as an opportunity to abandon the fiscal discipline that we owe each and every taxpayer in spending their money and in keeping the United States strong in a global, interdependent economy.

This bill needs to be cut down, and we should start with permanent spending increases, which only increase the deficit from here on out. This is a permanent spending bill that has been slipped into a bill that was supposed to be timely, temporary, and targeted. Many of these additions may be very worthwhile, but they still don't belong in a stimulus bill. So the first thing we need to do is to make a distinction between what grows the economy and what doesn't. Anything that doesn't ought to be cut out. That is what the President said Monday night, that is what he repeated last night; that we need to be, ''trimming out things that aren't relevant to putting people back

to work right now.'' Add up the interest payments and the total nonstimulus spending in this bill and it is in the hundreds of billions of dollars. That is completely unacceptable. So there is plenty of room to cut wasteful spending. As Mr. Orszag said in his letter, the President is ''insistent that the bill not include any earmarks or special projects.''

Another target-rich area is all the spending for new programs that claim to create new jobs. What people don't realize is how much it costs to create some of these jobs. Analysts have gone through some of the new programs and here is what they have found: $524 million for a program at the State Department that promises to create 388 jobs here at home. That comes to $1.35 million per job. Let me say that again—$1.35 million per job; $125 million to the DC Water and Sewer Authority. That comes to $480,000 per job; $100 million for 300 jobs at USAID. That is $333,333 per job. That is just a few. Surely there are more efficient ways to create jobs with taxpayer dollars than this.

So there is plenty of room to cut in this bill. It is time we started doing some of it. America is already staring at a $1 trillion deficit. The bill before us, in its current form, will cost, with interest, $1.3 trillion. Soon we will vote on an Omnibus appropriations bill that will cost $400 billion. The President is talking about another round of bank bailout funds that some say could cost as much as $4 trillion.

This isn't monopoly money. All of it is borrowed money that the taxpayers will have to pay back at some point. I think we owe it to them to lay all these things out on the table now so America can see what it is getting into. I think we owe it to the American people to show some restraint on the bill that is before us.

Republicans have a number of better ideas for making this bill simpler, more targeted, and more directly beneficial to workers and to homeowners. We have been sharing those ideas for the last week.

Economists from both sides of the political spectrum recognize that housing is at the root of the current downturn. We believe we should fix this problem first before we do anything else—certainly before we build a fish barrier, spruce up offices for bureaucrats or build a water slide. I mean, let's get serious. We can either talk about fixing the problem or we can take immediate action to help 40 million Americans stay in their homes or buy a new one. That is our choice.

We need to act now, and soon we will be voting on a Republican better idea to do that. But first there are plenty of areas in this bill we can cut, even before we consider some of the good Republican ideas that President Obama has said he wants to incorporate into the final bill.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Reid (for Inouye-Baucus) amendment No. 98, in the nature of a substitute.

Murray amendment No. 110 (to amendment No. 98), to strengthen the infrastructure investments made by the bill.

Vitter amendment No. 179 (to amendment No. 98), to eliminate unnecessary spending.

Isakson-Lieberman amendment No. 106 (to amendment No. 98), to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases.

Feingold amendment No. 140 (to amendment No. 98), to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking and requiring disclosure of lobbying by recipients of Federal funds.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be permitted to engage in a colloquy with my colleagues for 30 minutes, if that is acceptable to the Democratic leader.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INOUYE. I have no objection.

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

Mr. ALEXANDER. I thank the Senator from Hawaii.

Mr. President, Republicans believe we ought to fix housing first, and we would like to talk about that for the next 30 minutes. Mr. KYL, the Senator from Arizona, is here for that purpose. Senator ENSIGN is here, who is the author of an amendment that would provide 4 to 4.5 percent mortgages for up to 40 million Americans so they could buy new homes or refinance their homes. Senator ISAKSON is here, who is the author of an amendment to provide a $15,000 tax credit for the next year to home buyers. We believe these proposals would provide instant jobs. Housing got us into this economic mess and housing will help get us out of the economic mess.

The Republican leader, Senator MCCONNELL, stated that this is a big spending bill. I was on the telephone last night with the former budget chairman, Senator Domenici of New Mexico, who has been counting in his retirement. He said it took our country from the time of its founding until the mid-1980s to build up a national debt of $850 billion, which was the size of this so-called stimulus package when it came over here. So we are talking about real borrowed money, and our goal is to reorient the whole discussion: first, to housing; second, to letting taxpayers keep more of their own money; and, third, to get out of the bill those items that don't belong in the bill.

The former Congressional Budget Office director in a previous Democratic administration, Alice Rivlin, said we needed two bills: one that would include legislation that created jobs now, and the second would be legislation that might take care of long-term investments that might help our country. She also said there should be a very high standard before we borrow money to spend on anything. Especially, as the Republican leader said, at a time when next week we may be hearing from Secretary Geithner that we need several hundred billion more for banks, and then more for housing, and then more for the annual appropriations bill, and then, on down the road, more for a health care bill.

I see the Senator from Arizona, and he is a leading member of the Finance Committee, and as we think about reorienting toward housing, it would seem to me, Senator KYL, that we should focus whatever money we do have on the problem we have, rather than borrowing money to dribble away on good-sounding projects that don't actually create jobs.

Mr. KYL. Mr. President, if I may respond to the Senator from Tennessee, I appreciate his focusing laser-like on this subject because, in many respects, we are treating the symptoms of the problem rather than the cause of the problem. While treating the symptoms can have some salutary effect, we are not going to ultimately solve the problem until we get to the root cause. I think virtually everybody agrees on what the root cause of our current problem is: the collapse in the housing market.

That caused a cascade of other effects, and some of those can be dealt with simultaneously, but the bottom line is, as the Senator from Tennessee noted, we have to fix housing first. Because until that is done, all of these other symptoms are going to remain.

There are a lot of smart people whose comments I am going to quote in a moment because they are well-respected—they are Democrats, they are Republicans—but I would like to turn, first, to my folks in Arizona, whom I like to go to for advice. So last weekend I met with Marge Lindsey and her group of realtors from Arizona. I started out by saying: All right, tell me how it is. She said: It is not good. They went on to point out that between 40 and 50 percent of what they are doing right now is dealing with foreclosed homes, or what they call the short sales—getting ready for foreclosure—and that the rest

of the market has virtually collapsed. She said something has to be done to prevent the continual decline in housing values.

My home is in a perfectly good neighborhood, I pay my mortgage and all, but it is out of my control because all around me others are having problems first, and because they are having problems, it is drawing down the value all around. So the people who play by the rules and are not doing anything wrong are along for the ride down. Until that is arrested somehow, all of these other symptoms are going to exist. That was their analysis.

Now, if I can quote some other really smart people, if the Senator would allow me? The New York Times editorialized toward the end of last year, November 11:

Clearly, the [financial] system won't stabilize until house prices stabilize, and banks won't lend freely until losses on mortgages abate. . . .All roads, into and out of this crisis, run through the housing market.

Exactly the point the Senator from Tennessee is making.

Very recently, January 28, the new CBO Director, Director Elmendorf, said this in testimony:

Turmoil in the housing and financial markets is likely to continue for some time, even with vigorous policy actions and especially without them. Most economists think that to generate a strong economic recovery in the next few years, further actions to restore the health of the housing sector and the financial system are needed.

A lot of folks rely on the advice of Warren Buffett. I probably should have relied more on the advice of Warren Buffett in my investments. I wouldn't be where I am today. Here is what he said in April of last year:

Things connected with housing, whether it's in brick or whether it's in carpet, those businesses have shown no uptick at all.

His point is that once housing is affected, everything else that has anything to do with it is affected.

He made this comment as well:

The market won't really come back until you get a close to normal ratio of vacant homes, homes up for sale, compared to current sales, and that's a ways off.

We all listened with interest to Alan Greenspan. Here is what he testified to in October of last year before Congress:

A necessary condition for this crisis to end is a stabilization of home prices in the United States.

Here is how I conclude all of this. The experts back home agree. They are seeing it on the ground. The experts who look at this from an economic standpoint, from a national macroeconomic standpoint, all agree. We need to heed their advice and address the housing crisis first. We cannot wave a magic wand and stop housing prices from falling further. Would that we could—we would do that. That is the market, and we cannot stop it.

What is happening is that home values, in a ratio to mortgages, are declining. So the other point the realtors told me was a lot of folks, through no fault of their own, are now paying mortgages on homes that exceed the value of the homes. That is the upside-down element. We can affect that part of the equation. That is to say, we can't stop home values from going down until we do something else first. The thing we can affect is that ratio—what people are paying in their monthly mortgage payments. I am going to leave that to my colleagues. The Senator from Nevada is here. The Senator from Georgia is here. They will talk about a better Republican idea of how we can address the costs people pay every month in their mortgages as a way of making them more healthy, able to pay the mortgage, not going to foreclosure, and ultimately fix that value of homes, and then we are on the road to recovery.

The last thing I wanted to say is that the secondary market is a big part of this. When people lend money, they want to then be able to sell that mortgage to somebody. That has been the whole cause of this, the toxic loans in the secondary market.

In the Financial Times of August 26 of last year, Dr. Martin Feldstein said:

Mortgage-backed securities cannot be valued with any confidence until there is more certainty about the future of house prices.

That is precisely what this better Republican idea will get to. As my colleagues discuss these ideas of how to relate to this, remember what the original cause of the problem is, what we can affect and we cannot affect, and how we want to focus laser-like on fixing housing first.

I appreciate the efforts of my colleagues.

Mr. ALEXANDER. I thank my colleague for so clearly outlining the nature of the problem.

I ask the Chair to let me know when we are about 3 minutes from the expiration of the time.

There are two proposals we want to discuss which will be voted on here which will help fix housing first. The first is by the Senator from Nevada, Mr. ENSIGN. Senator ENSIGN's idea will create instant jobs and give a jolt to the economy by giving an opportunity for lower mortgage interest rates to those persons who can afford to buy or refinance their home.

There are other proposals, such as one by Senator MCCAIN, to help people who are in trouble with their mortgage. The focus of my colleague is primarily on creditworthy Americans who could refinance their homes, save money, and get the economy moving?

Mr. ENSIGN. The case has been made that we need to fix housing first because it is the underlying cancer that is affecting our economy, and that cancer is spreading to other parts of the economy. If we don't fix the underlying problem, it will not matter what we do with the rest of the spending bill. The spending bill will not help the economy. It is going to continue to get worse and worse. If home values continue to go down, no amount of money will help. We will have to have three or four TARP funds, trillions of dollars, and it is not going to help because we have not fixed the underlying problem.

Several of us got together. I happen to be the lead author on the bill, but this is really a compilation of many minds trying to fix housing. We have incorporated one of the ideas from Senator ISAKSON. I will let him describe that.

One of the hallmarks of the bill is we try to fix housing in the bill. We eliminate the wasteful spending, and we have some targeted tax credits for families and small businesses to create jobs. We try to take care of the whole package, and we do it in a fiscally responsible way, so the total cost will be under $500 billion. It is not the $1.1 trillion the other side of the aisle has put forward. Such spending would put a tremendous burden on future generations.

What we have said is that we are going to allow anybody who has at least a 5-percent equity in their home, or if they already have a Fannie Mae-Freddie Mac-backed loan, would be able to refinance at about 4 to 4.2 percent interest. The average American family who refinances will save over $400 a month. That is not a one-time saving, that is a saving through a 30-year fixed loan. That is like a permanent tax cut.

All of the economists have told us that one-time tax rebates give a little bit of stimulus, but they cost more in the long run. Permanent tax relief is really what stimulates the economy. If a family only receives a one-time check, all they are going to do is pay down debt or save the money. But if they know they have over $400 per month, that is something they can count on. They can budget that. They can start spending that money. That will actually help stimulate the economy.

The economists who have done the studies are Glenn Hubbard and Christopher Mayer. They said this proposal will stabilize housing prices next year because they expect housing prices to go down by about 12 percent. If you lower interest rates on the average of about 1 percent, that historically has meant housing prices will rise about 7 to 8 percent. If we can get them down about a point and a half, they figure, instead of going down by 12 percent, housing prices next year will stabilize. We all know that if you do not stabilize housing prices in the United States, the economy is going to continue to go down.

I see the Presiding Officer from Colorado. Colorado is one of those States that is having pretty severe housing problems now. These housing problems started in my State, Nevada, and in Arizona, Florida, and California. They have spread to the rest of the country, so we need to fix this problem.

We have also put a limit on it. This is not for the rich. This is for loans of $750,000 or less. That is going to take

care of about 40 million Americans. That is what this takes care of, 40 million people refinancing their homes—40 million households, not Americans—40 million households getting on average of over $400 a month. Put the numbers to that. That is a huge amount of money.

Mr. ALEXANDER. If I understand the proposal, if I am a creditworthy person, I can either refinance my home or buy a new home at this lower interest rate, which today would be between 4 and 4.5 percent for a 30-year mortgage. I would have that fixed mortgage all during that 30-year period of time.

Mr. ENSIGN. That is correct, this is a 30-year fixed. This is not an adjustable rate mortgage where there are catches and in a couple of years it is going to go up again and I am going to have to worry about that. This is a 30-year fixed mortgage that can be very significant to the average family's budget.

We believe this is going to be one of the big fixes. You combine this with the other proposals, such as Senator ISAKSON's proposal, and the other things Senator MCCAIN and Senator MARTINEZ have come in with, with mitigation for those who are underwater—ours does some for houses that are underwater if they are backed by Fannie and Freddie right now. But all of the proposals together—I believe we can do exactly what we say needs to be done, and that is fix housing first.

But our proposal also takes out all of the spending in the bill that does not create jobs. We still have tax incentives in there for families and small businesses to create jobs, but we take out all of the $200 billion in new entitlement spending, all of the other 34 new programs that are created. There are some worthy programs in there that most of us would support. At this time, we should not be spending money on new programs, especially without eliminating other programs.

We believe this is fiscally responsible. It is going to help the economy. It is going to help the housing problem. I appreciate your leadership, Senator ALEXANDER, for bringing this colloquy together so we can talk about the underlying problem.

Mr. ALEXANDER. I thank Senator ENSIGN for his leadership and the others on his proposal for their leadership. We hope it will attract significant Democratic support because I have heard a number of them say we need to reorient this toward housing.

Senator ISAKSON was in the real estate business, and he often reminds us that this is not the first housing crisis we have had. As I understand, Senator ISAKSON, the proposal you made, which would be a tax credit to homeowners, was originally tried in the 1970s and worked?

Mr. ISAKSON. That is right, and I am delighted the Senator from Tennessee called this colloquy today so we could talk for a few minutes about what JON KYL and JOHN ENSIGN said is the heart of the problem, and that is the U.S. housing market. Our houses are down 25 percent in the last 18 months. Equity lines of credit are dissolved because houses are underwater. One in five houses in the United States is worth less than what is owed on it.

It is rare when you come to the Senate at a time of crisis that you have a roadmap to success. Most of the time, we are trying to feel our way through to find out what to do that is right. We have a roadmap to success.

I ask unanimous consent to have printed in the RECORD two articles from the New York Times, one from April of 1975 and one from July of 1975.

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

[From the New York Times, Apr. 7, 1975]

NEW HOUSING TAX CREDIT PROMPTS RISE IN BUYING

(By James Feron)

WHITE PLAINS.—The recently enacted Federal tax credit on the purchase of new homes and condominiums signed into law last weekend seems to be achieving or even surpassing its goal, according to initial reports on the situation in the metropolitan area.

Robert Jacobs, marketing director of One Strawberry Hills, a 118-unit condominium in Stamford, Conn., said today that the idea was to reduce the number of empty and unsold housing units, ''and to that we can only say, ''Amen.''

Mr. Jacobs closed deals on four apartments yesterday and today, he said. ''All were borderline cases where the $2,000 tax credit was evidently the deciding factor. We expect to sell at least 10 of our 35 unsold units the same way.''

He reported that ''one man who had been renting in this area, who was married but with no children, said he was in a 50 per cent tax bracket and the $2,000 credit would mean more like $4,000 to him.''

The new Federal law calls for a 5 per cent tax credit up to a maximum of $2,000 on the purchase of a new home providing, among other things that the title be taken or the purchase be made between March 12 and Dec. 31 of this year, that construction began before March 26 and that the house or condominium is the purchaser's principal residence.

BUILDERS PLEASED

Builders interviewed in several suburban areas were generally delighted with the law although they agreed that one provision in particular would create difficulties until the Internal Revenue Service produced a clarified regulation.

The difficult clause provides that purchases eligible for the tax credit be made at the lowest price the home was offered for sale. There is vast uncertainty over how to determine ''lowest price'' in an industry where prices listed in prospectus offerings can be adjusted upward, where rebates and other incentives change price levels and where subsequent additions to unsold units change their value.

John Tedesco, president of Kaufman and Broad Homes of New Jersey, said a few days ago that ''if the I.R.S. doesn't set some limit, such as 'lowest price since Jan. 1, 1975,' for example, the incentives will evaporate.''

Potential buyers, meanwhile are said to have been visiting housing developments and condominiums throughout the metropolitan area in increasing numbers since last Sunday, the day after the measure became law. Martin Berger, president of. Robert Martin Corporation, Westchester's largest builder, said a few days ago:

''We couldn't believe it. Easter Sunday is not usually a big day and the weather was bad, but people came to us asking about the credit and others reported the same thing. This could provide a tremendous boost to the sagging residential construction business and to the economy in general.''

INTEREST GROWS

The initial interest of last weekend was intensified yesterday and today, especially where builders linked the $2,000 credit to their advertisements in today's newspapers.

At Applehill Farm, in Chappaqua, Westchester County, where 56 homes are being built in a ''cluster'' development on a former estate, Tom Bisogno said couples shopping for the $70,000 to $90,000 units were asking if they qualify for the rebate. ''We believe they do,'' he said, ''because ours is a new development, less than a year old.''

Mr. Bisogno said he expected the real crush to come when the I.R.S. clarified its ''lowest price'' ruling: Louis Buonpane of the Parker Imperial, a condominium on the Palisades in North Bergen, NJ, opposite 86th Street in Manhattan, said traffic increased ''right after the President signed the bill.''

Like Strawberry Hill, Parker Imperial is adding the tax credit to previously announced price reductions necessitated by a sluggish market. ''It's a good selling tool, this tax credit, added to everything else,'' Mr. Buonpane said.

Another question puzzling some builders was how to define when construction began. Many felt that the I.R.S. would refer to putting down a ''footing,'' or pouring concrete, but Mr. Tesdesco asked, ''If you clear the plot and install services have you started construction on a house?''

Builders said that setting Dec. 31 as the cut-off date would force quick decisions, which they liked. One builder said, ''We're going to begin 'countdown' advertising as soon as we can—'You have only 100 days to make up your mind, etc.,'—to encourage decisions. It could be dynamite for this market.''

[From the New York Times, July 27, 1975]

HOME BUYERS GET A NEW ENTICEMENT

(By Ernest Dickinson)

Thousands of new housing units throughout the nation that failed to meet the price qualification for 5 per cent Federal tax credit will do so now because of an amendment liberalizing the law.

The change, builders predict, will give an added boost to new-home buying, especially between Labor Day and the end of the year.

The law as it was passed in March specified that new houses, condominiums and mobile homes had to be sold at the lowest price for which they had ever been offered if their buyers were to be eligible for the credit of as much as $2,000.

But some builders with units that had been on the market many months did not roll back prices to their original levels because, they said, they could not do so without losing money.

Under the amendment, which was signed into law June 30, the builder must certify only that the price is the lowest at which the home has been offered since Feb. 28, 1975.

The change greatly enlarges the number of qualifying properties from which home buyers can choose this summer and fall. The increase is most apparent among high-rise condominiums.

At The Greenhouse In Cliffside Park, N.J., for example, 100 of the 340 units remain

unsold. None of them qualified for the tax credit previously, but all of them do now.

Ira Norris, the president of the Kaufman and Broad Development Company, the builder, explained why. A high-rise condominium is a large project, he noted, and once construction starts, the entire building must be completed. During the two-year construction period, however, many costs escalated month by month. So completed apartments cannot be sold at the price for which they were offered two years earlier.

Ordinarily, builders of low-rise or single-family detached housing can avoid that trap. If houses are not selling, the builder can simply stop construction.

The new tax-law provision helps not only future buyers but some past buyers as well. Its benefits are retroactive. A buyer who closed a deal in the spring but did not qualify for a tax credit then may now be able to obtain it.

This will be true if the only reason the property was not eligible then was that the builder had sold it at a price he raised before Feb. 28. A recent buyer who believes that his new-home purchase may now entitle him to a tax credit should contact his builder or local Internal Revenue Service office.

Some developers are taking the Initiative in such situations. The builder of High Point of Hartsdale, in Westchester County, for example, will soon be sending letters of congratulation and the required certificates to about eight buyers who previously purchased condominium apartments that only now qualify for the credit.

Leland Zaubeler, a vice president of the Robert Martin Corporation of Elmsford, which is building the 500-unit High Point, said that about 15 per cent of the unsold partments that previously did not qualify for a tax credit do qualify now. ''The amendment is beneficial,'' Mr. Zaubeler said. ''It helps carry out the original intent of the law—to move new housing.''

The biggest problem with the legislation, according to many builders, is that many people still do not understand what a tax credit is.

According to Mr. Norris, they refuse to believe it is not simply a tax deduction. ''We've had people bring lawyers into our offices because they think we are trying to sell them a bill of goods,'' he said. A tax credit is subtracted from the final sum one owes the Government. If a home buyer qualified for a $1,750 tax credit and his tax bill came to $1,750 or less, he would not pay any tax.

Despite widespread misunderstanding, however, people are starting to shop around again at last,'' said a spokesman for U.S. Home Corporation in Clearwater, Fla., one of the nation's largest builders. ''The tax credit has gotten people out looking, though they may end up buying homes that don't qualify.''

George A. Frank, who heads the Builders Institute of Westchester and Putnam counties, agrees.

Westchester has about 800 new unsold condominium units but very few new single-family homes, he said, adding: ''Because of costs, with new houses bringing about $75,000 here, there has been no large-scale building.''

But Mr. Frank and others believe that a ''countdown psychology'' will develop in the fall as more and more buyers realize that they have only until the end of the year to get a tax credit.

''It's a very persuasive opportunity,'' said one builder. ''If the average condominium sells for $50,000, you can put down $5,000, or 10 per cent, because most developers offer a 90 per cent mortgage. Then the $2,000 off your income tax represents 40 per cent of the down payment''

The amount of the tax credit is figured by taking 5 per cent of the total cost of acquisition (including closing costs), minus any profit the buyer might realize in selling his old house. The credit cannot exceed the total tax liability. If a buyer qualifies for a maximum $2,000 credit but his Federal tax totals only $1500, the latter amount is all he can claim.

In general, homes that were never before occupied and that were under construction or completed before March 26, 1975, qualify for the credit.

Mr. ISAKSON. I will read the headlines: ''New Housing Tax Credit Prompts Rise in Buying; Consumers Respond to Federal Law by Closing Deals on Condominiums and Homes Here, Builders Say,'' and ''Home Buyers Get a New Enticement.''

In 1975, when the average price of a house was $35,000, the United States was in worse shape than we are in today. We are fast approaching it, but we were worse. There was a 3-year supply of unsold houses on the market, and there were no buyers.

Congress, the Democratic Congress, and Gerald Ford, a Republican President, passed a housing tax credit of $2,000 for a family who bought and occupied as their home a standing vacant house in inventory at the time, which is because all the inventory was new homes. That $2,000 tax credit spurred people to go to the marketplace, spurred them to buy those houses, and in 1 year's time we went from a 3-year supply of housing to a 10-month supply of housing. We solved 70 percent of the problem with a tax credit.

What we are talking about in our legislation is a bill I introduced in January of last year. Everybody said it cost too much. Then, it cost $11.4 billion. We have now spent $3 or $4 trillion, and we have not solved the problem yet. I suggest it is time we looked at an economical solution.

What we have offered is a $15,000 or 10 percent of the purchase price of the house, whichever is less, tax credit which could be claimed against the 2008 tax return that will be filed in April or can be taken 50 percent in 2009, 50 percent in 2010. What the family gets is a $15,000 tax credit or, as I said, 10 percent of the purchase price, whichever is less.

This is going to benefit mainstream America. When they receive it, they have to live in the house for 3 years as their home. If for some reason they move out during that time, it is prorated. But what will happen in America now is what happened in 1975 when these articles in the Times reported: Sales will come back, the floor will be put under the housing market, values will stabilize, and they will begin to appreciate. And, as they do, equity will return to America's families; stability will return to the basic biggest asset our families have, their home; and we will begin to work our way out of this deep downward spiral we are currently in.

As has been said, it is not a catch phrase and it is not a slogan. If we do not fix housing first, it does not matter what else we fix because throwing money at the symptoms, as JON KYL said, will not work. If you are a doctor and you are trying to cure a patient, you go to the root of the infection or the root of the problem, and you cut it out or you deal with it.

This proposal, providing good, efficient, effective mortgage money for refinance for Americans with good credit or those with Freddie Mac and Fannie Mae loans, this will bring borrowers who are in the market back to the market and will solve the problem.

My last comment to the Senator from Tennessee—I call people who used to work for me all the time to see how it is going. I call them in various States, including the State of Tennessee.

In Atlanta, GA, a couple of weeks ago, I talked to Glennis Beacham, who is very successful. I said: Glennis, have you got a lot of buyers?

She said: I have a lot of buyers, Johnnie. They have money. They want one of two things: They want a foreclosure or a short sale.

Right now you have a bottom-fishing market. You do not have people who see any opportunity, and the buyers who are in are exploiting; they are not investing. It is time we incentivize all American families with their own money because it is their tax money against which the credit will be taken to go out and buy a house. When we do, we will begin to fix housing first, and we will begin to stabilize a very teetering economy.

I commend the Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Georgia. Just to make sure it is clear, sometimes we confuse tax deduction and tax credit. This is a $15,000 tax credit. That means cash money, real money, that you can, instead of paying it to the IRS, put in your pocket. Am I correct?

Mr. ISAKSON. You can invest it in your house.

Mr. ALEXANDER. You can invest it in your house. The Senator from Wyoming is here.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 7 and a half minutes remaining.

Mr. ALEXANDER. Mr. President, please let me know when 2 minutes is remaining.

I thank the Senator from Georgia. We have now heard a proposal to give to all creditworthy Americans, which can be up to 40 million, the opportunity to buy or refinance a house with a Treasury-backed 4- to 4.5-percent mortgage. We have heard Senator ISAKSON's proposal to give everyone who buys a home within this next year up to a $15,000 tax credit.

The Senator from Wyoming was a small businessman before he came to the Senate and is our only accountant here. What is the Senator's reaction to that, and how does he see housing fitting into the economic stimulus package that is being discussed?

Mr. ENZI. We need to pass a bill that will fix housing first. We recognized the problem about a year and a half ago, but Congress has not focused on the housing piece of that and come up with a solution that will work to fix housing.

''Fix Housing First,'' the slogan the Senator came up with, I appreciate the efforts of the Senator from Tennessee and the understanding that he has of this and the ability to pull people together. I thank Senator ENSIGN for all of the work he has done on a substitute bill. I particularly thank the Senator from Georgia, Mr. ISAKSON, for an idea that he has seen work before and knows will work again and has done the math on it to update it to today. But we have to fix housing first. That is what started the problem, that is what is continuing the problem, that is what has tightened the pocketbooks of Americans.

A realtor from Buffalo, WY, was in my office yesterday. He said the banks do have some money, that they had made 50 loans, they were processing 50 loans at the moment. He said, unfortunately, only two of those were for house sales. The rest of them were all refinancing as the interest rates have come down.

Even people who can afford to buy a house are not buying a house because they do not know where the bottom is in the housing market. So until we do something to put a bottom in the housing market and assure people who have bought houses as part of their retirement that their value is not going to go clear through the floor, America is not going to recover from this. People are not going to start spending. It is not Government spending that solves the problem, it is individual spending that solves the problem. And the individuals have stopped spending.

Government money spends twice, circulates twice; private money circulates seven times. We have to get the private money, the individual money, the personal money, back into the economy again, and that will make a difference.

The crisis began with the decline of housing prices in our Nation, a rising tide of foreclosures from homeowners who could no longer afford to make mortgage payments. The decline in the housing market sent shockwaves through our financial system as everybody realized their triple-A-rated investments looked more like junk bonds. With banks unwilling to lend against assets of an unknown value, our credit market came grinding to a halt. That is where we are today.

Now, the original plan of TARP was to buy toxic loans, to get those out of the market, to stabilize the banks. That did not happen. When we work in a hurry to pass something around here, particularly if it deals with a lot of dollars, we can often wind up in a different direction than where we thought we were going. Right now this bill is not focused on housing. It needs to be focused on housing, and focused on housing first.

Government spending by itself will not solve the problem. We cannot spend our way out of it. We have tried that before. We tried it in the 1930s. Government interference did not help. So we need to take some of this money and devote it to stemming foreclosures, invigorating the housing market, and getting our financial institutions and individual investors to step back into the market without fear.

I have a lot more I would like to say, but I know our time is limited. I would like the Senator from Tennessee to be able to conclude this discussion, conclude the beginning of the long discussion I hope will put housing first. Until we solve housing first, we do not have a solution.

Mr. ALEXANDER. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. The Senator from Tennessee has 3 minutes remaining.

Mr. ALEXANDER. I thank the Senator from Wyoming for his leadership and his understanding of business that has come the hard way, through experience in his town.

The Senator from Arizona, Mr. MCCAIN, is on the Senate floor to speak on a different amendment. But he, too, has a proposal that will deal with fixing housing first. So our point is this: We understand Americans are hurting, that our economy is in a slump. But we also understand that if we do not deal with the national debt, we will be doing the worst thing that we could ever do to the working men and women of America: that is, having long-term inflation where dollars do not amount to anything and you cannot buy anything.

So our focus, instead of adding to the debt by over $1 trillion, is to reorient the stimulus package toward a true stimulus and fix housing first. That is what the 4-percent mortgage for creditworthy Americans is for. That is what the $15,000 tax credit for home buyers is for. That is what the Republican proposals to help people with foreclosures are for. That is part 1, fix housing first.

Part 2 is let people keep more of their own money. Those are tax reductions. Then part 3 is take off this bill all of the spending items that do not have anything to do with creating jobs now. So we welcome the calls for bipartisan work. We are ready to work. We have good ideas: fix housing first, let people keep more of their own money, and focus the bill on spending projects that create jobs today, not those that do not.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I appreciate the courtesy of Senator FEINGOLD and Senator MCCAIN, who I know have a very important amendment. They have allowed me to come to the floor before them and speak about the amendment Senator SNOWE and I will be offering later.

I thank Senator FEINGOLD and Senator MCCAIN, and it is not my intention to give a lengthy speech at this point.

Last week, Americans were horrified to hear the news that Citigroup and other companies receiving taxpayer money from the Troubled Asset Relief Program were paying their employees billions and billions of dollars in bonuses.

Today, along with Senator OLYMPIA SNOWE, our colleague from Maine, I will offer a bipartisan amendment to this legislation that makes it clear it is not enough to say these Wall Street bonuses are wrong; they have to be paid back.

Taxpayers must be protected, and that is what the amendment Senator SNOWE and I are offering will do. Our proposal gives the institutions that received Troubled Asset Relief Program money and paid these outlandish bonuses a simple choice: The institutions will pay back the cash portion of any bonus paid in excess of $100,000 within 120 days of the amendment's enactment or those institutions would face an excise tax of 35 percent on what is not repaid to the Treasury.

The money can be repaid by buying back the preferred stock the Federal Government owns in these companies or in any other fashion the institution chooses. Senator SNOWE and I have had extensive legal review with respect to the constitutionality of this provision. We believe it passes constitutional muster.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter sent to me yesterday by Edward Kleinbard of the Joint Committee on Taxation.

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

DEAR SENATOR WYDEN: You have asked me whether I believe that there is a constitutional issue associated with your legislative proposal to impose an excise tax on certain 2008 bonuses paid by TARP recipients that do not repay the amount of those bonuses in 2009 (through redeeming the preferred stock issued to the United States). There are many Supreme Court and other cases that have considered the question of when a tax might be held to be unconstitutional by virtue of its retroactive application, and as a result I am not able to answer your question definitively without more time to read the extensive jurisprudence. As a very preliminary matter, however, I believe that your proposal would be held to be constitutional if challenged in court.

First, I believe that there is a powerful argument that your proposal is simply not retroactive. Taxpayers can avoid the tax completely by repurchasing shares they sold to the United States; the excise tax would be imposed, not on prior bonuses, but on the taxpayer's affirmative post-enactment decision not to repurchase those shares at the same price that the shares were sold to the United States. Moreover, the timing, repurchase price and amount of shares that must be repurchased are not punitive, and are commensurate with the conduct that Congress can rationally find to be contrary to the purpose and intent of the EESA legislation that authorized the Treasury's investments.

Even if the excise tax were (contrary to the conclusion suggested above) viewed as having retroactive effect, the Supreme Court

has generally given a high level of judicial deference to economic legislation and has repeatedly upheld retroactive taxation as constitutional, so long as the legislation is ''supported by a legitimate legislative purpose furthered by rational means . . .'' *Pension Benefit Guaranty Corp.* v. *R.A. Gray & Co.*, 467 U.S. 717 (1984). For example, under the Tax Reform Act of 1969, an individual was permitted a $30,000 exemption in calculating his minimum tax liability. The Revenue Act of 1976, passed in October of 1976, reduced the exemption to $10,000 and applied the change retroactively to all tax years beginning after December 31, 1975. The Supreme Court upheld this retroactive amendment in *United States* v. *Darusmont*, 499 U.S. 292 (1981).

As another example, the Tax Reform Act of 1986 granted a special deduction for the sale of employer securities by an estate to an employee stock ownership plan (''ESOP''). In December of 1987 Congress amended the statute to provide that the securities sold to an ESOP must have been directly owned by the decedent immediately prior to his or her death, and made the amendment effective as if it had been contained in the statute as originally enacted. In *United States* v. *Carlton*, 512 U.S. 26 (1994), the Supreme Court once again upheld the retroactive application of the tax, in this case against an estate that had relied on the original language to engage in a transaction that it believed would have reduced its tax liability by several million dollars. There are numerous other appellate and Supreme Court cases to similar effect.

Your legislative proposal presents a particularly strong case for constitutionality since it has only a modest look-back period, as was the case in *Darusmont*, and is arguably a curative measure (with regard to the executive compensation provisions of TARP), as was the case in *Carlton*.

Please let me know if you have any further questions.

EDWARD KLEINBARD,
Joint Committee on Taxation.

Mr. WYDEN. I will read briefly now from the letter from Mr. Kleinbard. I will quote from the second paragraph:

There is a powerful argument that your proposal is simply not retroactive.

It is his judgment, based on what he has been able to look at thus far, it would be constitutional.

Mr. Kleinbard states specifically:

Taxpayers can avoid the tax completely by repurchasing shares they sold to the United States; the excise tax would be imposed not on prior bonuses, but on the taxpayer's affirmative post-enactment decision not to repurchase those shares at the same price that the shares were sold to the United States. Moreover, the timing, repurchase price and amount of shares that must be repurchased are not punitive, and are commensurate with the conduct that Congress can rationally find to be contrary to the purpose and intent of the EESA legislation that authorized the Treasury's investments.

I think anyone who looks at the letter from the Joint Committee on Taxation will see that the bipartisan amendment Senator SNOWE and I will be offering with respect to excessive cash bonuses is a matter that does pass constitutional muster and clearly is in the taxpayers' interest.

I note my colleagues, particularly from Tennessee and Georgia, have made a number of good points that I happen to feel strongly about with respect to the need to address the current housing crisis, and one of the things we have seen with respect to housing and all of the other economic challenges we have is we have to get people's confidence back in the American economy.

I believe the Snowe-Wyden amendment will help to generate that confidence by saying at some point we are going to say excessive bonuses are being paid, in effect, with taxpayer money. I mean these are companies who received billions and billions of taxpayer dollars.

If we are going to have the confidence we need to promote housing, as the distinguished Senators from Tennessee and Georgia both noted, we have to make sure taxpayers do not say: This is wrong. This is not right to give these excessive bonuses with taxpayer money.

I would note that Senator SNOWE and I set the limit for bonuses at $100,000. So, clearly, we want to be sensitive to the young person getting started in financial services, someone, perhaps, who was a secretary. But it is the outlandish bonuses that we are concerned about.

I would also note these TARP institutions have not yet paid their 2008 taxes. So what we have is a situation where a number of these companies have not yet paid their 2008 taxes. In other parts of this economic recovery legislation we are giving retroactive tax benefits. Certainly, that is the case with the net operating loss provisions, the carryback provisions, with respect to business.

So it seems to me, if you are giving those kinds of retroactive tax breaks, you surely ought to take steps to protect taxpayers, as Senator SNOWE and I seek to do with our legislation. The bottom line is, the Wall Street firms that took bailout money knew they were not supposed to pay their executives lavish bonuses, but they went ahead and paid out more than $18 billion in bonuses anyway.

The Wyden-Snowe amendment makes sure these firms can't take the money and give the Congress and taxpayers the runaround. If they took the bailout money, the Wall Street firms either have to pay taxpayers back for the excessive bonuses, or they ought to pay a tax on these bonus payments. Either way, they should not be allowed to pay outrageous bonuses to executives and stick taxpayers with the bill. It is fundamentally wrong to reward with billions of taxpayer dollars this kind of conduct. We have all heard about handing out of bonuses to executives at firms responsible for the current economic meltdown. But what happened a couple of weeks ago takes this to a completely different level. At a time when the Congress is faced almost on a weekly basis with requests for billions of dollars of additional money, how in the world can we allow these kinds of bonuses, with taxpayer money, to stand, as if the economy were booming?

My colleagues from Wisconsin and Arizona have been waiting patiently. I hope Members will look at the amendment Senator SNOWE and I are offering. I hope they will look at the legal analysis provided by the Joint Committee on Taxation with respect to how and why this particular proposal passes constitutional muster. I hope the Senate will say it is not enough to just give speeches about how it is wrong to hand out these bonuses with taxpayer money but will back bipartisan legislation to correct it and to protect taxpayers at a critical time when we must increase confidence in how major economic decisions are made.

I yield the floor.

AMENDMENT NO. 140

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent that the pending business be set aside and that we take up amendment No. 140.

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

Mr. FEINGOLD. Madam President, I am pleased to be working with a tripartisan group on this issue: Senators MCCASKILL, GRAHAM, LIEBERMAN, BURR, and COBURN and, of course, most significantly, how great it is to be working again with my friend JOHN MCCAIN. This is an issue, in addition to ones we have worked on over the years, that he and I care deeply about, trying to deal with the abuse of earmarks. It is a real cancer in our budget system.

Our amendment is straightforward. It establishes a 60-vote point of order against unauthorized earmarks in appropriations bills. It also requires that recipients of Federal funding disclose what they spend on lobbying.

Before arguing the need for the amendment, I want to briefly acknowledge that we have actually come a long way in recent years in disclosing earmarks. In the last Congress, we passed the Honest Leadership and Open Government Act of 2007, more commonly referred to as the ethics and lobbying reform bill. That measure was the most significant earmark reform Congress has ever enacted, and it reflected what I think is a growing recognition by Members that the business-as-usual days of using earmarks to avoid the scrutiny of the authorizing process or of competitive grants are coming to an end. It was no accident that the two Presidential nominees of the two major parties were major players on that reform package. It would be a mistake not to acknowledge how far we have come. The Honest Leadership and Open Government Act was an enormous step forward. I commend the majority leader, Senator REID, as well as our former colleague from Illinois, President Obama, for their work in ensuring that landmark bill passed. But it would be a mistake not to admit that we still have a long way to go.

Our amendment will build on the significant achievements of the 110th Congress by moving from what has largely

been a system designed to dissuade the use of earmarks through disclosure to one that actually makes it much more difficult to enact them. The principal provision of this amendment is the establishment of a point of order against unauthorized earmarks on appropriations bills. Obviously, to overcome the point of order, supporters of the unauthorized earmark will need to obtain a supermajority of the Senate. As a further deterrent, the bill provides that any earmarked funding which is successfully stricken from the appropriations bill will be unavailable for other spending in the bill. It isn't the sort of a thing where you can borrow from one piece and fix it with another. You have to reduce the bill by that amount.

As I mentioned earlier, the amendment also requires all recipients of Federal funds to disclose any money spent on registered lobbyists. It is only fair that the American people know which entities receiving Federal funding are spending money to lobby Congress. There may be no connection between the lobbying and the Federal funding, but a little transparency would help everyone decide that for themselves.

I truly am delighted that President Obama is committed to keeping this stimulus package free of earmarks. We can ensure that his commitment is made good on future appropriations bills by adopting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I am pleased to join with my good friend Senator FEINGOLD in offering this fiscally responsible amendment, along with Senators MCCASKILL, BURR, LIEBERMAN, GRAHAM, COBURN, and others. May I say that I find there are very few pleasant aspects of losing an election, but one of them that I most value is going back to work with my friend from Wisconsin, Senator FEINGOLD, whom, for now many years, I have had the great honor and privilege of working with as we attempt to bring about the reforms which will help restore the confidence and trust of the American people in the way we do business in Washington but also in our stewardship of their tax dollars. I am pleased to join with my good friend Senator FEINGOLD.

Senator FEINGOLD outlined the provisions of the amendment so I don't want to repeat them. But I also want to point out that some people are saying: Why should we have this on this legislation, when this stimulus package does not directly apply? We know there is an omnibus appropriations bill coming down the pike. The House of Representatives intends to take it up soon. There is apparently, unfortunately, another TARP that may be coming, not to mention the other appropriations bills that will be coming. So the sooner we address this issue, the better off we will be. I also think one of the reasons why support for the stimulus package is rapidly eroding is because you don't have to call it an earmark and it doesn't have to be technically an earmark, but when you see many of the provisions in this stimulus bill, they have nothing to do with stimulus and everything to do with spending. They are fundamentally earmarks as well, certainly in their effect.

It is not only appropriate but necessary to adopt this amendment so that the American people will know in the future, when we make tough decisions, this kind of practice of adding absolutely unnecessary, unwarranted spending of their tax dollars on appropriations bills without a proper process of scrutiny and ability to reject them will not occur. It will not restore their confidence. The stimulus package before us is important, but right now the American people see it not as a stimulus but a spending package. That is why this provision will restore some confidence in the future way we address their tax dollars.

Every time Senator FEINGOLD and I have tried to kill off a specific unwanted and unnecessary and, many times, outrageous appropriation, if we had succeeded, it would have taken down the whole bill. So one of the important aspects of this legislation is to allow us to rifleshot and remove unnecessary and wasteful spending.

I don't have to go through the list, but it is always kind of fun to do it. Even though we passed in January 2007, by a vote of 96 to 2, an ethics and lobbying reform package that had meaningful reforms, by August of 2007, we were presented with a bill containing very watered-down earmark provisions and doing far too little to rein in wasteful earmarks. Since we adopted the much heralded reforms of January 2007, we have spent $188,000 for the Lobster Institute, which includes a lobster cam at the bottom of the ocean, which so far we have been unable to make work; $98,000 to develop a walking tour of Boydton, VA, population 454; $212,000 for olive fruit fly research in Paris, France; $1.95 million for the Charles B. Rangel Center for Public Service; $150,000 for the Montana Sheep Institute—almost every one of these earmarks location specific required—$345,000 for tree planting in Chicago; $196,000 for the renovation of an historic post office in Las Vegas; $150,000 for the STEEED program, Soaring Towards Educational Enrichment via Equine Discovery, a youth program in Washington, DC; $100,000 for Cooters Pond Park in Prattville, AL; $50,000 for construction of a National Mule and Packers Museum in Bishop, CA; $244,000 for bee research in Weslaco, TX.

The point is, some of these projects I am talking about may have virtue. It may be of the utmost national importance in this time of record deficits that we have a lobster cam at the bottom of the ocean and that we should spend $188,000 for it. But it should be subject to debate and discussion and amendment and acceptance or rejection.

What Senator FEINGOLD and I are seeking is a process where these earmarks can be judged on their value, their contribution to the overall economy, and whether they are necessary. Under the present system, they are still inserted without the Congress having the ability to carefully examine them.

It also would require recipients of Federal dollars to disclose any amounts that the recipient has expended on registered lobbyists. There is a new game in town—not so new, it has been going on for some years, but it grows—and that is that special interests, universities, others will go to a specific lobbying group, and they will then seek the earmarks this interest desires and believes is required. There are certain, obviously, amounts of money given to those lobbyists for their work. We are not saying they should not do that. We are saying that the amounts of money given to the lobbyists as a result of the recipients of Federal dollars obtaining those funds should be revealed.

Again, $446,500 for horseshoe crab research at Virginia Tech in Virginia; $500,000 for a maritime museum in Mobile, AL; $360,000 for Hawaii rain gauges; $401,850 for the Shedd Aquarium in Chicago, IL.

This process has got to end. The American people do not trust the Congress to dispose of their tax dollars without these billions of earmarks, or at least a process where they are scrutinized and Members of Congress have the ability not to just vote on an appropriations bill that appears on the Member's desk shortly before the vote takes place. The appropriators will tell us these are all worthwhile projects. They are not, and they have resulted in corruption. There are former Members of Congress residing in Federal prison today because this process—this process—has corrupted people. It has to be fixed.

So I could go in citing examples of unauthorized earmarks and policy riders in appropriations bills and conference reports. But I think you have the picture. By the way, an egregious example that is being investigated today is that for one of the appropriations bills, appropriations were inserted after the bill was passed and signed by the President of the United States—a remarkable occurrence—a remarkable occurrence. It shows how far we have gone in our obligations to the American people.

I would like to say a word to my own side of the aisle. We just lost an election, and I will take the responsibility for that. But I can assure my colleagues on this side of the aisle that one of the reasons why Republicans lost the last election is because our base, who are concerned about our stewardship of their tax dollars, believes we got on a spending spree which has mortgaged our children's futures.

If there is a future on this side of the aisle, then we have to clean up our act on spending. Time after time, when some of us said: You have to veto these spending bills, the answer was: Well, we have to please Members. What we did was we alienated those American citizens—frankly, of all parties—who feel strongly we have lost our sense of obligation to them as far as careful stewardship of their tax dollars is concerned.

I wish to mention one other thing. I had a very good conversation with the President of the United States. We all want to work together to pass this stimulus, a stimulus package that will get our economy going again. I look forward, as do other Members on this side of the aisle, as well as the other side, to sit down, and let's have some serious negotiations so we can eliminate wasteful and unnecessary spending that is part of the stimulus package that is before the Senate today.

We should make sure we adopt an amendment that as soon as the GDP improves for two quarters by 2 percent, we will then enact spending cuts to put us on the road to a balanced budget. We need to do that. We used to talk about millions of dollars and then we started talking about billions of dollars and now we are talking about trillions of dollars of deficits that will be run up that we will lay on future generations of Americans.

With this stimulus package, there must be a commitment to stop this spending and to reduce spending once our economy recovers, so we can have some sense of ability to put this Nation on a path to a balanced budget to eliminate the debt and deficit we are laying on future generations of Americans.

Americans are beginning to turn against the stimulus package as it is presently designed. They are doing that because they do not believe it is a stimulus package. They believe, correctly, it is a spending package. I urge my colleagues to help restore confidence in whatever the outcome is, that we adopt this amendment, so in the future the American people can be sure we will have done our very best to eliminate unnecessary, wasteful, and corrupting spending that has characterized the expenditures we have made in the past on appropriations bills that contained those unwanted, unnecessary spending practices.

I thank the Senator from Wisconsin, again, and my friend, Senator LIEBERMAN, and Members on both sides of the aisle who will support this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Chair.

I rise to speak in favor of the Feingold-McCain amendment. I heard my friend from Wisconsin refer to this as an amendment with tripartisan support. Hearing that, I rushed to the floor to validate his description of it.

I am proud to be a cosponsor of this legislation. It is quite appropriate that this amendment is being offered on this Economic Recovery and Reinvestment Act. I support this act strongly. It is critically important. It is gravely important we adopt this legislation, and adopt it soon, to kick start our economy, to start creating and protecting jobs again.

But there is an awful lot of money in this measure that has to be spent quickly. There are oversight actions and institutions that have been made part of the Economic Recovery and Reinvestment Act. But it gives us an opportunity to deal directly with what has become known as the earmark problem or the earmark crisis or the earmark scandal to some.

I support this amendment and have cosponsored it because it does not end what has begun to be described as earmarks. It reforms the process. It creates a legislative vehicle for any 1 of 100 of us to stand and say: Hey, wait a second. What is this appropriation without authorization that has been put into this bill and to essentially demand, by raising a point of order, that 60 of the 100 of us agree that it is worth spending taxpayers' money on this particular appropriation.

This is necessary because we have taken a legitimate constitutionally created function of Congress—the power to appropriate—and we have misused it in too many cases that it now requires us to create a process to basically say, at times when it is justified: Stop. Stop this particular appropriation, this particular earmark.

When I talk about a constitutionally ordained process, I am talking about the fact that the Constitution gives Congress, uniquely, the power to appropriate public funds. It is simply a matter of record, which my colleagues from Wisconsin and Arizona have made more than clear this morning again, that the power we have been given to appropriate has, in some cases, been misused in what now are called earmarks. So we need to create this checkpoint to say: No, let's demand 60 votes for this one.

The amendment would also require all recipients of Federal dollars to disclose any amounts the recipient has expended on registered lobbyists. This is a way also to create some transparency—the sunlight that Justice Brandeis, I believe it was, said was the best disinfectant for bad behavior in Government.

So I am proud to be a cosponsor. I hope we take this moment, as we appropriate necessary funding—hundreds of billions of dollars—to say that on all other appropriations bills coming along, every Member of this Senate will have the opportunity to ask something very reasonable and sensible: If they doubt the necessity, the validity of a particular appropriations earmark, that 60 of us have to say: No, we think it is OK.

AMENDMENT NO. 106

Madam President, I am not sure, at this point, what the regular order is. I also have come to the floor to speak about an amendment the Senator from Georgia, Mr. ISAKSON, and I have offered. If it is appropriate, now I would speak for a few minutes on it. If not, I will wait until that amendment comes up.

The PRESIDING OFFICER. The Senator has that right.

Mr. LIEBERMAN. I thank the Chair, and I promise my colleagues I will be brief.

Senator ISAKSON and I have offered an amendment which will create a $15,000 tax credit for any purchaser of a home within a year after the date of enactment. There is no recapture clause for that. We do so to offer one of what we hope will be a series of measures to revive the housing market and housing values as a critical part of reviving our economy and creating jobs.

Very briefly, it was the subprime mortgage scandal, the bubble in housing prices, the collapse of housing prices, that has been at the heart of the follow-on collapse in our financial institutions and the collapse in confidence, particularly, the confidence of the American consumer, whose demand, whose consumption, drives 70 percent of the American economy.

So bottom line: I saw a statistic from a reputable economist about a week ago, 2 weeks ago now, that estimated in the last year there had been a loss of $4 trillion in the value of real estate in our country—$4 trillion. We are talking about $4 trillion of value in houses, which for most Americans—middle-income, lower middle, and lower income—who could afford to own a house, was the major asset they had, the major asset of value, the major source within them for which they had economic confidence because it was worth something beyond what the mortgage was. That is part of what gave them the confidence then to go out and consume, to drive our economy forward.

The collapse of housing values, the dramatic drop in activity—housing purchases and sales—is at the heart of the collapse in confidence and the spiraling downward of our economy today, and we simply will not get our economy going again unless we get that moving.

This credit Senator ISAKSON and I are proposing—we are not saying is going to solve all the problems. There has to be action in other ways. There has to be action through the Treasury Department in the second tranche of the so-called TARP money to help people stay in their homes, particularly those who are in homes that are now worth less than the mortgage they have. There has to be action to try to lower interest rates and so on.

But we think this action will really kick start the housing market by giving a $15,000 tax credit, refundable, to anybody who buys a house within a

year of the date of enactment. That will drive sales. As you watch the interest rates coming down—and interest rates are at a low of many years, when you can get a mortgage—and then with the action through the Treasury Department to increase liquidity, and you add on a $15,000 tax credit, I think people are going to go out and buy homes. That is going to begin to raise the value of homes. If a home sells on the street, everybody else's house goes up in value. Then people's sense of their own wealth, their own economic well-being, is going to increase, and I think it will give them the confidence to go out and begin to consume.

In 2008, I can tell you, Connecticut's housing market experienced its sharpest decline in home sales and median home prices in 20 years. Single family home sales fell nearly 24 percent. This proposal Senator ISAKSON and I are making obviously costs some money. But compared to other proposals that have been made, this one will pay a return on the dollar.

Although we are waiting for a final estimate, I would anticipate the amendment could cost as much as $20 billion. However, we have had economic estimates from credible economists who have looked at the amendment Senator ISAKSON and I are offering and said they believe it could lead to as many as 1.1 million home purchases within this year, that it would generate 539,000 new jobs, mostly in construction, and $14 billion in Federal tax revenues. So that is a tremendous return on what this will cost the Treasury. Senator ISAKSON will show it in his comments, because we have talked about this—this has been tried once before in a terrible housing crisis in the 1970s and worked very well.

I am proud to stand with my friend from Georgia. This is a bipartisan amendment; perhaps I should say tripartisan. It deserves to have tripartisan and, I would hope, unanimous support as something that has been proven in the past and will work again today to get people's home values rising, because there will be the demand to buy houses in America once again.

I thank the Chair, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CARDIN. Madam President, will the Senator yield for a moment?

Mr. ISAKSON. I will.

Mr. CARDIN. Madam President, I ask unanimous consent to be recognized after the Senator from Georgia has completed his comments.

The PRESIDING OFFICER. Is there objection?

Mr. ISAKSON. Reserving the right to object, would it be good to lock in the speakers who are here at the same time?

Mr. GRASSLEY. Madam President, I don't want to do that because I am the manager for this bill and I have been waiting to speak. I want the floor after the Senator from Maryland completes his remarks, and I think I am entitled to it.

Mr. ISAKSON. I would never cross the Senator from Iowa.

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

The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, first, I want to thank Senator LIEBERMAN for his very responsive remarks and for his cosponsorship for this legislation that creates a floor for housing once again and for us to end what has become a terrible economic crisis.

AMENDMENT NO. 106, AS MODIFIED

I called this amendment up last night and now I wish to ask unanimous consent to send a modification of the amendment to the desk for replacement of the existing amendment.

The PRESIDING OFFICER. Are there objections to the modification?

Without objection, the amendment is modified.

The amendment (No. 106), as modified, is as follows:

On page 449, beginning on line 16, strike through page 450, line 22, and insert the following:

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009, and

''(B) on or before the date that is 1 year after such date of enactment.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if

such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act.

Mr. ISAKSON. Madam President, the amendment is merely a technical amendment on dates and no other substantial change.

It is rare that we have a roadmap to success in times of difficulty, but this country has once before realized a housing crisis every bit as bad as the one we have today and economic troubles and unemployment every bit as dangerous, and that was in 1974. In 1975, the Democratic Congress and a Republican President, Gerald Ford, came together for the American people and passed a $2,000 tax credit for the purchase of any standing, vacant, new house and in one year's time a 3-year inventory had been dissipated to 10 months, housing was restored, values returned, and the economy again began to prosper.

Thirteen months ago, in January of last year, I introduced this same amendment. It was scored at that time by Joint Tax at a cost of $11.4 billion. The Finance Committee in its wisdom elected not to include this in the proposal because they said it was too expensive. Since they said that was too expensive, we have spent $4 trillion between the Federal Reserve and the Congress and the U.S. Treasury, and the problem is worse. So I would submit this is a very small price to pay for a solution that at least we have an historical precedent that it works.

The score on this legislation is $18.9 billion. The legislation provides a $15,000 tax credit, or 10 percent of the purchase price, against either 2008 income where one can monetize it at the closing date this year, or half in 2009 and half in 2010, for anyone who buys as their principal residence any single-family dwelling or single-family condominium or attached townhouse available in the United States of America. We have a pervasive housing problem, and the worst hurt right now are the people who are paying their mortgages, the people who are in decent shape, the people who are having to sell because of a transfer; they have no market and they don't because everybody is going for short sales or they are going for foreclosures or they are going bottom fishing. They are bottom fishing with your equity and mine. They are bottom fishing to find the best deal they can get at the bottom of the trough. It is going to keep spiraling down until this Congress and this country address the root of the problem which is the death of the housing market, puts a floor under it, stabilizes it, and gives it a motivation to improve.

Senator LIEBERMAN's quote is absolutely correct. Right now, we are at a housing sale rate of a half a million houses a year. This country averaged 1.2 million in the last 10 years. This bill will take us back to 1.2 million, as his statistics prove. We have tremendous unemployment. This legislation will bring about estimates of 500,000 to 600,000 jobs back to America, not in 2 years, not in 10 years, but now. So I respectfully submit we have a chance to join together, learn from history, repeat history that worked, and adopt this amendment.

I thank Senator LIEBERMAN for his support. I thank Senator CHAMBLISS for coming on as a cosponsor and Senator CORKER and, as I understand from the calls I have had in the last day, many more from both sides of the aisle. It is time to fix America's problem, not throw money at the symptoms. It is time to fix housing first in the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Madam President, let me comment on the underlying bill and then I will ask unanimous consent to set aside an amendment so I can offer an amendment.

First, let me comment on the underlying bill. We need to give President Obama the tools necessary for our economic recovery. President Obama said 2 weeks ago in his inaugural address the challenges we face are real, they are serious, and they are many. They will not be met easily or in a short span of time, but they will be met.

I think our responsibility is to make sure he has the tools necessary in order to be able to deal with our economic crisis. The current status of our economy is worse than any of us have seen in our lifetime. The gross national product fell 4 percent in the final quarter of 2008; our unemployment rates are at 7.2 percent.

Regarding home ownership and foreclosure, I know my Republican colleagues have had some discussion about trying to do more in that regard. This bill will save homeowners their homes. In my State of Maryland, we had 41,500 foreclosures in 2008, an increase of 71 percent. I need to point out that last year, it was the Senate Republicans who required seven cloture votes on the Foreclosure Prevention Act before we could take it up. At that time, 8,500 families were in some stage of foreclosure every day. The five months of stalling caused 1.2 million families to receive some form of foreclosure filings. The Republicans blocked amendments to provide additional funding for housing counseling and to let bankruptcy judges modify terms of subprime mortgages which could have kept 600,000 families in their homes.

So let me make it clear. We all want to preserve home ownership. We all want to prevent foreclosure. The underlying bill will help us get to that moment which we should have done earlier, and I regret that the filibusters prevented us from doing that.

Now, it is not only home ownership. People are losing their jobs. Retailers, automobile dealers, and restaurants are feeling the pinch. Small business owners are closing their doors. We need jobs and we need consumer confidence. The underlying legislation will allow for job growth. That is the No. 1 objective: Create more jobs in America because we are losing them today. President Obama made it clear the criteria for this bill must be that the investments we make must be targeted to new job growth. He does that through targeted tax credits and tax cuts, through aid to our local governments to avoid the layoffs that each one of our States will confront with State workers. In my State of Maryland, Governor O'Malley is having a very difficult time with the State budget. He knows we need help in order to preserve State employment and to preserve the type of services that the State must provide for essential services during a recession.

This legislation provides direct investment for projects that are ready to go, that will create jobs, and that are the right investments for America's future. I don't disagree with my colleagues as we look at each individual request that is made here. There are no earmarks in this legislation, but we

want to make sure there are right investments for America's future, whether it is improving education, educational facilities, energy so we can become energy independent, broadband so that we can compete in the future, health care technology so we can become more efficient in the way we deliver health care, our transportation system—I particularly mention public transportation which is critically important for our communities—or whether it is preserving home ownership. Also, the underlying bill must be temporary. We need to get back to balancing the budget; we understand that.

So what does this bill mean for the people of Maryland? Well, our State will receive directly $3.1 billion. We will receive $420 million for highways, $240 million for transit projects, $27 million for drinking water improvements, $96 million to improve wastewater facility plants, which is in desperate need in Maryland. The State energy program will get $8.5 million; weatherization assistance so that homeowners can have their homes much more efficient as it relates to the use of energy, $56.5 million. Many of the infrastructures that are being improved by this bill are 30, 40, 50 years old. A lot of our wastewater treatment facilities are in need of modernization. They are ready to go. The money has not been there for it. These are capital improvements so we can compete and have a better society. Once it is done, we can get back to being more competitive and get back to the budget discipline that is so necessary in this Congress.

Let me talk for a moment about the real estate market. The real estate market triggered this recession. We know that. I was listening to my colleagues talk about that on the floor and I agree with them. It is difficult for people to get into the mood to buy a home. They don't know whether we have hit bottom. So I particularly appreciate the Finance Committee for bringing out in this legislation the first-time homeowners tax credits, legislation that I introduced last Congress. It was included in the bill we passed in the last Congress, but it was a noninterest-bearing loan of $7,500. The Finance Committee has now changed that to a credit, which I think will be much more effective. First-time home buyers now know that if they get into the home buying market, the Federal Government is going to help them with a credit. That is what it should be, and I know there will be some additional efforts made to strengthen that amendment.

In regards to small business, I said earlier small businesses are the heart of America. It is where our economic strength is. The American dream is not only owning a home; the American dream is also owning a small business, being your own boss. Unfortunately, too many small businesses today have on their front door ''going out of business.'' We have to do more to protect small businesses. At the end of the day, when we pull out of this recession, we need to have small businesses in place because they are the economic engine of America. Madam President, 99.7 percent of the businesses in Maryland are small businesses and 80 percent of all new job growth is created by small businesses.

We had in the Small Business Committee a roundtable where we talked to small businesses in our State, in our country. It is interesting that a year ago, one out of every seven small business owners used their personal credit cards in order to get credit for their business. We understand that. Today that is 50 percent. It is the only place they can get credit. It is the most expensive and it can be pulled at any time. We have to help small business owners with their credit problems. We have to make sure the government procurement actually gets down to the small business owner. In this underlying legislation, the SBA loans, the 504 program, the 7(a) loans, there are major provisions to make it less expensive for small businesses. That is good. I support that. There is a microborrowing provision in this legislation for small businesses. That is important. That is going to help. But we need to do more. We need to do more to help small businesses, minority businesses, women-owned businesses, veterans' businesses.

AMENDMENT NO. 237 TO AMENDMENT NO. 98

For that reason, I ask unanimous consent to set aside the pending amendment so that I may offer amendment No. 237.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Ms. LANDRIEU and Ms. SNOWE, proposes an amendment numbered 237 to amendment No. 98.

Mr. CARDIN. Madam 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 amend certain provisions of the Small Business Investment Act of 1958, related to the surety bond guarantee program)

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by adding at the end the following:

''(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed $10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.''.

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by adding at the end the following:

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

(c) SUNSET.—The amendments made by this section shall remain in effect until September 30, 2010.

Mr. CARDIN. Madam President, let me very briefly explain this amendment.

This amendment improves the SBA program for surety bonds for small businesses. In the underlying bill the committee has brought out an additional $15 million that will allow SBA to help with the surety program.

The challenge today is that for small business to get a government contract of over $100,000, they have to put up a surety bond. It is very difficult for them to get that surety bond. The SBA has a program to help them obtain a surety bond. The challenge is that the current limit is $2 million. For any contract over $2 million the program cannot be used. Well, with the underlying bill and the types of procurement we are anticipating, there are going to be larger contracts. What this amendment does is increase the $2 million to $5 million.

Secondly, in order to qualify for a small business, your annual revenue must be below the Federal guidelines or State guidelines if it is a State contract.

What the underlying amendment does is use the Federal guidelines, which is $31 million, for construction contractor businesses and $13 million for specific trades as the standard for being eligible for the Federal SBA program on your surety bond. I am very pleased that this amendment has the support of the leadership of the Small Business Committee, Senators LANDRIEU and SNOWE. It is bipartisan. The CBO scored this at no cost, so it will not cost money. I urge my colleagues to support it.

Lastly, Senator SNOWE will be offering an amendment to make sure Federal procurement laws and regulations apply to all the contracts awarded under this legislation and that SBA regularly reports on these contracts to Congress. I am a cosponsor of that amendment; I strongly support that amendment. I hope we will also consider that amendment.

In conclusion, I am optimistic about our future, but we have a lot of work to do. We need to pass this legislation quickly and give President Obama the tools he needs so we can see that our economy is rebuilt and grown to its full capacity. I am confident we will reach that day by acting on this legislation, and it will be sooner rather than later.

I thank my colleague and yield the floor.

Ms. SNOWE. Mr. President, I rise today to speak in support of this amendment I have cosponsored with Senators CARDIN and LANDRIEU. This amendment would reinvigorate the Small Business Administration's, SBA, Surety Bond Guarantee Program, to ensure that small businesses are able to secure the surety bonds they need to compete for contracts, grow, and hire more employees. In our current economic recession, small businesses are finding it even more difficult to secure the credit lines necessary to get bonds in the private sector.

As a result, the SBA surety bond program is more important than ever. Surety bonds are critical to small companies' survival and competitiveness. Our bipartisan amendment would increase, on a temporary basis, the limits on the SBA Surety Bond Guarantee Program from $2 million to $5 million for contracts awarded under the SBA program. This amendment would also raise the current small business size standards for state and local contracts in order to update and modernize the surety bond guarantee eligibility.

I encourage my colleagues to support this crucial small business surety amendment. This amendment was written after consulting with small business owners across the country, the SBA, and surety bonding companies on how best to revitalize this critical program. Without these changes, fewer small businesses will have the opportunity to participate on the plethora of construction and infrastructure projects that are likely to occur across the nation because of this stimulus package. Without these bonds many small businesses will be unable to compete for contracts and government work. For new companies, obtaining a surety bond will become a barrier to entry and competition they are unable to overcome.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENTS NOS. 168, 197, AND 238, EN BLOC, TO AMENDMENT NO. 98

Mr. GRASSLEY. Madam President, on behalf of our leadership, I ask unanimous consent to temporarily set aside the pending amendment, and I call up three amendments and ask that they be reported by number. They are DeMint, No. 168; Thune, No. 197; and Thune, No. 238.

I further ask that Senator THUNE be the next speaker on the Republican side and that Senator JOHANNS follow him, with a Democrat in between.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. DEMINT, proposes an amendment numbered 168.

The Senator from Iowa [Mr. GRASSLEY], for Mr. THUNE, proposes amendments numbered 197 and 238.

The amendments are as follows:

AMENDMENT NO. 168

(Purpose: In the nature of a substitute)

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

SECTION 1. REDUCTION IN CORPORATE MARGINAL INCOME TAX RATES.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''and'' at the end of subparagraph (A),

(2) by striking ''but does not exceed $75,000,'' in subparagraph (B) and inserting a period,

(3) by striking subparagraphs (C) and (D), and

(4) by striking the last 2 sentences.

(b) PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) of such Code is amended by striking ''35 percent'' and inserting ''25 percent''.

(c) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking ''35 percent'' and inserting ''25 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 2. REDUCTION IN INDIVIDUAL MARGINAL INCOME TAX RATES.

(a) IN GENERAL.—Paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) REDUCTION IN RATES AFTER 2008.—In the case of taxable years beginning after 2008, the tables under subsections (a), (b), (c), (d), and (e) shall be applied—

''(A) by substituting '25%' for '28%' each place it appears, and

''(B) without regard to—

''(i) the rates on taxable income in excess of the amount with respect to which the 25 percent rate (determined after the application of subparagraph (A)) applies, and

''(ii) any limitation on the amount of taxable income to which the 25 percent rate (determined after the application of subparagraph (A)) applies.''.

(b) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 101 of such Act (relating to reduction in income tax rates for individuals).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. REPEAL OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

''No tax shall be imposed by this section for any taxable year beginning after December 31, 2008, and the tentative minimum tax for any such taxable year of any taxpayer which is a corporation shall be zero for purposes of this title.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 4. PERMANENT REDUCTIONS IN INDIVIDUAL CAPITAL GAINS AND DIVIDENDS TAX RATES.

Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (relating to sunset of title) is repealed.

SEC. 5. ESTATE TAX RELIEF AND REFORM AFTER 2009.

(a) RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 (relating to general rule for unified credit against gift tax), after the application of subsection (f), is amended by striking ''(determined as if the applicable exclusion amount were $1,000,000)''.

(b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT EQUAL TO $5,000,000.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended to read as follows:

''(c) APPLICABLE CREDIT AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

''(2) APPLICABLE EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is $5,000,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2009, the $5,000,000 amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(c) FLAT ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended to read as follows:

''(c) TENTATIVE TAX.—The tentative tax is 15 percent of the amount with respect to which the tentative tax is to be computed.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (1) and (2) of section 2102(b) of such Code are amended to read as follows:

''(1) IN GENERAL.—A credit in an amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $60,000 shall be allowed against the tax imposed by section 2101.

''(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit allowed under this subsection shall not be less than the proportion of the amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $175,000 which the value of that part of the decedent's gross estate which at the time of the decedent's death is situated in the United States bears to the value of the decedent's entire gross estate, wherever situated.''.

(B) Section 2502(a) of such Code (relating to computation of tax), after the application of subsection (f), is amended by adding at the end the following flush sentence:

''In computing the tentative tax under section 2001(c) for purposes of this subsection, 'the last day of the calendar year in which the gift was made' shall be substituted for 'the date of the decedent's death' each place it appears in such section.''.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Code of 1986 (relating to computation of tax) is amended by striking ''if the provisions of subsection (c) (as in effect at the decedent's death)'' and inserting ''if the modifications described in subsection (g)''.

(B) MODIFICATIONS.—Section 2001 of such Code is amended by adding at the end the following new subsection:

''(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

''(1) the tax imposed by chapter 12 with respect to such gifts, and

''(2) the credit allowed against such tax under section 2505, including in computing—

''(A) the applicable credit amount under section 2505(a)(1), and

''(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).

For purposes of paragraph (2)(A), the applicable credit amount for any calendar year before 1998 is the amount which would be determined under section 2010(c) if the applicable exclusion amount were the dollar amount under section 6018(a)(1) for such year.''.

(2) GIFT TAX.—Section 2505(a) of such Code (relating to unified credit against gift tax) is amended by adding at the end the following new flush sentence:

''For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

(f) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

(1) IN GENERAL.—The following provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such provisions, are hereby repealed:

(A) Subtitles A and E of title V.

(B) Subsection (d), and so much of subsection (f)(3) as relates to subsection (d), of section 511.

(C) Paragraph (2) of subsection (b), and paragraph (2) of subsection (e), of section 521.

The Internal Revenue Code of 1986 shall be applied as if such provisions and amendments had never been enacted.

(2) SUNSET NOT TO APPLY TO TITLE V OF EGTRRA.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(3) REPEAL OF DEADWOOD.—

(A) Sections 2011, 2057, and 2604 of the Internal Revenue Code of 1986 are hereby repealed.

(B) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2011.

(C) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2057.

(D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604.

SEC. 6. INCREASE IN CHILD TAX CREDIT MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 201 (relating to modifications to child tax credit) and 203 (relating to refunds disregarded in the administration of federal programs and federally assisted programs) of such Act.

SEC. 7. BASE BROADENING.

(a) IN GENERAL.—Section 63 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(h) RESTRICTION OF ITEMIZED DEDUCTIONS AFTER 2008.—In the case of any taxable year beginning after 2008, no itemized deductions shall be allowed under this chapter other than—

''(1) the deduction for qualified residence interest (as defined in section 163(h)(3)), and

''(2) the deduction allowed under section 170.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

AMENDMENT NO. 197

(The amendment is printed in the RECORD of Tuesday, February 3, 2009, under ''Text of Amendments.'')

AMENDMENT NO. 238

(Purpose: To ensure that the $1 trillion spending bill is not used to expand the scope of the Federal Government by adding new spending programs)

At the appropriate place, insert the following:

IN GENERAL.—Notwithstanding any other provision of this Act, for each amount in each account as appropriated or otherwise authorized to be made available in this Act, the Office of Management and Budget shall make determination about whether an authorization for that specific program had been enacted prior to February 1, 2009, and if no such authorization existed by that date, then the Office of Management and Budget shall reduce to zero the amount appropriated or otherwise made available for each program in each account where no authorization existed.

Mr. GRASSLEY. Madam President, our Nation's fiscal outlook is very grim. The Congressional Budget Office projects the Federal budget deficit will exceed $1 trillion. Despite this enormous deficit, President Obama is urging Congress to enact a massive stimulus plan that would add another $1 trillion in Government debt over the next 10 years. The President and his advisers insist that we must spend this money as quickly as possible in order to save our economy.

In the grassroots of my State, I don't think people argue with things that are in this bill that are truly stimulus, but I am getting outrage from my constituents about the large part of this bill that is strictly big-time spending.

In normal times, such fiscal excess, stimulus or otherwise, would be widely criticized and promptly rejected. But we all know these are not normal times. Our economy faces the worst recession since the Great Depression. Such comparisons may be overblown but everybody is understandably concerned about the present state of our economy. Congress needs to take action—and we are doing that—to address declining growth and rising unemployment. But we must not let our desire for a quick fix undermine our ability to address the real challenges we face.

A sustainable fiscal policy depends on a growing economy. A sound economy depends on a sound fiscal policy. Unfortunately, there doesn't seem to be any consensus on what constitutes sound policy. But I think we can all agree that Government doesn't create wealth; Government only expends wealth. So we have to be about the business of having an environment that creates wealth.

There are two opposing views on how to help the economy. Some people say consumption is the key to economic growth. When people go shopping, the economy is good, so we need to spend more, they say. Other people say investment is the key. When businesses invest, the economy is good, so they say we need to save more.

Some economists try to reconcile these opposing views by suggesting the correct route depends upon the circumstances. When workers are fully employed and factories are fully utilized, they say we need to save more and increase supply. But when workers are unemployed and factories are idled, they say we need to spend more and increase demand. While this explanation is appealing, it doesn't withstand careful scrutiny.

We are told that in order to stimulate the economy, all the Government has to do is put more money into the hands of consumers and they will spend it back into prosperity. The problem with this approach is that the only way the Government can put money into somebody else's hands is by taking it from somebody else's pockets—either in the form of taxes or borrowing. Now, this is a zero-sum game in which one person's loss is another's gain. Some economists try to obscure this fact by introducing a concept known as the marginal propensity to consume. In my judgment, that is just a fancy way of saying some people spend more of their money than others.

According to this concept, low-income people are more likely to spend an extra dollar than higher income people; thus, taking from the rich and giving it to the poor will stimulate consumer demand and boost the overall economy. It is the Government kind of playing the role of Robin Hood.

This concept is flawed because it ignores the very important role of people saving. Money that is saved does not disappear; it flows back into the economy in the form of business loans or consumer credit. Saving is just another form of spending—specifically spending on capital goods, such as factories and equipment, or consumer goods such as cars and houses.

Of course, the critics say this is not always true. During a recession, banks are less willing to lend and businesses are less willing to borrow. Thus, some of the money previously available in the economy is no longer being used, like right now with the credit crunch. It has been stuffed, in some cases, under the proverbial mattress, whether that is in anybody's home or in a bank vault. Thus, advocates of fiscal stimulus claim the Government can borrow and spend during a recession without crowding out other private sector spending. This is true only in a very narrow sense that increasing money

supply allows the Government to borrow and spend without reducing the amount of money available to the rest of our population. That is monetary policy masquerading as fiscal policy. Moreover, when the Government borrows money, whether it is new money or old money, what the Government is really borrowing is the resources it acquires; thus, every dollar the Government spends has an ''opportunity cost'' in terms of the potential uses of those resources.

Much of the confusion over this point comes from the failure to recognize the nature of money in our economy. Economists often talk about the multiplier effect in order to explain how each dollar of Government spending can result in more than a dollar of economic activity. But the multiplier effect is simply a way of illustrating the fact that if I give you a dollar, you will spend part of it and save part of it. The portion you spend goes to someone, who spends a portion and saves a portion, and so on and so on; thus, $1 effectively multiplies into many dollars.

Contrary to what some people might have you believe, the multiplier effect applies to every dollar, not just the dollar spent by the Government. According to Federal Reserve data over the past 50 years, the ratio between gross domestic product and our money supply—defined as currency plus bank reserves—has ranged from a ratio of 10 to 1, to 20 to 1. In other words, every dollar in our economy supports between $10 and $20 of economic activity.

During a recession, there are fewer workers producing fewer goods and services. That is why this is called a recession. Because the level of output is lower, the level of spending is lower as well. That means the available dollars are being used less. Economists often refer to this as a decline in the velocity of money. The money no longer being used reflects the goods and services no longer being produced. With fewer goods and services available to buy, Government efforts to borrow and spend will increase the money supply. Instead of the Federal Reserve increasing bank reserves to boost private lending, the Government will increase borrowing to boost private spending. But this is really monetary policy disguised as fiscal policy.

The success or failure of this policy will depend upon how the additional money is used. Unfortunately, when some advocates of Government stimulus talk about priming the pump, they give the impression that we can grow our economy by simply spending money and it doesn't matter in any way how you spend that money.

Consider the following comments by the great economist John Maynard Keynes, whom I don't agree with very much. He said this:

> If the Treasury were to fill old bottles with banknotes, bury them at suitable depths in disused coal mines . . . and leave it to private enterprise . . . to dig the notes up again . . . there need be no more unemployment. . . .

People are probably laughing at that. Nearly everyone would recognize the ill effects of printing up $1 trillion and dropping it from helicopters. But what if the Government hired 10 million Americans to dig holes and fill those holes back up and paid them each $100,000? Would this prime the pump and get our economy moving again? The answer should be obvious: It would be a complete waste of resources.

The 19th century economist Fredrick Bastiat once observed:

> There is only one difference between a bad economist and a good one: the bad economist confines himself to the visible effect; the good economist takes into account both the effect that can be seen and those effects that must be foreseen.

When the Government borrows money for some activity, that is what is seen. But what is not seen is what could have been created had those workers and resources been used in some different way. The benefit of a Government stimulus plan must then be weighted against cost. So far, there has been no comprehensive cost-benefit analysis of this proposed stimulus bill.

I may have talked about a lot of economic philosophy, but it is pertinent to what we are doing on the Senate floor this week, the stimulus bill. There is a glaring omission given in recent comments that have been made by President Obama. So I want my colleagues to take into consideration what my President says.

Shortly before his inauguration, President Obama gave a series of speeches and interviews. I will read a couple sentences from them. According to the January 16 Washington Post:

> Obama repeated his assurance that there is ''near unanimity'' among economists that government spending will help restore jobs in the short term, adding that some estimates of necessary stimulus now reach $1.3 trillion.

The President-elect said he believes that direct Government spending provides the most ''bang for the buck'' and that his advisers have worked to design tax cuts that would be most likely to spur consumer spending.

They quote President Obama:

> ''The theory behind it is I set the tone,'' Obama said. ''If the tone I set is that we bring as much intellectual firepower to a problem, that people act respectfully toward each other, that disagreements are fully aired, and that we make decisions based on facts and evidence as opposed to ideology, that people will adapt to that culture and we'll be able to move together effectively as a team.''

Going on to quote President Obama:

> I have a pretty good track record at doing that.

I was quoting from the Washington Post, but also quoting within that article what the President said.

Now I want to go to a January 10 radio address by then-President-elect Obama, now our President:

> Our first job is to put people back to work and get our economy working again. This is an extraordinary challenge, which is why I've taken the extraordinary step of working—even before I take office—with my economic team and leaders of both parties on an American recovery and reinvestment plan that will call for major investments to revive our economy, create jobs, and lay a solid foundation for future growth.
>
> I asked my nominee for chair of the Council of Economic Advisers, Dr. Christina Romer, and the Vice President-elect's chief economic adviser, Jared Bernstein, to conduct a rigorous analysis of this plan and come up with projections of how many jobs it will create—and what kind of jobs they will be. . . .
>
> The report confirms that our plan will likely save or create 3 to 4 million jobs. . . .
>
> The jobs we create will be in businesses large and small across a wide range of industries. And they'll be the kind of jobs that don't just put people to work in the short term, but position our economy to lead the world in the long term.

That is a quote from the January 10 radio address by then-President-elect but now our President.

These comments from President Obama are noteworthy for several reasons. First, he is our President, and we ought to respect his views, not always agreeing with them but consider them. First, he suggests a level, in these quotes I just gave, of unanimity among economists, and that unanimity does not exist. Second, he suggests his administration will make decisions based on the facts instead of ideology. Third, he suggests his plan will create jobs that are more than just temporary.

In that regard, I note that the Congressional Budget Office released an analysis of the House stimulus bill. According to the Congressional Budget Office, the House stimulus bill will create between 3 million and 8 million new jobs over the next 3 years, depending on whether the multiplier assumption is low—that will be 3 million—or high—that will be 8 million.

Given the cost of the House bill, these figures imply a very surprising and a very troubling result. The CBO estimate shows it will cost between $90,000 and $250,000 per job created. These numbers should be contrasted to those under the CBO baseline which show the gross domestic product per worker is about $100,000.

In other words, the jobs being created by the House bill could cost as much as 2½ times more than the jobs that would be created without the stimulus bill. There has been a lot of talk about ''bang for the buck,'' particularly during this debate. But there doesn't seem to be any interest in actually making sure it happens. In other words, that it actually happens, we get bang for the buck. Before we spend another $1 trillion, we ought to make sure we are getting our money's worth.

It should also be noted that the Congressional Budget Office's analysis only covers the years 2009 through 2011, but if you assume the ratio of employment to Government spending remains the same throughout the 10-year projection period that we always have in our bills, there will be only a few thousand new jobs. Moreover, if you adopt the standard assumption that increasing the national debt by $1 trillion will

crowd out private sector investment, the net result will be fewer jobs because of this stimulus bill.

I have written a letter to the Congressional Budget Office Director requesting an analysis of both the House and Senate stimulus bills. This analysis will cover the full 10-year period, consistent with the January baseline.

The Director has indicated to me that this is a very complicated process, and their analysis may not be completed until next week. I strongly encourage my colleagues to have the CBO analysis before we have a final vote on this bill. The Senate must have the opportunity to carefully review the Congressional Budget Office analysis.

Let me repeat what I said at the beginning. Congress needs to take action to address declining growth and rising unemployment. At the grassroots of America, there may not be consensus on that, but there is an overwhelming feeling that Congress can do things that will help the economy. But for sure, before we spend another $1 trillion, Congress must take time to look before we leap.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 140

Mr. INOUYE. Madam President, I rise in opposition to the Feingold-McCain amendment. Yesterday, I received a message from the Obama administration that concludes that the economy faces its most serious crisis since the Great Depression, and I think that is something to which we all agree.

It goes further and says the economic recovery package now being considered by this body is an essential step in putting the economy back on the path of growth.

Our President, President Obama, has asked the Congress to send a bill to him before the February recess, and I believe we have that responsibility to act quickly and responsibly. Therefore, I believe now is not the time to debate controversial legislation that is not relevant to economic recovery.

There are no earmarks contained in the American Recovery and Reinvestment Act that we are now considering before the Senate. I maintain that now is not the time to debate Senate floor procedures for the consideration of appropriations bills.

However, I oppose this amendment on its merits. This amendment is an attempt to undermine Congress's power of the purse. Under this amendment, congressionally directed spending items that are not specifically authorized could be stripped from legislation.

As Senators are well aware, Congress is often called upon to approve spending that is not yet authorized. In a January 15, 2009, report the Congressional Budget Office concluded that in recent years, the total amount of unauthorized appropriations averaged between $160 billion and $170 billion per year.

In fact, for the current fiscal year, there are over $718 billion worth of authorizations that expire before September 30, 2009. This includes funding for housing programs, energy programs, environmental programs, transportation programs, the Low-Income Home Energy Assistance Program, homeland security programs, public health programs, veterans programs, and on and on.

This amendment could tie the Senate in knots. Conference reports could be amended and returned to the other body, and once amended the House could further amend the bill. The regular order for producing spending bills is the best prescription for producing responsible spending bills, not creating new rules that will make the process so cumbersome that we will not be able to complete our work.

This legislation would also hand over to the President the authority to determine what spending should be considered by the Senate. Under this amendment, if the President requests funding for an unauthorized program, the funding would not be subject to a point of order. The Senate should not give such power to any President.

Nor is it clear to me why it would be all right for authorizers to authorize earmarks, for the President to earmark funds, but Members who are not authorizers could not earmark funds in spending bills.

I remind the Senate that the last highway authorization bill contained over 6,474 earmarks, and the last water authorization bill contained over 600 earmarks.

I believe Congress took significant action during the 110th Congress to add unprecedented levels of transparency and accountability to the process of earmarking funds for specific projects.

Under the rules in 2007, each bill must be accompanied by a list identifying each earmark that it includes and which Member requested it. Those lists are made available online before the bill is ever voted on.

In the Senate, each Senator is required to send the committee a letter providing the name and location of the intended recipient, the purpose of the earmark, and a letter certifying that neither the Senator nor the Senator's immediate family has a financial interest in the item requested. This certification is available on the Internet for at least 48 hours prior to a floor vote on the bill.

We also significantly reduce the level of funding for earmarks. In the 2008 bill, the total dollar amount of earmarks for nonproject-based accounts was reduced by 43 percent. In the fiscal year 2009 appropriations bill, we will further reduce earmarks.

In our continuing effort to provide unprecedented transparency to the process, the chairman of the House Appropriations Committee and I announced new reforms to begin in the 2010 bills.

To offer more opportunity for public scrutiny of Member requests, Members will be required to post information on their earmark requests on their Web sites at the time the request is made, explaining the purpose of the earmark and why it is a valuable use of taxpayers' funds.

To increase public scrutiny of committee decisions, earmark disclosure tables will be made publicly available the same day as the Senate subcommittee or the full committee takes action.

We are committed to keeping earmark funding levels below 1 percent of discretionary spending in subsequent years.

The new requirements included in this amendment will hamstring the Senate from fulfilling its responsibility. The amendment says no funds can be included in appropriations bills unless already included in an authorization bill that has passed the Senate during this session.

I remind my colleagues the Senate has not passed a foreign affairs authorization bill in many years. All these measures aren't authorized. In the past 7 years, we haven't enacted an intelligence authorization bill. We don't have one for last year or the year before. It has been 7 years since the Senate passed an authorization bill for Customs. Should we stop funding the construction of ports of entry on our borders? The Environment and Public Works Committee does not report legislation through the Senate to authorize specific Federal buildings. Does that mean we should stop repairing and improving the security or constructing Federal buildings that house over 1 million Federal employees? The Agricultural Research Service has never been authorized. Yet it has existed for 56 years. Should we stop funding agricultural research? The National Oceanic and Atmospheric Administration has never been authorized—NOAA has never been authorized—so does that mean we should stop funding for hurricane forecasting and severe weather forecasting, tsunami forecasting? Congress has not authorized juvenile justice funding for the last 2 years. Does that mean we stop funding to keep kids out of gangs and in school?

Under this amendment, the Senate would be required to defer action on all items which it feels are important when the companion authorization bill is tied up. Are we going to allow the filibuster of an authorization bill to stop Congress from exercising its constitutionally mandated power of the purse? This amendment also applies to items which have been approved by the House. Any such item could be stricken if the authorization bill has not been completed.

Last year, we faced a situation on the Defense Subcommittee, which I am privileged to chair, in which we completed action on the Appropriations Act before we completed action on the Authorization Act. We were told by the President, the Department of Defense, the commanders on the field in Iraq

and Afghanistan: You cannot stall this. So we passed the appropriations bill before the authorizing bill. Yet under this amendment, all the House items could be stricken by the Senate.

The Constitution gives the power of the purse to the Congress. It is our job to use that power responsibly. We have put procedures in place to make the process transparent and to hold Members accountable for their spending decisions. Rule XVI already establishes rules against funding and including unauthorized spending in general appropriations bills. Rule XLIV already establishes rules concerning congressionally directed spending items.

I can't speak for all my colleagues, but I can say this much. I was not elected by my constituents in Hawaii to be a rubberstamp. They expected me to use my initiative and to address my colleagues and tell them about the urgent requests we need. I could go on and on and tell you about many of the projects that have been part of the law today because we took congressional initiative. Therefore, I urge a ''no'' vote on the Feingold-McCain amendment.

I yield the floor.

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

AMENDMENT NO. 238

Mr. THUNE. Madam President, I wish to speak to an amendment that I introduced and filed and was made pending at the desk earlier today. What that amendment will do is eliminate new Government programs that are created by the proposed $1 trillion stimulus legislation that is before the Senate today.

Earlier yesterday, I presented some information about the size and scope of this legislation and tried to put in very visual terms the immense amount of money we are talking about when you start looking at $1 trillion. It is $900 billion, but when you add interest on top of this—$340 billion, $350 billion in interest—you have $1.2 trillion in new spending included in the stimulus bill. I say that because I think it is important to point out that is not the end; it is, frankly, the beginning.

We know for a fact the Omnibus appropriations bill—the sort of catchall appropriations bill we didn't complete last year—is going to be coming before the Congress, before the House first and then before the Senate. For the first time ever, that is going to exceed $1 trillion. So we have $1 trillion in the catchall appropriations bill. We expect at least a request from the administration for additional TARP authority—emergency funding to provide stabilization to the financial markets—to the tune of several hundred billion dollars. We don't know exactly what it will be, but we know it will be in the multiples with respect to hundreds of billions of dollars. We also have a supplemental appropriations bill that will be coming shortly after that to fund the ongoing conflicts in Iraq and Afghanistan.

My point simply is this: This is trillions of dollars of spending. This is a spending spree that is unprecedented even in this city, which is known for spending lots of money on lots of programs. What this amendment attempts to do is to put a little bit of restraint on some of that spending in the stimulus bill. Granted, many of us believe there are some things we should be doing, some steps we should be taking that would help the economy to recover, that would stimulate the economy and create jobs. Regrettably, the stimulus bill that is in front of us goes way beyond that.

The President's top economic adviser suggested when this whole debate began that whatever we do in terms of stimulus, it should be temporary, it should be targeted, and it should be timely. Much of what is included in this bill is none of the above. In fact, it is slow and unfocused and unending. So I am attempting, with this amendment, to say that new programs that are created in this bill have to have been authorized by February 1 of this year. In other words, earlier this week. So if there is not an authorization for this new program—and we would ask OMB to make that determination—that spending would be knocked out of the bill, essentially.

The whole purpose of the amendment is, again, to say that if we are going to do something that is meaningful in terms of stimulating the economy, it should be temporary and it should be targeted and it should be focused. Much of the spending that is in this bill is anything but that. History has shown, time and again, when you put new programs on the books, you almost always take a long time to get those programs off the ground. In fact, the Congressional Budget Office has examined this issue and they offered this insight:

> Brand new programs pose additional challenges. Developing procedures and criteria, issuing the necessary regulations, and reviewing plans and proposals would make distributing money quickly even more difficult—as can be seen, for example, in the lack of any disbursements to date under loan programs established for automakers last summer to invest in producing energy-efficient vehicles. Throughout the Federal Government, spending for new programs has frequently been slower than expected and rarely been faster.

Again, that is the Congressional Budget Office. Given the current state of the economy, we simply can't afford to enact costly new programs that have little hope of making any real meaningful impact now, when the American people need it the most.

There may be programs in this proposed legislation that are worthy of support—I am not arguing that point—but surely not under the guise of economic stimulus. There are new programs that are created that will add to the size of this, and many of us have reacted to the size of it. As I have said already, we know for a fact there is going to be a lot of additional spending coming down the pike that we are going to be asked to consider. But adding to that $1 trillion for something that arguably does not create economic stimulus, does not create jobs, seems to me to be the wrong direction in which to head.

My amendment would simply prevent any new funding under the economic stimulus plan from going toward new programs that were not authorized before February 1 of this year—2009. As I said before, the amendment calls on the Office of Management and Budget to determine if a program was authorized before February of 2009. If the program fails to meet that standard, the program will not receive funding from the economic stimulus proposal.

Now, I would argue that this is a very commonsense proposal that protects the taxpayer and ensures funds are spent in a timely and effective manner. That isn't to say—and I will repeat myself—as I said earlier, that many of these programs are not worthwhile and, frankly, we ought to consider them. But we ought to do it under the regular order and procedures that we have in the Senate. We ought to have committee action, we ought to have hearings, we ought to have the necessary oversight, and we ought to be able to put these things on the floor where they can be debated. We have a process for doing that.

There are lots of programs that are included in the stimulus bill which, I would argue, don't meet that criteria. They aren't stimulus because they are not targeted, they are not timely, and they are not temporary. They are, in fact, creating new programs which, as I said earlier, the Congressional Budget Office has told us sometimes take a very long time to roll out. I think any of us can speak from experience on that point; that whenever we create any sort of a new Federal program, we have agencies that have to interpret it, regulations have to be promulgated, in many cases we are setting up new bureaucracies and people have to be hired and it makes no sense to me whatsoever for us to, in the context of an economic stimulus bill, start talking about new programs.

I would also say the whole purpose of this exercise, in my opinion at least, is job creation. It is to get the economy back on track and recovering and creating jobs. We have been losing jobs. The economy is hemorrhaging and a lot of people are hurting throughout the country. What they don't need is more spending on Government programs in Washington, DC. What we ought to be doing, on the other hand, is getting more money into the hands of the American people so they can spend it—more incentives for small businesses to begin to invest and create jobs because that is what they do best. In fact, two-thirds to three-fourths of all the jobs created in our economy are created by small businesses.

Now, $900 billion, the principal amount—and with interest it is over $1

trillion in new spending—is proposed in the stimulus legislation. If you divide that by the number of jobs that are proposed to be created—somewhere around 3 million—that comes out to $300,000 per job. The average annual wage in my State of South Dakota is under $30,000 a year. It is very difficult to explain to a constituent of mine in South Dakota how the Federal Government proposes to spend $300,000 of their tax dollars to create one job at a time when we are handing the largest burden of debt to the next generation in American history.

Many of these jobs that are proposed are Government jobs. The Government can create Government jobs, and many of the spending programs in this bill do put money into Federal agencies which create Government jobs but at an enormous cost. I will use the example of the State Department, where it is over $1 million—I think $1.3 million, something to that effect—per job created. That doesn't seem to be a very good use of taxpayer dollars, and it doesn't get us the bang for the buck everybody has been coming to the floor and talking about.

As I said, it is a straightforward amendment. All it simply says is: No new Government programs created in the stimulus. If that program was not authorized by February 1 of this year, then any funding for it in the economic stimulus proposal would be denied. It is a commonsense proposal that does protect the taxpayers, ensures the funds will be spent in a timely and effective way, and that we focus on keeping jobs out there in the economy, putting people back to work. It is not spending on new Government programs in Washington DC which, however well intended, needs to go through a normal regular order process where Members of the Senate have an opportunity to evaluate those at the committee level and go through all the appropriate oversight that we normally include when it comes to create a new Government program.

Frankly, I do not think creating new Government programs, in the first place, is the way to do this, but at least this amendment brings some semblance of sanity to a bill which, as I said, is sort of a shotgun approach. It throws money at all kinds of different programs in hopes it will do something to stimulate the economy—knowing full well, I believe, that many of these are not going to be stimulative but on the other hand are creating new programs that people have wanted for a long time but have never had the opportunity.

That is not what this is about. This economic stimulus debate ought to be focused on creating jobs and getting the economy on the pathway to recovery.

That is the amendment. I encourage my colleagues to support it. I think it is very straightforward, very commonsensical, and, hopefully, it will meet with the approval of the majority of the Members of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNS. Madam President, let me start out and indicate I am aware of the fact that Senator BAUCUS has deferred so I can speak now. I appreciate that professional courtesy.

I rise today to address the decision that is before us and to maybe share some insight that I hope is relevant. I believe it is relevant to the legislation we are debating, the stimulus package. Maybe I can offer some insight that is a bit unique from the perspective of a former mayor and a former Governor.

The so-called stimulus would send a financial windfall to cities and States. The hope is that somehow that will filter into the economy. I will readily acknowledge that I have been on the receiving end of those kinds of windfalls—nothing this large—as both a mayor and as the Governor of Nebraska. In my home State, fiscal responsibility is not just a worthy goal that we aspire to achieve. It is demanded of our elected officials by Nebraska taxpayers. So when the Federal Government sent an infusion of money for education or social programs, whatever it was, the first place I looked as Governor or as a mayor was to the bottom line in my budget. I examined how much the State was budgeting for these programs, and I examined whether the State should save those State dollars.

Today's Governors, mayors, and school boards have many budget options also. They might allow this Federal money to pass on through. In the alternative, they might decide taxpayers are best served by allowing Federal funds to replace the State or local dollars. This would maintain existing funding levels and allow them to tuck away their State dollars in anticipation of tougher times ahead. Perhaps they would choose to pay down debt.

Keep in mind, choosing to turn on the Federal funding faucet means facing the challenges that will occur when the funding faucet is later turned off. Just imagine the tremendous difficulty of that. It would cause yet a new crisis.

If Governors choose to hold on to their cash, or some of them, it is true it may provide them some security as they work through very difficult budget issues. But to be very candid about this—and, again, I was in this position—it would do absolutely nothing to stimulate the economy. The money simply would never reach the economy.

The first tranche of the TARP funds does illustrate the point I am trying to make today. The Federal Government sent hundreds of billions of dollars to banks to get credit flowing. The expectation was that this money would translate very quickly into car loans, student loans and operating loans for businesses. What happened? Lending has declined—for a variety of reasons, many legitimate, and some banks that have received Government money have actually reduced lending more sharply than banks that chose not to take the money.

If we truly want to maximize our chances of boosting the economy, then we must minimize the filters through which we send that money. In my career I have had an opportunity to manage enormous bureaucracies. I have watched as they devoured resources in the name of delivering resources to others. It seemed that no matter how forcefully and sternly I demanded effective operations, those filters oftentimes became very narrow funnels.

Tax relief, I would suggest, puts dollars directly in the hands of taxpayers and businesses. That is not necessarily a guarantee it will flow to the economy, but it is very clearly the most direct route to the people who are most in need.

I must also admit that I am deeply troubled by the rush to approve the largest spending bill in history with no plan to pay for it. There really is, literally, no plan—no plan at all. There is not even an attempt at a plan. It seems these days in Washington something can be deemed an emergency and suddenly all fiscal restraint is checked at the door and everything in the bill becomes a piece of solving the emergency. I cannot imagine how we justify passing the cost of this to our children. It is as if some believe we can use a credit card and history will somehow forgive the debt.

Just last year when the deficit reached a half trillion dollars it sent a shockwave across this country. Yet the spending machine just rolled on. For this year, that number doubled to more than $1 trillion, and there was a collective outcry to rein in spending. Now we are faced with legislation that would double the deficit in the blink of an eye. How many times can it be doubled before the debt becomes insurmountable and, tragically, the dollar becomes worthless?

A group of Nebraskans came to see me recently. They brought me a beautiful picture. I have it on display in my office. It was drawn by a 2-year-old girl. We talked about the stimulus package, and I certainly reached the conclusion that they were advocating that somehow, if we passed this, it would deliver a benefit to this child. But I wondered out loud how our young people would feel about being asked to pay the $1.2 trillion pricetag. I wondered how they would manage a national debt that now grows at a rate of $3 billion a day. I contemplated how this little 2-year-old's quality of life would be so different from what we enjoy. If we do not take responsibility for spending, her quality of life will never match ours. She might never dream of going to college or owning a home, and here is why. As tough as the economy is today—and I do not debate anyone about how tough it is—there is a day of reckoning, when the burden of debt is crushing. If investors finally lose confidence in our ability to manage our debt, who then bails us out? It

is even more remarkable to me that we are contemplating the largest spending bill in history at a time when every one of us is aware that the current level of spending is not sustainable. It is not an abstract problem. It is real and it is growing with the passage of time. We cannot keep passing the buck with a promise to make tough decisions in the year to come. It does begin with the decisions we make today.

Like every single Member of this body, I am proud of the State I represent. I want Nebraskans to know every day that I support them. But that does not mean I support this bill. Some might be disappointed when I vote against this spending bill, but I believe Nebraskans understand what it means to take responsibility. They expect that of me today, just as they expected it when I served as their Governor.

The Nebraska State Constitution requires a balanced budget. That is not unusual. But the constitution of the State also basically bans any borrowing of money. So when the economy collapsed post-9/11, we made difficult decisions while other States issued debt. I not only had to balance the budget, I had to do it without borrowing a dime. It was not easy, but we did it and the tough choices were worthwhile. When I came to the Cabinet, I did not have to turn to the Lieutenant Governor and tell him that I had left a pile of debt behind. The State has steadfastly adhered to the principle of fiscal responsibility, and because of that it is better positioned to face the challenges of today.

I want to wrap up with this: I understand the significance of trying to do all we can to boost this economy. Of course I want people to have jobs. I want them to be able to pay the bills. But this is not a stimulus plan; it is a spending plan. It will not create the promised jobs, and it will not activate our economy. What it will do is place a punishing debt on our children and grandchildren.

I could not vote for this bill and still claim that I represent the principles and values of the State I come from, the State of Nebraska. I do want to say I will meet with my colleagues, any colleagues, across the aisle, to roll up our sleeves to set a fiscally responsible course, not only today but for the future. While we cannot solve all of our financial problems or balance the budget overnight—and no one is expecting that we can—we must begin this important work today. I want to be a partner in that.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I just had the opportunity to hear the initial—what we used to call the maiden speech around here—of the new Senator from Nebraska. I want to congratulate him on an extraordinarily insightful presentation that melded his own personal history in government with his thoughts about this massive bill that we will be considering this week, and his feelings about it, which he expressed to his constituents today. On behalf of all of us, I welcome the Senator to the Senate. I would say he just made a great start, and I know he is going to have an incredibly effective career representing the people of Nebraska and America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I first want to congratulate the Senator from Nebraska. I have known him as Agriculture Secretary. He served the people of his State as Governor and also as mayor. I compliment Senator JOHANNS for his service to his State and to his country. I very much look forward to working with him in the Senate. Again, I extend my congratulations.

AMENDMENT NO. 200 TO AMENDMENT NO. 98

On behalf of Senator DORGAN I ask unanimous consent the pending amendments be temporarily laid aside so we can call up Senator DORGAN's amendment No. 200 on runaway plants.

The PRESIDING OFFICER. Without objection, it is so ordered. If the Senator will suspend, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. DORGAN, proposes an amendment numbered 200.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property)

On page 570, between lines 8 and 9, insert the following:

SEC. _____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and (L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported

property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes) is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

Mr. BAUCUS. Madam President, for the benefit of Senators, I would like to take a moment to talk about where we are in consideration of the bill. Today is the third day of Senate consideration. Yesterday was quite productive. We had a full debate and very little downtime, which I especially appreciate.

The Senate considered nine amendments and had rollcall votes on four. One was adopted by voice vote. The Senate adopted a Republican amendment by Senator COBURN to strike a tax amendment related to film production.

And with an overwhelming bipartisan 71-to-26 vote, the Senate adopted a Mikulski-Brownback amendment to allow a deduction for interest on the purchase of motor vehicles.

By voice vote, the Senate adopted a Harkin amendment on which Senator SPECTER played a very important role, who worked very hard, Senator SPECTER did, on the Harkin amendment, to provide additional funding for the National Institutes of Health.

So where are we now? Pending are a Murray amendment to strengthen infrastructure investments—these are all pending—a Vitter amendment to strike several spending items; an Isakson-Lieberman amendment to provide a tax credit for home purchases; a Feingold-McCain amendment to provide greater accountability of congressional earmarks; a Cardin small business bonds amendment; a DeMint amendment making a series of tax cuts in lieu of the pending substitute; a Thune amendment in the nature of a substitute; a Thune amendment on new programs in the bill; and a Dorgan amendment on runaway plants.

I might add that the Democratic caucus is conducting an issues conference today, but the floor is open for business. We expect a number of Republican amendments and also Democratic amendments. We hope to have several votes on amendments this afternoon and evening after the Democratic issues conference concludes, perhaps starting about 5:30 today, although I cannot say that that is going to be an exact time. That is for the leaders to determine.

For the information of Senators, let me say I expect that we hope to have as many as 12 amendments pending today, and we hope to stack votes on these at the end of the afternoon and into the evening. In addition to the Republican amendments that we expect to be offered, we also expect Senator BINGAMAN, who has expressed an interest in offering an amendment, as well as I mentioned Senator DORGAN's runaway plants. Senator WYDEN also spoke to me about his amendment on bonuses that he intends to offer with Senator SNOWE.

Once again, I urge Senators, let the managers know of their intentions to offer amendments. We want to give Senators as much notice as possible. I reemphasize notice is efficient. It helps us get our amendments passed here.

I thank all Senators for their cooperation.

AMENDMENT NO. 168

I wish to say a word or two on the DeMint amendment. I remind Senators that the DeMint amendment strikes the whole underlying bill and replaces that language with his amendment, which reduces the corporate rate to 25 percent, and it makes permanent the 2001 and 2003 tax cuts, including capital gains. That is a big item, as we all know.

It further repeals, permanently repeals the alternative minimum tax provisions in the Code today. It changes the estate tax treatments by creating an exception up to $5 million per person. I do not know what he does with the rates, but it is an estate tax reduction below what estate taxes are today.

I remind all Senators that next year, in the year 2010, the Federal estate tax is zero. If Congress does nothing, it reverts to quite a higher level. The DeMint amendment takes the current 2009 level and lowers it even further. I do not know this, but I suspect it also is permanent.

The DeMint amendment further makes the child tax permanent. It repeals all itemized deductions currently in the Code which itemizers often take, except for the mortgage interest deduction and the charitable deduction; otherwise, all other deductions, if you itemize, are repealed; for example, State and local taxes, everything else in the bill before us.

What is the effect of that? There are several effects. First, we are trying to begin to address our health care system, and the DeMint amendment strikes all the health information technology provisions in the bill. We are trying to get health information technology up and running. I think it is a bad idea to strike health information technology. We have to get that started if we are going to begin to lower health care costs in this country.

It strikes the Medicaid provisions through aid to the States. It does not take a rocket scientist to know what effect that would have on the States. The States are in a recession. I think it was the Government Accountability Office that estimated about $230 billion is being cut by States because they are in recession, and that basically comes out of Medicaid and other low-income programs.

The DeMint amendment says, oh, sorry, States, you do not get any assistance, which means all of those people getting cut are not going to have health care.

It strikes the changes to TANF. That is the program we put in place years ago to reform the welfare program. It is a great program. It works very well. It gets people off of welfare in a very solid way.

It also strikes provisions that extend unemployment insurance to people who have lost their jobs. I cannot believe it would do something like that, but that is what the DeMint amendment does.

It also strikes the COBRA provisions. That is very important. I can't believe that is what he wants to do. In current law, when somebody works for a company and is laid off for reasons not of his or her own making, they are laid off and there are more than 20 people in that firm, that person is entitled to keep health insurance offered by that firm if that firm does offer health insurance, I think it is for 18 months.

But that person who is laid off can keep that health insurance only if the person laid off pays 102 percent of premiums, that is, the person laid off has to pay for all of that health insurance, plus 2 percent administrative costs.

Now, clearly not many people who are laid off, not working, can afford to pay 102 percent of the health insurance premiums, especially when the premiums these days are going up at such a rapid rate.

We, in the underlying bill, say a person laid off in that situation gets a 65-percent subsidy so that person can keep health insurance for 18 months. I think that is the right thing to do, given the current circumstances. But, no, the DeMint amendment says you have to pay 102 percent, because we are not going to help you in these dire times.

I also say, these are permanent tax cuts in the DeMint amendment. The 1-year deficit effects of this amendment are staggering. They are ugly, because basically this is a huge, big tax cut amendment is what it is.

Last night, Senator COBURN spoke eloquently about growing deficits in the future, how fast they are growing. It begins to maybe put our currency in danger. Other countries might be not as interested in holding dollars, might not be interested in buying Treasuries.

Countries such as China come to mind, other countries come to mind.

Obviously the DeMint amendment would make the concerns of Senator COBURN balloon. I mean, if Senator COBURN is concerned about the deficits today, Senator COBURN, I am sure, would be dramatically concerned about the effects of this amendment, which would balloon the deficits to an even greater amount.

So I think the underlying bill is important, it is crucial. The estimates are, between either passing the underlying amendments or not passing them, a difference of about 3 to 4 million jobs, 3 to 4 million jobs in this country. We could choose not to pass this underlying bill. That would mean no economic stimulus recovery package. That would also mean about 3 to 4 million further jobs lost. If we pass this legislation, it would begin to create and bring some jobs back into this economy.

Let's face it, banks are not lending for lots of reasons today. But one reason is because they are having a hard time finding creditworthy borrowers. It is hard to get creditworthy borrowers, when the borrower is having a hard time finding demand, because people are not buying the borrower's products.

There are many parts to the overall solution. But one of them is helping create some demand, and this underlying bill does create demand. If, on the other hand, we do not pass the bill and pass these big tax cuts, it further balloons the deficit to a staggering amount. It is not going to have nearly the stimulative effect that the proponents might say. It will not.

Our goal here, in representing our constituents in our State, is to take this kind of bad situation we find ourselves in—we kind of inherited this. This is where we are, these are the cards that were played, that is the hand we have right now. So let's do the best we can with what we have got. My judgment is, and I think it is the judgment of most Members of this body, this economic stimulus package may not be perfect, but it is pretty good. It will help create some jobs. It is certainly better than the alternative, which is nothing. Let's get on with it and keep improving upon it as we proceed.

I strongly urge my colleagues not to adopt the DeMint amendment, which is a full repeal of the program and replaces it with a massive increase in debt.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

AMENDMENT NO. 159 TO AMENDMENT NO. 98

(Purpose: To reduce home foreclosures, compensate servicers who modify mortgages, and remove the legal constraints that inhibit modification, and for other purposes)

Mr. MARTINEZ. Madam President, I ask unanimous consent to call up amendment No. 159.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MARTINEZ] proposes an amendment numbered 159 to amendment No. 98.

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

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

(The amendment is printed in the RECORD of Tuesday, February 3, 2009, under ''Text of Amendments.'')

Mr. MARTINEZ. Madam President, Members on both sides of the aisle agree that any stimulus we pass must be timely, targeted, and temporary. We need to put our economy back on track. The key to putting the economy back on track is that the spending we do through this stimulus be targeted, temporary, and timely.

Each of these principles is important and they each are loaded with meaning. It needs to be timely because it needs to be directed as soon as possible. As the President as early as this morning said, it is essential we get it out there.

It also has to be targeted because it cannot just go to all the wonderful things upon which the Congress might spend money. It has to be targeted to that which the economy needs in order to create jobs at this moment in time.

It must be also temporary because we well know at some point this economy is going to recover, and as it recovers, it would not be a good idea for Government spending to be out of control and be the beast that feeds inflation. We do not want to come out of this economic crisis only to be creating the next one, which would be an inflationary problem for our economy.

Americans want and deserve solutions that will create jobs and support the American worker. I have joined a number of my colleagues in offering an alternative with the right incentives to foster job creation.

While creating jobs is essential if we want to achieve economic recovery, it will not fix the problem with that alone. Our Nation is still in the midst of the worst housing slump in decades, and many American families face the frightening reality of foreclosure.

To date, Congress and the White House and the private sector have put forth a number of programs to help struggling homeowners, but we have yet to see significant results from any of these various programs that have been out there. This is because at the core of the problem are privately securitized mortgages, which were originated without a guarantee from the government-sponsored enterprises. These are the privately securitized mortgages that are not Fannie Mae, Freddie Mac or GSE sponsored. These mortgages account for only 15 percent of all outstanding mortgages, but they represent more than one-half of all the foreclosures that are taking place today.

If left alone, the crisis will only continue to worsen. According to one expert, we can expect to see 1.7 million more foreclosures in the year of 2009 alone. It is a downward spiral that seems to find no bottom.

Today I am proposing a plan that would provide troubled homeowners with options and incentivize participation from the private sector from these private securitizers who are out there in the private sector. Included in the plan is a loan modification program which will encourage mortgage servicers to help stem the tide of foreclosures.

Currently, there are two primary factors hindering mortgage servicers from modifying loans: a lack of proper compensation, and second and equally important is the threat of litigation.

The plan has a two-pronged approach that aims to address these concerns by the properly compensating mortgage servicers and removing the legal restraints that prevent modifications.

Under the plan, the Federal Government would temporarily provide a monthly incentive fee to servicers who modify privately securitized mortgages. It also includes a safe harbor provision that removes the legal constraints currently inhibiting modifications. This plan also recognizes the integrity of contracts.

There is always the potential that a relatively small number of junior investors could be harmed by the modifications permitted by the program. With this in mind, the proposed legislation eliminates the need for these junior investors to file suit by creating a small claims fund that the Treasury may use to resolve potential disputes. This will go a long way in protecting investors acting in good faith for the greater good—an incentive that is greatly needed if we want investors to be on board in helping to resolve this current crisis.

The plan has been supported by a number of economists, including Columbia Business School Dean Glenn Hubbard and Vice Dean Christopher Mayer. According to a Columbia report, the plan could reduce up to 1 million foreclosures at a cost of about $11 billion—roughly 10 percent of the $100 billion required by other plans.

I have been supportive of similar concepts, including the plan put forth by FDIC Chairman Sheila Bair, which is based on the model used to modify the loans the FDIC took over from IndyMac. I believe this plan is even more taxpayer friendly because future potential losses are shouldered by private investors, not the Government.

As we continue talking about the stimulus, I urge my colleagues to consider the need to address the root cause of this crisis, which is the housing market. Americans are struggling, and unless we provide them with realistic alternatives to foreclosure, we will fail to fix the larger problem at hand.

A lot of colleagues of mine have expressed support for this plan. I encourage Members on both sides of the aisle to please look at this plan carefully. Because as a result of what we are doing on stimulus, we need to also deal with the housing problem. The housing problem is what brought us into this problem. We will not get out of this economic mess until we once again resolve the housing problem.

We need to tackle it in two ways, in my view. We need to tackle it in keeping families in their homes, avoiding foreclosure where possible. A huge number of today's inventory of unsold homes are homes that have been or are coming out of foreclosure. Those homes in and of themselves obviously tend to be sold at much lower prices. So it continues to drive the market down. It depresses values. It depresses the market.

The second problem, obviously, is still the old law of economics of supply and demand. We have a huge inventory of unsold homes. This inventory of unsold homes also impacts price. So I support not only my proposal but the proposal my colleague from Georgia, the Senator from Georgia, JOHNNY ISAKSON, has proposed, which is to incentivize the purchase of homes by providing a $15,000 tax credit, over a year or 2 years, to anyone in America who purchases a home.

The bottom line is, if we can get the market back again and people buying homes again and we draw down that inventory of unsold homes, if we slow down or can bring foreclosures to a halt, those two elements, working together, will be a greater way in which we can now begin to see the housing market stabilize in prices, which will also stabilize the foreclosures of the future.

You see, families who are in trouble today were not the same families who were in trouble 2 years ago when this crisis began. Families who are in trouble today are people who increasingly find themselves upside down on their mortgage because of the continuing decline in home values.

I hope my colleagues will carefully analyze these proposals—not only mine, amendment No. 159, but also Senator ISAKSON's proposal. I think these two proposals, hand in hand, will help us to make a difference in the current housing crisis. Many other things we can talk about in the stimulus, but fixing housing is at the core of what we must do.

Madam President, I yield the floor.

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. MCCAIN. 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. MCCAIN. Madam President, I ask unanimous consent that consideration of the present amendment be set aside, and I send to the desk an amendment and ask for it to be considered at the appropriate sequence of amendments.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I object.

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

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

AMENDMENTS NOS. 278 AND 279 TO AMENDMENT NO. 98

Mr. MCCAIN. Madam President, I ask unanimous consent for the consideration of that amendment in keeping with the order of consideration as decided by the majority leader and the minority leader.

The PRESIDING OFFICER. Is there an objection to setting aside the pending amendment and calling up the amendment of the Senator from Arizona?

Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I send another amendment to the desk and ask unanimous consent for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments numbered 278 and 279.

The amendments are as follows:

AMENDMENT NO. 278

(Purpose: To reimplement Gramm-Rudman-Hollings to require deficit reduction and spending cuts upon 2 consecutive quarters of positive GDP growth)

On page 431, after line 8, insert the following:

SEC. ___. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

''(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

''(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

''(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

''(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

''(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

''(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

''(2) MAXIMUM DEFICIT AMOUNTS.—

''(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

''(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105-33.

''(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99-177.''.

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 252 of this Act and any procedure with respect to such sections in this Act shall be effective beginning on the date of enactment of this subsection.''.

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

AMENDMENT NO. 279

(Purpose: To prohibit the applicability of Buy American requirements in the Act to the utilization of funds provided by the Act)

On page 429, strike line 6 and all that follows through page 430, line 12, and insert the following:

SEC. 1604. (a) INAPPLICABILITY OF BUY AMERICAN REQUIREMENTS.—Notwithstanding any other provision of this Act, the utilization of funds appropriated or otherwise made available by this Act shall not be subject to any Buy American requirement in a provision of this Act.

(b) BUY AMERICAN REQUIREMENT DEFINED.—In this section, the term ''Buy American requirement'' means a requirement in a provision of this Act that an item may be procured only if the item is grown, processed, reused, or produced in the United States.

Mr. MCCAIN. Madam President, I rise to offer an amendment that would strike the protectionist ''Buy American'' provision from the pending economic recovery package. While the supporters of this provision state that they intend it to save American jobs, it would have exactly the opposite effect, causing great harm to the American worker and global economy.

In 1930, as the United States and the world was entering what would be

known to history as the Great Depression, this body considered issues similar to those we are discussing on the Senate floor today. Two men—Mr. Smoot and Mr. Hawley—led the effort to enact protectionist legislation in the face of economic crisis. Their bill, the Smoot-Hawley Tariff Act, raised duties on thousands of imported goods in a futile attempt to keep jobs at home. In the face of this legislation, 1,028 economists issued a statement to President Herbert Hoover. This statement, subsequently printed in the New York Times, is as relevant today as it was nearly 80 years ago. ''America is now facing the problem of unemployment,'' these economists wrote. ''The proponents of higher tariffs would claim that an increase in rates will give work to the idle. This is not true. We cannot increase employment by restricting trade.'' Mr. Smoot, Mr. Hawley, and their colleagues paid no heed to this wise admonishment, and the Congress went ahead with protectionist legislation. In doing so, they sparked an international trade war as countries around the world retaliated, raising their own duties and restricting trade, and they helped turn a severe recession into the greatest depression in modern history.

We know the lessons of history, and we cannot fall prey to the failed policies of the past. We should not sit idly by while some seek to pursue a path of economic isolation, a course that could lead to disaster. It didn't work in the 1930s, and it certainly won't work today. That is why I so strongly oppose the protectionist ''Buy American'' provision in the pending bill and believe we must strike it.

The Senate version of the stimulus bill goes beyond the stark protectionism of its House counterpart in a way that risks serious damage to America's economic well-being. The bill currently on the Senate floor prohibits the use of funds in this bill for projects unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. These antitrade measures may sound welcome to Americans who are hurting in the midst of our economic troubles and faced with the specter .of layoffs. Yet shortsighted protectionist measures like ''Buy American'' risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the ''Buy American'' provisions in this bill will actually cost the United States more jobs than it will generate. Some of our largest trading partners, including Canada and the European Union, have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth. And it seems clear that this provision violates our obligations under more than one international agreement.

The purpose of this stimulus legislation is to create jobs and generate economic growth. I am very concerned about the potential impact these ''Buy American'' policies will have on trade relations with our partners, an impact that will directly affect the number of jobs we are able to create at home. For example, in a few days, President Obama will embark on his first trip abroad to Canada. I applaud his decision to visit our neighbors to the north, as they are one of our closest allies and strongest trading partners. Our two nations share an increasingly integrated trade relationship, resulting in nearly $1 million of trade and commerce crossing our border every minute, a level of trade that sustains approximately 7 million jobs here in the United States.

Should we adopt protectionist legislation, however, President Obama is likely to visit our ally with a dubious gift indeed: legislation that attempts to choke off Canada's access to the U.S. market. Prime Minister Stephen Harper said yesterday that the provisions ''are measures that are of concern to all trading partners of the United States.'' In a recent letter, Canada's ambassador to the U.S. Michael Wilson wrote, ''If Buy American becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930's.'' He writes further that this provision would ''decrease North American competitiveness, thereby killing jobs rather than creating them.'' It is beyond my comprehension why we would seek to hamper such an important relationship by passing legislation with provisions that have been proven counterproductive time and time again.

The reaction of our Canadian friends is just the beginning of what we can expect to occur should this provision become law. American trade with the European Union currently stands at over $200 billion per year. John Bruton, the European Commission's ambassador to Washington, has raised serious objections to the ''Buy American'' provisions in a letter to Congress and the administration, saying that the provision ''risks entering into a spiral of protectionist measures around the globe that can only hurt our economies further.'' A European Commission spokesman noted, ''We are particularly concerned about the signal that these measures could send to the world at a time when all countries are facing difficulties. Where America leads, many others tend to follow.''

Should we enact such a provision, it will only be a matter of time before we face an array of similar protectionism from other countries—from ''Buy European'' to ''Buy Japanese'' and more. In fact, in the 1980s we saw Japanese provisions that attempted to take the kinds of steps we are contemplating now, and barred American goods in Japanese government procurement. The U.S. Congress responded just as we can expect others to do now—by threatening retaliation and considering legislation that would restrict Japanese imports.

We took these steps in order to persuade our Japanese friends to abandon these protectionist moves, and in the end we succeeded. The United States has spent decades pushing toward a globalized world of open trade and investment, governed by rules applicable to all. The ''Buy American'' provision contained in this legislation would undermine this longstanding tenet of American trade policy and would violate our international obligations and commitments. Just last November in Washington, the U.S. signed a joint declaration with members of the G–20 pledging that ''within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services.'' Yet here we are, barely 2 months later, contemplating whether or not to go back on a commitment to some of our closest allies and trading partners, potentially damaging our credibility to uphold future agreements. Canadian Prime Minister Harper pointed out the irony here when he noted that ''we all agreed that we had to have a global response to recession, which would include stimulus packages in all major countries and the avoidance of protectionism, and certainly not protectionism in a stimulus package.''

In addition, it appears that the ''Buy American'' provision would violate our obligations under the WTO Agreement on Government Procurement and, in fact, reports indicate that the European Union is already considering a legal WTO complaint—and the procurement chapter of the North American Free Trade Agreement. Such action is not only potentially disastrous for our economic interests, it is also a terrible way to conduct foreign policy. Pascal Lamy, head of the World Trade Organization, said recently, ''I hope the senators will be wise enough . . . to make sure the U.S. complies with its international obligations.'' Will we?

In addition to the growing chorus of international opposition, there is also. opposition from the very American companies that would generate badly needed jobs at home. In a recent Washington Post article, Bill Lane, government affairs director for Caterpillar, is quoted as saying that ''by embracing Buy American, you are undermining our ability to export U.S.-produced products overseas.'' Karan Bhatia, GE's senior counsel for international law, said that adoption of the ''Buy American'' provision would ''be creating an ample basis for countries to close their markets to U.S. products.'' Why then should this body approve a bill that would potentially devastate the ability of American companies to tap into foreign markets and, in turn, continue to employ thousands of hardworking Americans? The short answer is that

we should not. President Obama himself spoke out against the Buy American provision. ''I think that would be a mistake right now,'' he said yesterday. ''That is a potential source of trade wars that we can't afford at a time when trade is sinking all across the globe.''

I hope all senators will support this amendment, which would strike the existing ''Buy American'' provision and replace it with a limitation on ''Buy American'' clauses in this bill. To adopt anticompetitive, protectionist policies is to risk economic disaster, and it is the last thing we should consider at a time of economic difficulty.

I urge my colleagues to support this amendment.

Madam President, I ask unanimous consent that the RECORD be held open for my second statement concerning the other amendment.

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

Mr. MCCAIN. Madam President, there are other Senators who are waiting to speak and propose amendments, so I will come back at the appropriate time to speak at some length on both amendments.

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. BOND. 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. 161 TO AMENDMENT NO. 98

Mr. BOND. Madam President, today I wish to talk about a number of concerns I have about the underlying bill as well as some amendments I have filed and propose to call up. I have offered the distinguished chairman of the Appropriations Committee one amendment I wish to call up, and I will check with him before actually calling it up.

I think it is important to put this in context. Our Nation is in the midst of a serious economic crisis. Workers in my home State of Missouri and across the Nation are facing job losses, small businesses are failing, and families are struggling to pay their bills and put food on the table. It is clear we have to act quickly and boldly to protect and create jobs and put people back to work immediately. However, it is not nearly as important to act quickly as it is to do it right. I don't believe this bill is right. Let me tell my colleagues why.

For any economic recovery package to work, there are three critical components. First, we must invest in ready-to-go priority infrastructure projects. America's decades-long lack of improvement and investment in infrastructure—in roads, bridges, river navigation, housing, and all types of public improvements—is taking a huge toll on our economy. By investing now in shovel-ready projects, we will make significant long-term improvements to our aching infrastructure. Good roads and highways connect people to communities, attract and sustain business, and are necessary to spur economic development in our communities. Also, investing in shovel-ready projects will create jobs in our communities now. New jobs and putting people back to work is the best way to help struggling families now and start turning our economy around.

The second necessary component of any successful recovery package is real tax relief for working families and small businesses. Working families need real and significant tax relief—more than just a few extra dollars in their paycheck. They need to keep more money in their pockets and send less to Uncle Sam. Tax relief for working families will help folks weather this economic crisis.

Small businesses are the backbone of our economy, as I hope all of us here recognize. Right now, small businesses across the Nation are struggling to meet payroll, struggling to pay rent, struggling to keep their books in balance. Tax relief for small businesses would give them the money they need to keep the workers they have now. Tax relief for small businesses would allow them to invest in new equipment. Most importantly, tax relief for small businesses would give them the money to create new jobs and hire new employees.

The third and most important component of any economic recovery plan is attacking the root cause of the problem. Without help, our economy cannot recover from the breakdown in our financial and credit markets.

Bad debt is weighing down the banking system. Bad debt is creating fear and uncertainty about the solvency of our financial system. We cannot ignore this problem or wait until later to tackle it head-on.

Let me be clear. Without addressing the root cause of our economic crisis, no economic recovery package, no stimulus bill can succeed. Just ask the Japanese, who ''lost'' a decade of economic growth, providing money for more spending but without dealing with the bad assets that were on the financial books in the country. We cannot just throw money at the problem. We already tried that last year, and it hasn't worked. It hasn't turned the economy around. There are a number of alternatives to fix the root of our economic crisis. It is imperative that we select and act on one now.

One option that makes a lot of sense to me is creating a new Federal entity that will take on the toxic assets that are weighing down the banks. Acquiring these toxic assets would also address the housing crisis by allowing the Government to modify home mortgages that will likely default, be able to reduce the payments and allow those people in the homes with the bad mortgages to keep them.

During the savings and loan crisis in the 1980s and 1990s, the Government created the Resolution Trust Corporation to dispose of bad debt. We know this method can work. It was paid for. I was on the Banking Committee. We worked through it. But the RTC was the key component in helping our economy recover after almost 800 savings and loans failed. The good news is that a good deal of the money—not all of it—was brought back as the Federal Government disposed of those assets acquired.

Whether it is through an RTC or another alternative, such as a bad bank or guarantee program, or some other combination, addressing the root cause of the economic crisis is the key component to economic recovery.

Together, those three components—infrastructure investment, tax relief, and attacking the root cause of the crisis—are critical to any timely, targeted, and temporary economic recovery package. Unfortunately, I must say that the Democratic spending bill before us today fails on all three counts.

I have to say I was very disappointed that after many years where we worked together on appropriations matters and tax matters, these measures did not go through hearings, did not go through bipartisan creation. We had a brief hearing, a brief markup session, and essentially the Democratic bill was reported out—without any Republican fingerprints on it.

The bill that has come out stimulates the national debt, stimulates the growth of Government, but will do very little to stimulate the economy or job creation. First, the Democrats' spending bill shortchanges infrastructure. Next, the Democrats' spending bill fails to give working families and small businesses real tax relief. Third, the Democrats' spending bill fails to address the root cause of the economic crisis. The bill fails on all three counts.

Also, no one can ignore the massive price tag of this bill. The Democrats' trillion-dollar spending bill is a huge debt to saddle on our children and grandchildren. The cost is too high—especially when many economists agree it will do little to create jobs and stimulate the economy today, when we really need it.

In other words, the Democrats' trillion-dollar spending bill won't work for what we need it to do. The wasteful spending in this bill is running rampant. It seems this is a massive downpayment on the Democrats' policy priorities masquerading as a stimulus bill.

I was glad that we were able to strike the $246 million tax break for Hollywood movie producers from the bill yesterday. But I am disappointed that even after the outpouring of calls from the American people—we certainly heard a lot in our office—45 Democrats still voted for that special interest tax break. I think it is insulting to struggling families in Missouri and across the Nation that the Democrats would try to sneak in an almost $250 million tax break for Hollywood movie producers. Calling such a tax break for

Hollywood movies an energy stimulus is outrageous.

There are many more examples of this in the trillion-dollar spending bill that will have zero stimulative effect on our economy. How about the $75 million for smoking cessation or the $34 million to redecorate the Department of Commerce? This bill is loaded with many spending items that have nothing to do with stimulus or creating jobs. Maybe some of these items have merit on their own, but they won't create jobs or grow our economy, and they don't belong in an emergency stimulus bill.

The figures I have seen from CBO say less than 10 percent of this will be spent in the current year. Most of the spending is going to occur in 2011, 2012, and beyond. Only about 6 percent of it is on vitally needed infrastructure. We need a bill that meets the goals of creating jobs and solving the credit problem and helping American families now, not years down the road, if ever.

It is no surprise, Madam President, that the more Americans learn about this bill, the more they oppose it. You can see the results from the national polls. A recent Gallup poll shows that support is declining. A Rasmussen poll that came out today shows only 37 percent of Americans support this massive spending bill. In Missouri, our calls are running 9 to 1 against it. I think probably that 1 will even be reduced and the opposing figure will be greater as people learn more about it. My offices in Washington and in cities across my State have received overwhelming phone calls saying stop this trillion-dollar spending bill.

I think it is critical that we pass legislation that will help our economy recover, help create jobs, and help people get back to work now. But I cannot support this spending bill that fails to stimulate the economy or create jobs. I cannot support the bill that will saddle our grandchildren with even more debt. I cannot support this spending bill that would create a massive growth in Government programs, some of which may continue for years.

A critical ingredient to economic recovery is confidence that there be discipline in Government. There must be some confidence that we will not go hog-wild on a spending binge that saddles our kids with debt and sets off an inflationary cycle.

We must not repeat the mistakes of the Great Depression by throwing up trade barriers. We are living in a global economy, and we are in a global economic crisis. This demands more free trade, not less. I am heartened that just yesterday President Obama acknowledged the dangers of protectionism. I hope my colleagues don't follow the path of Smoot-Hawley and cause further damage to our economy and jobs. Cutting off trade not only threatens our export jobs, but many more jobs in my State depend upon exports and depend upon the one or two industries that might be affected. Farmers in my State have been absolutely wiped out in the past when their exports to Southeast Asia, for example, a decade ago were cut off. This retaliation that the European Union and others have threatened could cut off the markets for our farmers.

Finally, the enormity of this spending bill sends the wrong signal about creating jobs.

I hope this body will agree to a complete substitute to get a bill that will work and work now. I think there are some improvements that can be made in it. I have several of these I intend to offer at the appropriate time with several of my distinguished colleagues, including the ranking member of the Environment and Public Works Committee. He and I, along with Senators BOXER, BAUCUS, COCHRAN, CRAPO, BAYH, BROWNBACK, and VOINOVICH, will be offering an amendment for better roads, bridges, and highways. That amendment would take $5.5 billion provided in the new surface transportation investment program and put it into the highway and bridge formula, making the total for highways and bridges $32.5 billion instead of $27 billion. Every State wins, and it is offset. According to the American Association of State Highway and Transportation Officials, there are currently 5,148 ready-to-go projects, with a total price tag of $64.3 billion.

In addition, I will introduce, with Senators BAUCUS, VOINOVICH, and SPECTER, an amendment that eliminates the $8.7 billion rescission of contract authority found in SAFETEA–LU for September 30, 2009. What we had to do when we passed SAFETEA was put in a ''gimme'' at the end. Unfortunately, that ''gimme'' would cut off money that has already been authorized and ready to go to the States to spend on the Nation's highways and bridges. If this rescission is not revoked, we would see the cancellation of hundreds of major projects and the loss of jobs in every State. I think that for a stimulus it is appropriate to undo that artificial limit on spending on highways. For Missouri, the Department of Transportation estimates that this rescission would cost the State $205 million in lost projects and 9,600 jobs. This is not the year to be losing those jobs. Our amendment would strike that destructive rescission.

On a totally different subject, I will join Senator COBURN in offering an amendment that will address a national health epidemic and empower families to make healthy food choices. The amendment is simple. It would require the U.S. Department of Agriculture to establish guidelines to ensure that Federal dollars are used to purchase food that is nutritious and consistent with the food pyramid. These guidelines would be developed by the USDA, and they would give all of our important health and community advocates the opportunity to give the Government their input about how to make the Food Stamp Program a healthier program. According to the Centers for Disease Control and Prevention, poor nutrition leading to obesity can result in 1 out of 8 deaths in America today, which is caused by illnesses linked to being overweight or obese.

Another program that I intend to offer, in addition to investing in our transportation infrastructure, is investment in early childhood facilities. The shortage of these facilities is a chronic problem facing prekindergarten programs. I will offer an amendment that takes $400 million out of the HUD Neighborhood Stabilization Program to fund capital investments for new construction, rehabilitation, and retrofitting of early childhood development centers. There is almost $150 million in stalled capital projects in five States, which would serve 10,000 children. Projections on this survey suggest an immediate need that exceeds a billion dollars over the next 2 years and would serve 30,000 children and generate at least 4,000 jobs.

Finally, this is the amendment I am going to call up. It deals with low-income housing. Some of the folks who have been hit hardest by the economic crisis are needy families. They have been hit doubly hard by the reduction in available and affordable housing.

Today I intend to offer a bipartisan amendment with Senators MURRAY, DODD, REED, and KOHL to address this problem by providing $2 billion in direct equity grants to States through the low-income housing tax credit program.

Much of these funds would be directed toward tax credit deals that have already been approved by State credit agencies and have financing in place to proceed into construction, except for a recent equity gap created by the credit crisis. In other words, these funds are ready to go. They are truly shovel ready, and they deal with a great problem.

The problem is, this crisis in the financial markets has made it impossible for the normal low-income housing credit deals to go forward. This money would fill in that gap. In my State of Missouri, there are about 703 affordable housing units approved by the Missouri Housing Development Commission that have been stalled. They are ready to go. For 2009, the States anticipate another 2,000 units would be stalled.

If the equity gap funding is provided, it not only will save these units, but also create some 3,000 new jobs.

It is estimated the low-income housing tax credit will nationally build 120,000 homes annually, while supporting 180,000 jobs. These are good to go, and when the President talks about shovel-ready projects, what better thing to do than to make sure we have affordable housing for those who most need it.

I believe this amendment provides that affordable housing for families displaced by home foreclosures.

Madam President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. BOND. Madam President, I call up amendment No. 161.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED, proposes an amendment numbered 161 to amendment No. 98.

Mr. BOND. 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 provide $2,000,000,000 from the HOME program for investment in the low income housing tax credit projects)

GAP FUNDING FOR LOW INCOME TAX CREDIT PROJECT

On page 253, line 1, strike ''$2,250,000,000'' and insert in lieu thereof ''$250,000,000'', and insert the following account after line 13 on page 257:

''For an additional amount for capital investments in low income housing tax credit projects, $2,000,000,000, to remain available until September 30, 2011: *Provided*, That the funds shall be allocated to States under the HOME program under this Heading shall be made available to State housing finance agencies in an amount totaling $2,000,000,000, subject to any changes made to a State allocation for the benefit of a State by the Secretary of Housing and Urban Development for areas that have suffered from disproportionate job loss and foreclosure: *Provided further*, That the Secretary, in consultation with the States, shall determine the amount of funds each State shall have available under HOME: *Provided further*, That the State housing finance agencies (including for purposes throughout this heading any entity that is responsible for distributing low income housing tax credits) or as appropriate as an entity as a gap financier, shall distribute these funds competitively under this heading to housing developers for projects eligible for funding (such terms including those who may have received funding) under the low income housing tax credit program as provided under section 42 of the I.R.C. of 1986, with a review of both the decisionmaking and process for the award by the Secretary of Housing and Urban Development: *Provided further*, That funds under this heading must be awarded by State housing finance agencies within 120 days of enactment of the Act and obligated by the developer of the low income housing tax credit project within one year of the date of enactment of this Act, shall expend 75 percent of the funds within two years of the date on which the funds become available, and shall expend 100 percent of the funds within 3 years of such date: *Provided further*, That failure by a developer to expend funds within the parameters required within the previous proviso shall result in a redistribution of these funds by a State housing finance agency or by the Secretary if there is a more deserving project in another jurisdiction: *Provided further*, That projects awarded tax credits within 3 years prior to the date of enactment of this Act shall be eligible for funding under this heading: *Provided further*, That, as part of the review, the Secretary shall ensure equitable distribution of funds and an appropriate balance in addressing the needs of urban and rural communities with a special priority on areas that have suffered from excessive job loss and foreclosures: *Provided further*, That State housing finance agencies shall give priority to projects that require an additional share of Federal funds in order to complete an overall funding package, and to projects that are expected to be completed within 3 years of enactment: *Provided further*, That any assistance provided to an eligible low income housing tax credit project under this heading shall be made in the same manner and be subject to the same limitations (including rent, income, and use restrictions) as an allocation of the housing credit amount allocated by the State housing finance agency under section 42 of the I.R.C. of 1986, except that such assistance shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing finance agency applicable to such agency: *Provided further*, That the State housing finance agency shall perform asset management functions to ensure compliance with section 42 of the I.R.C. of 1986, and the long term viability of buildings funded by assistance under this heading: *Provided further*, That the term basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: *Provided further*, That the Secretary shall collect all information related to the award of Federal funds from state housing finance agencies and establish an internet site that shall identify all projects selected for an award, including the amount of the award as well as the process and all information that was used to make the award decision.''.

Mr. BOND. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first, I wish to make a comment on the remarks of the Senator from Missouri.

One of the most disturbing things, other than the cost of this stimulus bill, is the fact there is nothing in there to stimulate. There are two things that can be done that would be of great benefit to the United States of America.

One is, as he talked about, infrastructure. I was somewhat shocked that in the bill, on the other side, there was only $30 billion, in the Senate bill $27 billion that would go toward highways, bridges, and that type of construction. I am very much in support of his amendment No. 161 that will raise that amount by $5.5 billion. I have to say, it is not enough. That would still be less than 5 percent of the total amount that would go to those items that would provide immediate jobs.

In my State of Oklahoma, we can identify over $1.1 billion, just in Oklahoma, of projects that are spade ready, with environmental impact statements, everything has been done. We are ready to go on them. That is what will produce jobs tomorrow and the next day and the next day.

The other area is in the military. While those two amendments have to do with the infrastructure of which I am in strong support, the Boxer-Inhofe amendment has yet to be filed. It will be filed. We are talking there about some $50 billion that would go toward construction and infrastructure.

AMENDMENT NO. 262 TO AMENDMENT NO. 98

I want to mention, though, there is one other amendment I do want to bring up for consideration. That is amendment No. 262. This is a recognition of investing in our Nation's defense. It provides thousands of sustainable American jobs and provides for our Nation's security at the same time.

Major defense procurement programs are all manufactured in the United States, with our aerospace industry alone employing more than 655,000 workers spread across the United States. At the end of last month, conservative economist Martin Feldstein wrote in the Washington Post about the $800 billion mistake. He was referring, of course, to the stimulus bill.

In that article, he pointed out the value of infrastructure spending on domestic military bases is the most significant we could do to try to stimulate the economy. In fact, it is clear that infrastructure investment alone with defense spending and tax cuts has a greater stimulative impact on the economy than anything else the government can do.

If our infrastructure needs repair, we equally need the tools to reconstruct our military readiness. That is what I am trying to do with this amendment. This is amendment No. 262.

I agree with everything that was said by the Senator from Missouri, that we need to do a lot of this with infrastructure. But, equally, my amendment increases defense procurement spending to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units.

We are accomplishing two things: We are providing the jobs; we are also rebuilding our military. The one thing we hear on the floor over and over, with the activity that is now subsiding in Iraq but, of course, escalating in Afghanistan, is that we are overworking everyone. The term we use in the military is the OPTEMPO is too high. We all recognize that fact.

We know we went through the decade of the nineties reducing spending on both end strength and modernization. What we need to do, if we are going to be having some kind of stimulative effect, if you can do it and rebuild our military, drop down the OPTEMPO for our people serving and at the same time do something about some of our FCS systems, for example, the Future Combat System, so we will become superior to our prospective enemies on the field in terms of equipment we give our kids.

Right now, we all recognize that with the exception of the F–22 and the Joint Strike Fighter, the Russians are making the SU series that is superior to our best strike vehicles, the F–15 and F–16. This is a procurement problem. We already have the lines going on C–17s and other vehicles, and it is going to be necessary to augment that.

This is fully offset. It does have $5.3 billion that would increase procurement.

I ask unanimous consent to set aside the pending amendment for the purpose of bringing up Inhofe amendment No. 262.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 262 to amendment No. 98.

The amendment is as follows:

(Purpose: To appropriate, with an offset, $5,232,000,000 for procurement for the Department of Defense to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material)

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR U.S. FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

Mr. INHOFE. Madam President, I am hoping to be able to consider this amendment in the near future. Let me mention one other point of equal significance, and it is somewhat controversial.

I just got back a couple days ago from Guantanamo Bay. I have been down there several times. As a matter of fact, I was one of the first Members—I think the first Member of Congress, of either House, to be there after 9/11. I have watched it as the years have gone by, the criticism of things happening at Guantanamo Bay that have never happened at Guantanamo Bay. People are talking about torturing and all these things. This is not the truth.

What really bothers me is, all you have to do, if you want to know the truth about it, is pull up on your computer the Red Cross Web site. They are down there with regularity talking about what is happening.

There are no human rights abuses. In fact, 3 days ago when I was there, some of the detainees were kind of laughing about the fact they actually had better medical treatment than they ever had before. As far as the food is concerned, it is the best. There are six camps in conjunction with the severity of the problem with a particular detainee, what level of terrorist activities he was involved in. The first three are the ones ready to go back, and the last ones are the more severe.

In camp 5 and camp 6, we are talking about really bad guys up there. They still have recreational activities, health care, dental care, food. So things there are good.

I hope any preconceived notions by any Member of this Senate could be satisfied by going and seeing for yourself or pulling up the Web site. We even had al-Jazeera in there to evaluate how people are treated at Guantanamo Bay. It is an asset we have had since 1903. It is something we cannot do without.

I have submitted an amendment, which I will not call up at this time, amendment No. 198. People such as Senator MARTINEZ, who is from Cuba, recognize the fact that we have to keep that facility open.

Right now, even though it has a capacity of 11,000, we only have about 425 detainees there. Of that, there are 170 who cannot be returned to their home country, cannot be repatriated because they will not let them back in. Of the 170, 110 are the real serious, most severe of the terrorists. What do we do with those? If something should happen—and, of course, the President came out with two edicts. One was to suspend legal proceedings at this time, which the judge down there has rejected, so they are continuing. The other is to close Guantanamo Bay within 12 months.

The reason the second one is not workable is because you have to figure out what to do with all these detainees. I don't know of one Senator on the floor who would like them sent to his or her State. I know they have come up with some 17 institutions, one of which is in my State of Oklahoma, where they could relocate these detainees. That becomes a terrorist target. It is something that is not acceptable.

All the amendment does, which I am hoping we get cleared before too long, is to prohibit the use of funds in this stimulus bill to transfer detainees from Guantanamo Bay to any facility in the United States or to construct any facility for such detainees in the United States.

When I say that, it will be necessary to do it. The courtroom down in Guantanamo Bay cost $12 million to build. It took a year to get it built. Because of the sensitive nature of the information, they cannot be tried in a normal court facility. This would preclude funds from being allocated toward the relocation of those detainees from Guantanamo Bay to any of the Continental United States areas.

With that, I serve notice I would like to get others to look at this amendment very carefully. This may be the

only opportunity they have to ensure their State is not flooded with detainees, with terrorists, and create the problems we all know would come from that transfer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I understand there are roughly 10 amendments pending. There is understandable concern about calling up additional amendments at this time. If I am mistaken, I am more than happy to call up my amendment. Failing that, for the time being, I would like to talk a little bit about it.

I believe it is important we pass a true stimulus package quickly. Across the Nation, we know millions of families and small businesses are suffering from the economic crisis in which we find ourselves. Many of these small businesses feel like families, and they are faced, of course, with tough choices.

Yesterday the New York Times featured a story about a small direct mail firm in Bellaire, TX, just outside Houston. Fewer orders combined with rising health care costs will force this firm to cut staff or cut benefits unless the economy turns around soon. So we must act quickly, but we must act wisely.

I don't believe the pending bill on the floor today meets that latter part of my criteria, a wise bill. The most recent Gallup poll I have seen said only 37 percent of the people in the polling sample believe the current bill would actually help stimulate the economy in a positive way. In the meantime, we would see in excess of $1 trillion of additional new deficit spending passed on to our children and grandchildren.

We have to not only act quickly, but we have to act wisely. We have to deliver a stimulus plan that will immediately benefit America's families and small businesses. We have to avoid, as well, repeating mistakes of the past that failed to stimulate the economy—and I will talk about that more in just a moment—and we have to resist the temptation, which is all too common in Washington, DC, of trying to fund everybody's wish list. We know that wish list goes on and on without end, and we need to set the right priorities, the same thing families have to do every day.

I believe one of the best ways we can stimulate our economy is to provide true tax relief to everybody who pays taxes. Rather than reprocessing those tax dollars by having Washington redistribute them to the winners and losers in the political process, why not let the people who earn the money keep more of it. We know that is a lot more efficient.

As we have seen, the new chairwoman of President Obama's Council of Economic Advisers, Christina Romer, along with her husband, did a study—she is a real, live economist. We hear economist for this, economist for that. Many are nameless and faceless. I thought how interesting it would be, instead of citing unnamed economists, if you just plugged in the word ''lawyer'' or let's say ''veterinarians.'' Veterinarians believe this, lawyers believe that. We wouldn't accept that at face value. We would want to know what it was and whether it was credible and what they are talking about. Because we know there are economists who disagree with each other, and it is plain silly to suggest that among economists there is any consensus on these unprecedented times we find ourselves in.

But there are two economists—Christina Romer and her husband, she being the most recent chairwoman of President Obama's Council of Economic Advisers—who found in a study they published in 2007 that a tax cut of 1 percent of GDP generates real output by about 3 percent over the following 3 years, a 1-to-3 ratio. Now, that strikes me as a lot better than some of what I have seen in terms of the stimulative effect in spending, which is roughly for every $1 spent, you may get a 1.5-percent increase in growth.

AMENDMENT NO. 277 TO AMENDMENT NO. 98

Mr. President, I just received a note from staff that indicates it is all right to go ahead and call up my amendment.

Let me pause, Mr. President, and call up my amendment No. 277 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BURRIS). Is there objection to setting aside the pending amendment?

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

The legislative clerk read as follows:

A Senator from Texas [Mr. CORNYN] proposes an amendment numbered 277 to amendment No. 98.

Mr. CORNYN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with at this time.

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

The amendment is as follows:

(Purpose: To reduce income taxes for all working taxpayers)

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

Mr. CORNYN. Mr. President, simply stated, the amendment I offer today is based on the experience of what works. We have been presented all sorts of economic theories, some of which I have even bought into because I thought the smartest people on the planet knew more than I did, and perhaps I had to have faith in some of these smart people. But we know based on experience, not just based on faith, that this amendment will work to stimulate the economy.

This amendment cuts the income tax rate in the lowest tax bracket from 10 percent to 5 percent, so it will immediately help some of the people who earn the least amount of money in our society, and it will in fact help all working Americans immediately. Currently, married couples pay a 10-percent tax on income up to $16,050, which is roughly $8,000 for a single tax return. They pay a 10-percent tax on that now, and my amendment would cut it to 5 percent. That would put about $500 per year back into the family budget, or roughly the same amount as the provisions in the current bill known as the ''Making Work Pay'' refundable tax credit. And I will talk about that in a minute. But this amendment would provide meaningful tax relief to more than 105 million Americans—to everyone who must file a tax return by April 15.

This amendment would provide an immediate economic stimulus and jolt to our economy and would show the American people and the global financial community that we are serious about delivering an economic stimulus that will actually work. Isn't that the first question we ought to ask: Will it work? This one will work, because experience proves it. This amendment will cut the size of this $1 trillion bill by about $25 billion because it replaces the so-called ''Making Work Pay'' refundable tax credit.

Now, the refundable tax credit, so everybody understands, is not like the usual credit against income. This is cash money paid by the Federal Government to a person whether they pay income taxes or not. In fact, what it amounts to is taking money from people who do pay taxes and giving it to people who don't necessarily pay taxes. It represents a huge transfer of wealth. But even worse, in this bill it represents a repetition of the failed stimulus bill that we voted on roughly 1 year ago.

I am sorry to say now I was one of those votes in favor of that stimulus bill. That is in the category of what I described earlier, where I believed the smartest people on the planet were telling us we had to spend this $150 billion-plus. And we had bipartisan support for the bill. We borrowed $150 billion or so from our children and grandchildren. In other words, we added it to

the Federal deficit. You know what kind of impact it had? It had zero, zip, nada, no impact on the economy, other than to rack up another $150 billion in debt for our children.

So this refundable tax credit, if passed in its current form, represents a repetition of what we know will not work and which will in fact make our economic situation worse. It will represent a $46 billion transfer of wealth to folks who don't pay income taxes in the first place. We should provide tax relief in a straightforward and transparent way to all taxpayers who owe income taxes. In other words, this amendment is about providing tax relief for taxpayers which, according to Ms. Romer, is the most efficient way to get our economy moving again, and one that will not pick winners and losers here in Washington, DC, after Congress takes its cut, but allows it to be kept by the people who earned it in the first place.

I ask my colleagues to support this amendment when we have an opportunity to vote on it later on. This is, once again, amendment No. 277, and I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, 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. BUNNING. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 242 TO AMENDMENT NO. 98

Mr. BUNNING. Mr. President, I call up my amendment No. 242.

The PRESIDING OFFICER. Is there any objection to setting aside the pending amendment? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 242 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to suspend for 2009 the 1993 income tax increase on Social Security benefits, and for other purposes)

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 86(a) (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new flush sentence:

''This paragraph shall not apply to any taxable year beginning in 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the amendment made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(d) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by a percentage necessary to offset the aggregate amount appropriated under subsection (c).

Mr. BUNNING. Mr. President, I have three amendments. Since there are so many amendments, I am going to only offer one at this time. It is an amendment I have offered on the floor numerous times on major bills. It has something to do with a serious problem that 12 million American seniors face every year. My amendment puts more dollars in seniors' wallets, which will hopefully stimulate the economy by giving them more expendable income.

My amendment would suspend for just 1 year, the year 2009, the increased tax on Social Security benefits that Congress passed in 1993. I have been a strong advocate for eliminating this tax entirely for many years. My amendment would give seniors a 1-year break from this unfair and punitive tax.

Let me start with a little background. Historically, Social Security benefits were not taxed by the Federal Government at all. However, in 1983, the Nation was facing an immediate shortfall in the Social Security Program, with the trust funds possibly running out of money in the next couple years. Acting on the recommendations of the Greenspan commission, Congress passed a law in 1983 that began taxing Social Security benefits for the first time. The new law required that 50 percent of a senior's Social Security benefit or Railroad Retirement benefit be taxed if his or her income was above $25,000 or $32,000 for married couples. This tax, over the past 26 years, has been dedicated to shoring up the Social Security system or the Railroad Retirement system.

In 1993, when I was a member of the Ways and Means Committee in the House, Congress was faced with a similar problem. This time it was the Medicare trust fund that was going broke. Once again, Congress called on American seniors to help fix this program by instituting another additional tax on Social Security benefits. In 1993, Congress passed a law that required 85 percent of a senior's Social Security benefit be taxed if their income was $34,000 for a single person or $44,000 for a couple.

As a Member of the House in 1993, I thought this tax increase was grossly unfair to our senior citizens. On one hand we tell seniors to plan for retirement and on the other hand we tax them for doing that. CRS estimates that there are 12 million seniors paying this tax on 85 percent of their Social Security benefits.

Also, since the income levels are not indexed to inflation, many more seniors become burdened each year as we go forward and inflation rises.

My amendment is very simple. It gives seniors a break for 1 year from paying this tax. While I would love to see this tax permanently repealed, suspending it for 1 year is a start and a stimulus to get money into the pockets of our senior citizens so they can help stimulate the economy. It would help do it immediately, by allowing millions of seniors to keep more of their Social Security benefits. With wild fluctuations in gas prices and increases in health care and food costs, this tax relief could make a difference to millions of seniors across this country.

The amendment holds the Medicare trust fund harmless so the solvency of Medicare is not jeopardized. The amendment is paid for by reducing discretionary spending in the bill, except spending for veterans.

In the past, many of my Senate colleagues have supported sense-of-the-Senate amendments to remove this unfair tax. Today, Senators will have an opportunity to vote on actually giving seniors relief and removing this unfair tax for just 1 year, 2009. It is the fair thing to do. I hope my colleagues can support this amendment and support over 12 million seniors who are forced to pay this unfair tax.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Kentucky for offering his amendment. There are 14, I believe, maybe 15, pending amendments to this bill. I think it is healthy. It means we are actively debating this issue and getting suggestions from Democrats and Republicans about ways to change it.

But let's remember why we are here. This is H.R. 1, the first bill of the session. It is the bill, in terms of priority, that has the highest priority for the President of the United States and for the Nation. It is the American Recovery and Reinvestment Act of 2009.

It has been only 2 weeks now since we swore in a new President, the 44th President of the United States. He comes to this office, I believe, with extraordinary talents and potential. But he also comes facing some of the most serious challenges any President has faced in 75 years. You have to go back to Franklin Roosevelt, in 1933, and the Great Depression to find another time in American history that was any more challenging than what we face today. I think most Americans know what we are talking about.

We found, for the gross domestic product; that is, the production of

goods and services in America, our growth in that area has started to decline for the first time in 25 years. We have found that unemployment rates are higher than they have been in 15 or 20 years—in some places even worse. Ask the average person or family member: Does this affect you? And they will say, of course, it does. My savings for my retirement are not what they used to be. I have lost a lot. I had planned on a life of comfort and security and now I am not sure.

How about your home? For most people it is the most important asset in their life. Even if you are paying your mortgage payment, your home value has been going down in most communities across America. People understand, too, that many of their neighbors are losing their homes to foreclosure. Some of these are hard-working families who have played by the rules and all of a sudden the world is upside-down. The principal they owe on their mortgage is more than the value of their home.

Ask people about jobs, about all the jobs we have lost across America—half a million jobs in December, even more in the month of January. As we lose more and more jobs, of course, people face hardships. Part of our effort is to try to find a way to help them, provide a safety net, to give them a helping hand—as we should.

Let me tell you what President Obama's proposal means to America. First, we are going to try to help those people who are suffering. For those on unemployment right now, many of these people have been stretched to the absolute limit. Imagine losing your job and trying to keep your family together and make the utility bill payments and not lose the house—in the hopes that this is going to turn around and you will find another job. We provide an additional help to them. It is not a lot. I would like to give more, but it means more money in unemployment relief for these families.

The second thing we find is that as soon as you lose your job, guess what happens next. You lose your health insurance. There is a program called COBRA where you can turn around and buy health insurance, but take a look at the price. The price is dramatically larger than you paid as an employee, if you had coverage at your workplace. So we try to extend health insurance for these families. Shouldn't we, for the millions of Americans who are out of work, give them a little more to live on and a little helping hand when it comes to the paying of their health insurance? That is not just humane; if you are looking at the pure economics of it, trust me, those unemployed families with an extra few dollars a week are going to spend this money back into this economy, keeping their families together.

Then we take a look at what we need to do to get this economy moving forward. President Obama said the first thing we need to do is to give working families, middle-income families, a helping hand. Tax policy over the last 8 years has been geared primarily, most of the breaks, to the wealthiest people in America. But the folks who have been falling behind are those whose wages didn't keep up. The cost of living kept up, but their wages didn't keep up. President Obama says, as part of our recovery plan, let's give a helping hand, $500 to an individual, $1,000 to a family, at least so that these working families can pay their bills and maybe try to get ahead a little bit. That, to me, is a sensible economic recovery.

Wouldn't we start at the base of America, the strength of America, the families of America, and make sure they get the first helping hand, after we have taken care of those who lost their jobs, through unemployment? That is part of it.

He also has asked us, in the Obama plan: Help businesses, small businesses in particular, because they are the bedrock of the American economy. They create most of the jobs. They are the most vulnerable. We have seen it happen. We get the announcements of the big companies that are laying off thousands of workers: 20,000 at Caterpillar, thousands at Starbucks and INTEL and the list goes on and on. But it is the small job in the mall or downtown that lays off a worker or goes out of business—then we start losing jobs that way. The President has proposed in his tax package, let's allow these businesses to write off their losses and apply them to previous years' tax liability. Give them a helping hand. If they want to buy things that might expand their businesses, let's encourage them, give them more of a tax writeoff. So we build this into the program here as well. I think these are all solid investments in people who are struggling with unemployment and middle-income families finding it hard to pay their bills and small businesses that are vulnerable to a weak economy.

Then the President goes a step further and the President says: Let's now create jobs, let's invest in America in a way that is going to build America's economy for decades to come. He has identified several areas of importance that I think will meet the test of time and I hope will meet the approval of my colleagues.

The first thing he says is energy. We know, as long as we are captives of foreign oil producers who can run the price of gasoline up to $4.50 next week and back down again to $2.50 a month later, it is tough to build an economy.

So President Obama has told us, as part of this, build into this energy-related investments, the kinds of things that make sense, research in areas that will give us energy capability.

We can't build an American economy without energy. Let's build it with homegrown energy, energy that uses our creativity and our resources and builds on them.

He also said: Let's take a look at our schools, let's take a look at our Government buildings, and if the energy is going out through cracks in the windows and the doors, let's do something about it—more energy efficiency.

That is a good investment. That is going to pay itself back over a period of time.

Secondly, there is this whole element of health care. We know that one of the crucial elements in our daily lives is the protection of health insurance, and we know the cost of that insurance and the cost of medical care continue to rise.

What President Obama has made part of this is something that is the most important single downpayment to health care reform. He believes we should start moving as a nation to put our medical records on computers so that we have technology that has my medical records, the records of my family, so that when you go to the hospital, the doctors who are there and the nurses who are there have access to solid available information. They are not going through pages hoping they don't miss one. It is going to mean that there will be more affordable health care, and it will be safer health care. That makes sense. That is a good investment.

The third element is education. What the President has said as part of his proposal here is that we need to start building—by building, putting people to work—we need to start building the laboratories, the libraries, and the classrooms of the 21st century.

Let's be honest about this. America is as ingenious, innovative, and creative as any nation on earth. But the reason we are is because our schools prepare our children to meet that challenge and to lead. That is part of the investment of this bill.

Overall, what the President is asking us to do is to do our very best today to invest about $900 billion—a huge sum of money, I do not doubt that—so at the end of the day we will have saved or created 3 to 4 million jobs.

My friends, some of them on the other side of the aisle, say that is way too much money, $900 billion. This $900 billion represents about 6.5 percent of the gross domestic product of America. So you say: Is that enough? Is that enough of a catalyst? Most of the economists say: Err on the side of providing enough water to put out the fire. Don't put so little on it that you will have to revisit that conflagration tomorrow. And if you follow the lead of some who want to cut back the size of this program substantially, every time they cut back the size of it, they will cut back the number of jobs we will be creating in America at a time when we desperately need more jobs.

We expect to lose in economic activity in America $1 trillion a year because of this recession. What we are putting back over 2 years, this $900 billion, means we are about at half of what we are going to lose. We are going to put some $450 billion of economic spending into an economy that is losing $1 trillion in activity. So we are

not even keeping up with what the recession is doing to us. So those who want to cut this back dramatically, I can tell you, sadly, if they have their way, we will be back here again.

You remember last year, President Bush said to us: I think the economy is weak, and I know how to solve the problem. Tax cuts will do it. And he asked us, the Democratic Congress, to give the Republican President $150 billion in tax cuts. And we did. Senator BAUCUS, the chairman of the Finance Committee, worked to deliver a bill, a bipartisan bill, focusing on tax cuts.

If you listen to my friends on the other side of the aisle, they believe this is the answer to every ill. If the economy is flourishing, more tax cuts; if the economy is struggling, more tax cuts. Well, tax cuts have their place, and they are a part of this, but they are not the complete answer. We learned that when we put $150 billion into the economy in tax cuts last April, I believe it was, and it did not have the kind of positive impact we expected on our economy.

The point I want to get to is this: We have to act, and we have to act now. Sure, we should have this debate on the amendments. Some will prevail, some will not. But at the end of the day, the American people will not accept as a final verdict that the Senate did nothing. They will find it absolutely unacceptable that one of the worst economic crises in America was met with political resistance. They want us to work together. And we should.

I am open—I believe most Democrats are—to good ideas and good suggestions, and a lot of our colleagues are, in good faith, working toward that end. But there is one basic thing we should remember: When we get down to the bottom line, most of the critics of this program, this $900 billion program, when you add up the total amount of their criticism, it is less than 1 percent—less than 1 percent.

Well, let's try to cure that 1 percent. Let's do our best to make sure we do. But let's not walk away from this challenge. Let's not walk away from this crisis because we find in some paragraph in here something to which we object.

If there were ever a time when the American people expect us to rise to the occasion, to stand with President Obama and try to turn this economy around, this is the time. I would say to my colleagues, let's get it done this week. We need to tell America first—and the world—that we are not going to stand back and be victimized by this economy. We are going to use every talent, every tool we can to get this American economy moving again for the workers and families and businesses that count on us so much.

In the Senate, it is easy to get something lost in the debate and end up doing nothing. That is the one thing that is prevalent in the Senate too many times. But this is different. This is a historic challenge.

I hope Senators from both sides of the aisle will work in good faith to find a way to put together a product that will ultimately serve this country and serve it well. Two-thirds of the American people now say they support this plan. They do not believe it is the last thing we are going to do, and they sure do not believe the economy is going to be cured in weeks or months; it may take us longer. But we need to start working together and give this our best effort. We need to follow on from this doing something about the housing market, mortgage foreclosures, people who are underwater with their own home mortgages, folks who will not consider buying a home because of the uncertainty of the economy. That is absolutely a priority. It may not be included in this bill. Perhaps it will be. But that is a priority we should turn to next.

Then we need to look at these financial institutions.

Make no mistake about it, when this Bernard Madoff is found guilty of a Ponzi scheme, people are wondering whether he will go to jail. I am not going to say whether he should or should not. He needs to be held accountable for what he did. A lot of innocent people lost a lot of money because of what he did. He needs to be held accountable.

What about the financial institutions that brought us to this moment in American economic history? I think we need accountability there too. We need to make sure these executives do not run off with millions of dollars in bonuses, capitalizing on the taxpayers' money, ignoring the fact that they failed in their business missions. We need to have a good, strong law in that regard too.

We need to have proper oversight and regulation of financial institutions so America never goes down this road again. That is our responsibility on our watch.

I sincerely hope both sides of the aisle will make it their business to get it done this week so the American people understand that we get it, we understand the severity of the crisis we face.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the——

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. FEINGOLD. Mr. President, if there was an arrangement that I am unaware of, I would defer.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we try to be evenhanded and fair and balanced here. We have had a gentleman's agreement that we alternate sides on speakers. Since the Senator from Illinois last spoke, I think it is only fair and appropriate that we rotate.

Mr. FEINGOLD. Mr. President, I was unaware of that, and I defer to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I will not take too long because I know there are other Senators waiting to speak.

I send an amendment to the desk and ask for its immediate consideration.

Mr. BAUCUS. Mr. President, reserving the right to object, I think the pending amendments would have to be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. We already have 16 amendments lined up in the queue. It is going to be a very late night tonight because of that great number of amendments.

I was wondering, I would be more than willing to work out an arrangement where the Senator's amendment can be the next one available after our votes tonight, the first Republican amendment tomorrow. I have to draw the line somewhere here; otherwise, we would keep going. I renew my offer to make it the first amendment tomorrow.

Mr. MCCAIN. I would be pleased to accommodate the manager, who has been very accommodating to this side of the aisle, and he just demonstrated that. So I would be glad, if it is agreeable to the manager to allow me to propose the amendment now. Then I would be glad to ask for a vote on it at the convenience of the managers of the bill so that it is most convenient for them.

Mr. BAUCUS. Mr. President, I would prefer that you offer the amendment after we dispose of the 16 tonight.

Then we can agree by unanimous consent that it would be the first one up.

Mr. MCCAIN. If I could ask unanimous consent that I would be the first amendment considered tomorrow.

Mr. BAUCUS. That would be fine.

Mr. MCCAIN. Mr. President, I will withhold proposing the amendment. I ask unanimous consent that my amendment be allowed to be filed and considered at the beginning of legislative work tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. So far, I have to object, and I have to figure out why. I might say to my good friend, in order to get order here, they are telling me we are coming in at 9:30 tomorrow morning. I know the Senator, a former military man, is used to early hours.

Mr. MCCAIN. Whatever the floor staff wishes, as well as the manager. By the way, I say that with great respect to the staff on the floor who are making this machine, this unwieldy machine, run in the most efficient fashion.

Mr. BAUCUS. Thank you very much.

Mr. MCCAIN. Mr. President, I will withhold until tomorrow morning, according to the unanimous consent agreement, and file the amendment and ask for its consideration at 9:30 a.m.

Mr. BAUCUS. Or whenever we come into session tomorrow morning. We expect to be in about 9:30. There may be some leader time.

Mr. MCCAIN. Sure.

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

Mr. MCCAIN. Mr. President, I would like to keep the floor, if I can, for a couple of minutes.

Basically, tomorrow morning we will be considering this amendment. I would like to say a few words because this is a proposal that I think should be considered, along with the legislation that is pending. It is a compilation of what we believe is the most effective way to address the stimulus and job creation. It has tax provisions, such as elimination of the 3.1-percent payroll tax for all employees for 1 year. It lowers the 10-percent tax bracket to 5 percent; lowers the 15-percent tax bracket to 10 percent; lowers the corporate tax bracket from 35 to 25 percent and has accelerated depreciation for capital investments for small business; the extension of unemployment insurance benefits; extension of food stamps, unemployment insurance benefits, tax-free training and employment services, as well as keeping families in their homes through a loan modification program. It has tax incentives for home purchases and GSE–FHA conforming loan limits; national infrastructure and defense, which is very badly needed; transportation infrastructure; and also contains the trigger that is also the subject of a separate amendment I have proposed, with a total of about $420 billion.

Now, I know my friend from Wisconsin is waiting patiently, but I would like to point out where I think we are at this moment; that is, we basically have legislation which is too big, which is not stimulative, and which does not create jobs. The American people are beginning to figure it out. In fact, polling numbers in the last couple of days have shown a significant shift in American public opinion because they are beginning to examine this proposal.

I argue that it is time we sit down, Republicans and Democrats, and begin good-faith negotiations to create a real job creation and stimulus package. I think it would be unfortunate if this body passed, on a party-line basis or largely party-line basis, this package in similar fashion as it did in the other body.

I think we have a proposal here that deserves consideration, but I also think it is time that we had serious negotiations to try to reach some kind of consensus on a package and legislation that truly stimulates and truly creates jobs.

My colleague from Arizona will be pointing out, as many others have, that there are many programs here, moneys in the hundreds of millions and billions, that simply do not meet any criteria for job creation: $75 million for smoking cessation; $150 million for honeybee insurance. The list goes on and on. We also have an obligation to future generations to understand that $1.2 trillion, followed by another TARP, followed by an omnibus appropriations bill, requires us to put this country, once the economy recovers, back on the path to a balanced budget and reduce spending across the board once our economy has recovered.

I thank the Senator from Montana, the distinguished manager of the bill, for his consideration on my amendment. I thank my colleague from Wisconsin, as always.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that following the remarks by the Senator from Wisconsin, the Senator from Arizona, Mr. KYL, be recognized.

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

The Senator from Wisconsin.

AMENDMENT NO. 140

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the amendment I am offering with Senator MCCAIN and others. Just to remind my colleagues, our amendment creates a point of order against unauthorized earmarks in appropriations bills. Again, it applies to unauthorized earmarks. If a provision is not both an earmark, as defined by the Senate Rule 44, and unauthorized, this point of order does not apply.

For the purposes of this amendment, we consider a program to have been authorized even if that authorization has only passed the Senate during the same Congress as the proposed spending item.

Moreover, as a safeguard we have taken care to also exempt programs that may have had their authorization lapse, but which are clearly needed and are included in the President's budget request.

The Senator from Hawaii noted, for example, that we haven't considered an Intelligence authorization bill for some time, or a Foreign Operations and State Department authorization bill. He argued that the programs covered by those lapsed authorizations, or programs that have never been authorized, would be subject to this point of order.

They would not be subject to the point of order established by this amendment.

First, to my knowledge, few if any of the programs under those measures would be considered ''congressionally directed spending,'' and thus they could be funded without this point of order applying. Second, programs covered by those authorizing measures are typically included in the President's budget request whether or not the authorization has lapsed and, as such, are fully exempt from this point of order.

Let me reiterate, in order to be subject to our point of order, the program must be an earmark; that is, ''congressionally directed spending'' as defined in Senate rules, and it must not be authorized or included in the President's budget request.

The Senator from Hawaii used the specter of an authorization bill being filibustered to stop the ability of Congress to use its power of the purse as an argument against this amendment. Once again, if a program is not considered to be ''congressionally directed spending'' it will never be subject to this point of order, and Congress is free to fund it or not as it sees fit.

The Senator from Hawaii also raised the concern that this amendment creates a point of order against unauthorized earmarks added to conference reports. Darn right it does. We shouldn't be adding earmarks to conference reports. Under the amendment, if a point of order is sustained against a provision in a conference report, that provision would be stricken, but the legislative process would continue with no more potential roadblocks than exist currently. The conference report would revert to a nonamendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House. It won't tie the two Houses up in knots, as the Senator from Hawaii suggested. The House will accept the Senate amendment or it won't. If the House makes a further change, the Senate can consider it. That is the regular order of business around here. The best way to avoid this issue is not to slip earmarks into conference reports.

The argument was also made that if our amendment was adopted, then authorizers would have the power to earmark, but no one else. This amendment doesn't give the power to earmark to anyone. All it does is return the Senate to what should be the proper way to consider special interest spending. If you want some special project for your State or district, the authorizing committee of jurisdiction should review it, and legislation authorizing it should pass both Houses and be signed into law. That is the regular scrutiny we should require of special interest spending. Then the Appropriations Committee can decide whether and at what level to fund the authorized program. That is the way the system is supposed to work. Unfortunately, we now have an alternative, short-cut process, whereby Members stick spending provisions into appropriations bills without any scrutiny whatsoever. That is a recipe for waste, fraud and abuse.

I have great respect for the Senator from Hawaii, and I appreciate his willingness to debate my proposal on the merits. I wish more of my colleagues were willing to have this kind of public discussion about earmarks. But I disagree with his arguments. This is a sensible amendment. It will put some teeth into the earmark rules we adopted in the last Congress. As we consider

a bill that proposes to increase our debt to the tune of $800 billion, we should be doing all we can to assure our constituents that their money is not being wasted on pork-barrel spending. One way we can do that is to pass the Feingold-McCain-McCaskill amendment, and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that an editorial in the February 4 edition of the Arizona Republic be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. I will refer to that editorial, because it sets the stage for what we need to do to fix this bill. The Gallup poll yesterday said that 56 percent of Americans believe that either this bill should not be passed or that it should require major changes before it is passed. That is not only what most American people believe but also what most of the people on the Republican side of the aisle believe and I know some Members on the other side as well.

This editorial is titled ''Senators should just start over in fixing fiscal mess.''

They say:

Far too much of the stimulus bill is simply unserious as ''economic stimulus.'' The Senate would do us all a great favor if it started again from scratch.

In a different part they write:

When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.

A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

They conclude:

Make the measure look like a stimulus package rather than a pork package.

That is what most of us believe we should do. You build the bill from the bottom up. What actually stimulates the economy, what actually creates jobs, you put that in the program. There may be a place for extending unemployment benefits, though that probably should be in a separate bill, because it is clearly not stimulative even though it helps people who are hurting. I doubt that there would be any objection to doing it. But we ought to focus the stimulus on exactly that; Otherwise the American people are going to be cynical when they look at a bill that is $1.3 trillion in size, and the experts are saying a very small percentage of that actually does anything to create jobs or stimulate the economy.

Let's go back to last December. In the Washington Post, Lawrence Summers, head of the President's National Economic Council, said:

Investments will be chosen strategically based on what yields the highest rate of return for the economy.

The Congressional Budget Office, the CBO, projects that in fiscal year 2009, the deficit is going to total $1.2 trillion, and that doesn't include any of this stimulus bill which is about $1.3 trillion. Add those two together, we are talking about $2.5 trillion. So we need to take Lawrence Summers' advice and only spend money that will yield the highest rate of return for the economy. If we do that in building this bill from the bottom, we can actually do something that is great for the American people and still not be wasting taxpayer money. It might take 2 or 3 more days, but this is the most important economic bill this Congress will have considered in decades. It is the biggest bill in the history of the United States. We spent yesterday, Tuesday, on it, today, tomorrow, probably Friday, perhaps Saturday. We spent 5 weeks on an energy bill a couple years ago. Surely on a bill of this magnitude and with the emergency facing the country, if it takes us 3 or 4 more days to do it right, we ought to do it right. That means constructed from the bottom up with things we know will stimulate the economy and create jobs, not just fulfill campaign promises, not just make good on 8 years of things we wanted to spend money on but have not been able to find any other bill to stick it in until we got to this bill. Let's try to do this in a bipartisan way that will achieve the objective.

The President himself, on Super Bowl Sunday, in a nationally televised interview on NBC, said:

There will be no earmarks in the bill.

He said he is going to be trimming out things that are not relevant to putting people back to work right now. My guess is he is fairly embarrassed with a lot of the earmarks that are in the bill. Most of my Democratic colleagues are meeting now. I hope they are talking about what can be eliminated from this bill, what kind of earmarks or wasteful spending can be eliminated from the bill. It has become an embarrassment. We would be very happy to have them join in some of our amendments which will eliminate that spending.

Senator CONRAD, chairman of the Budget Committee, knows what he is talking about in these matters. He told Fox News:

There are other areas of the package that are really very questionable in terms of whether they would stimulate the economy. Some of the programs that are given money only have 10 percent spend out in the next two years.

He is correct on that. On the same day Senator DORGAN also commented to Fox News that ''major chunks of the package do not spend out for years which is problematic.''

We all agree. We ought to start over and start by eliminating these programs. If we do that, then we can meet an objective which is far higher than either 12 percent or 25 percent in terms of the money we spend that will actually provide new jobs.

The Congressional Budget Office, nonpartisan, says only 12 percent of the discretionary spending in the bill will be spent by the end of this year and that less than half of the total of the discretionary money will be spent by the end of the following year. So more than half of the bill starts spending in the year 2011. I hope the recession is over by 2011. If it is not, obviously, we can look at that time to see whether we need more stimulus. But having stimulus for 2 years, that is a pretty long time to be stimulating. Let's adopt the McCain idea that after 2 years we take a pause and see what else we might need to do. We could probably save a lot of money. We would make wiser decisions, and we would be stimulating in the short term which is what we want to do.

The President's Chief of Staff said last year: You never want to waste a crisis. He was referring to the use of a crisis such as this to accomplish certain good. He was talking about reform ideas and so on. But we have to be careful that others aren't using this as an excuse to put spending in a bill that has been pent up for 8 years, that some of our colleagues wish to have done but haven't found a vehicle to carry it and, thus, stick it in this bill. That is what the American people are so upset about.

If we will solve this problem, the American people will be a lot more generous in their support for the other things we want to do. I have talked about some examples. I don't want to go through a laundry list. A lot of this is oriented to Washington, DC: $9 billion for a Federal buildings fund; more money to help the auto companies, $600 million to buy more cars for Government employees; $248 million for USDA facilities modernization; $34 million to spruce up the Commerce Department headquarters; $125 million for the DC sewer system. All of these may well be important things to do. You can't argue that they are directly stimulative, though some people will have to do the work associated with them. But we have no idea whether these things are ready to go, whether they can be done in the first 2 years, or whether these are things that actually will be spent, as will the majority of the money, in the 2 years after 2010.

In any event, we have a process, as Senator COCHRAN, the ranking member on the Appropriations Committee, has said, that enables us to vet all of this spending and prioritize it so we put the most helpful spending first, and those things that are not as justified then fall out of the spending for this year and maybe come back next year. But it is our way of determining what we really want to do as a country that, obviously, cannot just have everything we want, and we cannot pay for simply everything. So, as Senator COCHRAN said, we have the responsibility to be deliberate and consider these items

carefully in the context of the President's formal budget request. It is a matter of making tough decisions, and I would hope we could do that.

Now, let's assume—because I am sure our Democratic colleagues will agree to eliminate some of these wasteful programs—we still have the problem that if the money is not reduced, then the money is still in the bill to be spent by somebody somewhere. So it is not just a matter of taking earmarks out, but it is a matter of eliminating the funding categories those earmarks are in, or as soon as we authorize the money, it will come right back in and we will have the same projects.

In this regard, I am very troubled by programs that would fund directly States and local governments because we have seen the lists they have sent to us—their wish list of things they would like to get. If we simply strike the exact delineation of where they want some of this money to go but leave the pot of money there, I ask you, where is it going to be spent? It will not take 5 minutes for them to get that list back out, put it on the table, and start going to town.

Just some general categories here:

There is $16 billion to repair and build schools. That has always been a local school function. It is not a Federal function.

There is $5.5 billion for a brandnew discretionary program on transportation.

There is $2.25 billion for a neighborhood stabilization program. That is the same kind of program that would have made funding available for groups such as ACORN that we took out of the housing bill in June of last year. I do not think people want this kind of money going to ACORN or groups like that.

There is $500 million to upgrade fire stations. I know all our local fire departments would love to have money to upgrade their fire stations. Is that a Federal responsibility?

There is $9 billion to the National Telecommunications and Information Administration for grants to provide access to broadband.

There are huge chunks that would go to local projects specifically delineated by the Conference of Mayors. On January 17, they issued their fourth update of a report that details much of the spending they would like to accomplish. It is a stunning list of porkbarrel projects involving swimming pools, water slides, corporate jet hangars, skateboard parks, dog parks, equestrian trails, golf courses, parking garages, museums, bike paths, and so on. Some of those things might be perfectly appropriate; all of them should be local responsibilities. If people in the community want something like that badly enough, they will find a way to get the money to support it.

Just to illustrate the degree to which this prospect of free money has motivated people to what I regard as silliness—again, some of these projects may be perfectly appropriate; if they are, local governments will find a way to fund them—there is $8.4 million—a lot of money—for a polar bear exhibit in Providence, RI. There is $6.1 million for corporate jet hangars in Fayetteville, AK. There is—a small amount of money—$100,000 to create one cop job in Sulfur Creek, CA. I do not know what kind of community Sulfur Creek is, but surely California could come up with $100,000 to get a police officer on the force for that community, I would think. There is a lot of money here for California. There is money to rehabilitate a skateboard park in Alameda, CA; $500,000 for Sunset View Dog Park in Chula Vista, CA. There is money for an equestrian park in San Juan, Puerto Rico, and so on.

The bottom line is, these things ought to be subjected to the usual appropriations process. I guarantee you, the appropriators are pretty careful when they go through these items. Yes, some of this stuff slips in, but they try to prioritize these projects, and it is not just a giveaway to local communities.

I think it is worthwhile noting what some of the money is specifically spent for in categories. Golf courses seem to be a big item. Golf courses. There are several million dollars for golf course renovations and construction in Shreveport, LA; Brockton, MA; Roseville, MN; Florissant, MO; St. Louis, MO; Lincoln, NE. There is an environmentally friendly golf course in Dayton, OH. That one might win the approval of the appropriators. There is the renovation of a golf course maintenance building in Kauai County, HI.

Not to leave out my own State—there are a lot of museums that are apparently in need of some renovation or construction here—there is one in Scottsdale, $35 million for a museum of the West. I guarantee you that will be a great museum, but I would hope we could help the folks in Arizona generate the money for this museum. There are museums in Miami, FL; Meridian, MS; a Minor League Baseball museum in Durham, NC; a museum of contemporary science—there are several museums of contemporary science; that must be a new trend—in Trenton, NJ. There is a music museum in Puerto Rico; a music hall of fame in Florissant, MO.

I may be mispronouncing the names of some of these communities, in which case I apologize.

There is a local history museum at Imperial Centre in Rocky Mount, NC. I bet that would be fun to go to. In Trenton, NJ, there is another contemporary science museum—again, in Trenton, NJ. There is the Las Vegas Historic Post Office Museum in Las Vegas, NV, and the Las Vegas Performing Arts Center in Las Vegas. There is the Art Walk at the Rochester Museum and Science Center in Rochester, NY; Lima, OH; Puerto Rico—well, there are three more in Puerto Rico—four more; one in Green Bay, WI. You get the drift.

Parking garages are a pretty big item, and I will not list them all here, but there are a lot of them in California, Colorado, Connecticut. There is a maintenance garage recycling and sanitation truck wash—let me say that again—a maintenance garage recycling and sanitation truck wash in Bridgeport, CT—I am sure that is necessary, actually—$27 million. I gather all other communities in the country find a way to pay for theirs, but Bridgeport needs some help on that. Structural repairs to Yankee Doodle Garage in Norwalk, CT. And that list goes on and on. In fact, the list goes on and on. I will refrain from reading about another 30 of these.

Bicycles are a big item. Bike paths in Long Beach, CA; Miami, FL; Lewiston, ME; St. Louis, MO; Austin and Arlington, TX; Salt Lake City.

Water slides are a pretty good item. There is one in Carmel, IN. There is one in Shreveport, LA.

Pools—as I said, that is a big item. There is lots of swimming pool rebuilding and refurbishing and so on: California: San Leandro, CA; Sulfur Creek, CA—a lot of California swimming pools. There are a couple here in Connecticut, Colorado. There is one to replace pools at city high schools in Meriden, CT; one to upgrade swimming pools and school restrooms in New Haven, CT. Florida has several pools. They are going to build a fishing pier in Savannah, GA. This one I do not understand, Mr. President: millions of dollars for propane heating replacement with solar water heating systems for county swimming pools in Maui, HI. I did not think they needed heated pools in Maui, but more power to them if they can go with solar. Again, the list goes on and on and on. This is the wish list.

These are the kinds of things that when you make money free, people will line up to take part in. Even if we were to eliminate the pots of money here that these particular specific items would come from—let's assume all of the earmarks are gone but the pot of money is there—there are still other pots of money in the bill worth billions of dollars that represent wasteful Washington spending, money that will not go to create jobs.

I urge my colleagues here, as we talk about bipartisanship, as every one of us is struck by the absolute seriousness of the crisis that faces our country, we want to do something that works. And to ask somebody to support this is to say, in 6 months or a year or a year and a half, did it work? For those who support something that does not work, not only is that not in the best interests of the United States, but I think there will be a very high price to pay for wasting perhaps a trillion dollars. It is money we do not have, and we cannot afford to waste it.

So what I would urge my colleagues to do: We have several amendments today and tomorrow that will be offered to try to end the wasteful Washington spending and relegate those

kinds of bills to the Appropriations Committee, where they can make the tough choices, and then focus on the things which can actually create jobs and stimulate the economy. Our colleagues on our side of the aisle will have several important suggestions in that regard. We probably need to start with housing, which is where the problem started. Experts, as I read this morning, agree that until you solve that, you are probably not going to solve the rest of the problem.

So if we can approach the bill from a commonsense standpoint, which is what the American people want us to do, we can create a very good piece of legislation. But as it stands right now, there are going to have to be fundamental changes in this bill, starting basically from scratch, in order for it to do the work we want it to do and to be supported by the American people. We can afford the extra time, if it is 2 or 3 days, to get it done right.

I urge my colleagues, let's put the partisanship aside, the victory dances and all of that, and roll up our sleeves and try to see if we can follow the admonitions of the President when he laid out the original concept of this bill—timely, targeted, and temporary—and try to focus on those things which will do the job rather than simply to fulfill our spending wishes or those of many of our well-meaning constituents.

EXHIBIT 1

[From the Arizona Republic, Feb. 4, 2009]

SENATORS SHOULD JUST START OVER IN FIXING FISCAL MESS

In opposing President Barack Obama's economic-stimulus package—now ballooned to more than $900 billion—congressional Republicans risk letting Democrats earn all the credit as stewards of a national economic revival.

Unfortunately, their strategy looks to be a safe bet.

Far too much of the stimulus bill is simply unserious as ''economic stimulus.''

The Senate would do us all a great favor if it started again from scratch.

Congress now enjoys a public mandate to spend like the drunken sailor of its dreams . . . on one condition. That it allocate spending not to its beloved ''pork,'' but to spending projects that offer some promise, however slight, of sparking the economy.

And just what constitutes an economy-igniting spending project?

We know what doesn't. Smoking-cessation programs may be helpful, but they are not ''stimulus.''

Spending $870 million to combat bird flu may be a worthwhile investment in public health. But its prospects for kick-starting the 2009 U.S. economy are pretty much nil.

When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.

A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

And there are outright dangerous provisions to the bill.

The ''Buy American'' clause in the legislation, ensuring that only American-made steel and manufactured goods are purchased with stimulus money, is an open invitation to an economy-wrecking trade war. Europeans are rightfully infuriated by it.

So are serious Democratic-leaning economists like Lawrence Summers.

Make the measure look like a stimulus package rather than a pork package.

Then, Democrats might manage to peel off some of the GOP support that the president deems so valuable.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Carolina.

Mr. DEMINT. Thank you, Mr. President.

I would like to speak for a few moments on a couple of amendments. But before I do, I ask unanimous consent that following my talk that Senator SAXBY CHAMBLISS be allowed to speak.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, we have been going back and forth, so if someone from this side of the aisle does appear by the time the Senator finishes his remarks, we could either have a gentlemen's agreement or I could ask unanimous consent that the next speaker be a Democrat. Everyone is an honorable Senator here, so if a Democrat is here, after you finish, I say to the Senator—

Mr. DEMINT. I revise my request, Mr. President, to fit that request.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request as revised?

Mr. BAUCUS. I have no objection.

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

Mr. DEMINT. Thank you, Mr. President.

AMENDMENT NO. 168

Mr. President, I would like to speak for a few minutes about Amendment No. 168. It is the DeMint amendment we are calling the American Option to the spending plan that has been proposed by the majority. This is a complete substitute for the spending plan. We call it the American Option because it helps to develop a free market American economy by leaving money in the hands of people and businesses rather than taking it and then having the Government direct where the money goes. So it basically puts our faith in the American people, in our free market economic system, instead of political decisions here in Washington.

Americans are very concerned about the direction of our country. In fact, I have never seen people more anxious about where we are. They are worried about the economy but even more worried about the reckless spending and Government intrusion into our culture and into our free markets.

Our economy is in trouble. That is obvious. The national unemployment rate is now over 7 percent and climbing. Stock markets have plunged, jeopardizing the retirement security of millions of seniors. Nearly a million homes were repossessed last year, and in the last week, thousands of Americans have lost their jobs at some of our Nation's strongest companies, including Home Depot, Microsoft, Caterpillar, and Boeing. In the midst of these difficult and uncertain times, Americans understandably voted for change. Frustrated with runaway spending, Wall Street bailouts, and soaring energy prices, they voted for President Obama who, as a candidate, promised to lower taxes, cut spending, increase domestic energy, and create millions of new jobs.

I like President Obama very much. We were elected to the Senate together, and we have worked together on several common goals. I truly believe he wants to do what is best for our country, but our economy needs more than slogans and empty promises.

As I have said before, I believe the stimulus bill that is being championed by President Obama and the Democratic majority is the worst piece of economic legislation Congress has considered in 100 years. Not since the passage in 1909 of the 16th amendment which cleared the way for Federal income tax has the United States seriously entertained a policy so comprehensively hostile to economic freedom, nor so arrogantly indifferent to economic reality. The bill, if it were a country, would have the 15th largest economy in the world—right in between Australia and Mexico and greater than the gross domestic product of Saudi Arabia and Iran put together. The American people will be forced to borrow 100 percent of the unprecedented $1.2 trillion pricetag when you include interest. The stimulus bill will cost well over $1 billion for every page it is printed on and $400,000 for every job it hopes to create or save.

Proponents argue that we are facing a once-in-a-lifetime economic crisis and only an immediate and overwhelming stimulus bill can ignite the economy, create jobs, and spur growth. That may very well be true, but the spending bill before us today is just that: a spending bill, not an economic stimulus bill. The Democratic bill takes money—it actually borrows money—and decides where it should go. It does virtually nothing to stimulate the economy while it wastes billions of taxpayer dollars. It is a hodgepodge of long-supported pet projects that should be considered in the normal budget process but not an economic stimulus bill. Using the troubled economy as their motive, Democrats have opened the floodgates for all sorts of outrageous wasteful spending.

Here are just a few of the examples from the Senate substitute: $400 million for researching sexually transmitted diseases. They are telling us now that they took that out, but then we find they left the money in there, which could be used for the same purposes once we pass the bill. There is $200 million for bike and pedestrian trails and off-road vehicle routes; $200 million to force the military to buy electric cars; $34 million to renovate the Department of Commerce headquarters; $75 million for a program to

end smoking, which, if successful, will bankrupt the children's health program Democrats just passed last week.

Of the more than $800 billion in the bill that is being sold as infrastructure investment, only $30 billion will actually go to build highways, about $40 billion for upgrades in our telecommunications and electricity infrastructure, and about $20 billion in business tax cuts. These are the only three components of the bill that might arguably stimulate the economy and create jobs and, even then, only temporarily. Altogether, only 11 percent of this so-called ''American Recovery and Reinvestment Act of 2009'' will have anything to do with either recovery or reinvestment. And rest assured, the elevated spending levels in this bill will never recede.

The tax side of the bill is not much better. We can think of it this way: If nearly every Democrat in Congress supports a tax cut, it is probably not a tax cut. Indeed, the text of the Democratic plan reveals that $212 billion of smoke-and-mirror gimmicks—temporary cuts and rebates exactly like those that failed to stimulate the economy last year. Half of the tax changes in this bill are for people who don't even pay taxes, and all of them are temporary, which will undermine their impact. This bill is not an economic stimulus bill at all, but really a political stimulus—a stimulus to grow Government in Washington.

Any doubters of the bare-knuckled partisanship at the heart of the Democrats' trillion-dollar catastrophe will do well to ask a simple question: Who benefits from this legislation? Who, indeed? Alternative energy companies, public employee unions, teachers unions, university faculty and administrators, welfare recipients, ACORN-style community organizers, politicians who spend the money, Federal bureaucrats who allocate it, and the limousine liberal lawyers and lobbyists who will influence every dime behind the scenes. In other words, this bill is a massive transfer of wealth not from the rich to the poor, but from middle-class families and small businesses to favored Democratic constituencies who are not the poor and middle class we promised to help.

This bill is not a stimulus; it is a mugging. It is a fraud. Conservatives who fear proponents of this bill want to inch our economy closer to a European style of socialism are kidding themselves. The proponents of this bill want to strap a big rocket on the back of our economy and launch it all the way to Brussels. This massive spending bill is fatally flawed. It will not rescue our economy; it will strangle it.

That is why this bill must be stopped dead in its tracks. It cannot be fixed by tweaking it here or tweaking it there. It must be scrapped entirely so the leadership in Congress will be forced to consider real alternatives.

Fortunately, there is another way, a better way, a way that will actually stimulate the economy, spur investment, and create jobs, a way that will permanently and immediately save billions of dollars in the private sector and in the hands of Americans who buy goods, provide services, start businesses, and hire employees. We call it the American Option because it relies on the American people to generate jobs and growth, not the Federal Government.

The plan I am offering is not new or clever. It is only 11 pages long. It comes with no bells or whistles, no smoke and mirrors, but it will work, and it is based on proven American principles of freedom, equality, and opportunity.

The plan—developed by scholars J.D. Foster and William Beach at the Heritage Foundation—is the best anyone has proposed since the recession first took hold. The idea is simple. First, make the temporary tax cuts of 2001 and 2003 that are currently set to expire in 2011 permanent. Make our current rates permanent. This would create the certainty for citizens and businesses they need to plan their spending and to grow their businesses. The short-term, temporary tax relief of the sort envisioned by the Democratic plan does not stimulate economic growth; it is temporary and it creates economic uncertainty. It is the difference between a $1,000 gift one month, which you might put away or use to pay off some credit card, and a $1,000-a-month raise which might get you thinking about buying a house, a new car, or taking a summer vacation or starting a new business. To encourage people to take risks and create new jobs, we must make tax relief for families and small businesses permanent. Recessions are caused by uncertainty that keeps investors on the sidelines. Permanent low taxes allow for plans and decisions to be made with an eye toward the future.

With the 2011 tax bomb diffused, part 2 of our plan will cut income tax rates across the board. The top marginal rate—the one paid by most of the small businesses that create new jobs—will fall from 35 percent to 25 percent. It simplifies the code to include only two other brackets: 15 and 10. These marginal rate reductions would be permanent and give the private sector maximum predictability as it decides how to best spend its recovered income. This is a matter of fairness. No American family should be forced to pay the Federal Government more than 25 percent of the fruits of their labor.

Just as we cut taxes for families and small businesses, we need to cut them for corporations as well, from 35 to 25 percent, and we shouldn't be afraid to say so. Our corporate tax rate is one of the highest in the world, driving investment and jobs overseas. Lowering this key rate will unlock trillions of dollars to be invested in America instead of abroad. Rather than giving large companies loopholes and targeted tax benefits which only encourage them to spend money on lobbyists who secure such goodies, Congress should get out of the business of picking winners and losers in the market and simply cut everyone's taxes and let's let the best companies win. This plan will make businesses compete for consumers, not Congressmen and Senators.

To further simplify and improve the code, our plan would also permanently repeal the alternative minimum tax, permanently maintain the capital gains and dividend taxes at 15 percent, permanently kill the death tax for estates under $5 million, and cut the tax rate to 15 percent; permanently extend the $1,000-per-child tax credit, permanently repeal the marriage penalty, and permanently limit itemized deductions to home mortgage interest and charitable contributions.

The Heritage Foundation's Center for Data Analysis' widely respected economic forecasting model projects this plan would result in nearly 500,000 more jobs this year, almost 3 million new jobs by 2011, 7.5 million new jobs by 2013, and a total of nearly 18 million jobs over the next decade. That is an average of nearly 2 million jobs every year. Instead of taking $1 trillion out of the economy so politicians can spread it around to special interests, the American Option will keep a trillion more dollars in the hands of American families and businesses. Instead of growing Government where waste and corruption run rampant, we grow the private sector where innovation flourishes. Instead of giving the power and control of our economy to politicians and bureaucrats, we give Americans and small businesses the freedom to spend and invest their own money. The positive effects of letting more money stay in the private economy immediately and permanently will quickly become apparent.

Beyond the job creation, I know we are all also interested in seeing our housing and real estate markets, as well as the automobile sector, emerge from the doldrums. Within 5 years, the American Option would produce $175 billion in residential investment and $362 billion in nonresidential investment. That is more than a half trillion dollars left to private citizens with the motivation to care for their families, invest in a new business, or expand their current productive activities.

The auto industry will also experience a dramatic increase in sales activity. Between 2009 and 2011, total sales of new cars and light trucks would rise $24.5 billion more than they would otherwise. Again, allowing private citizens and businesses to use their own capital instead of sending it off to Washington benefits all sectors of the economy.

The evidence in support of this legislation is not theoretical but historical, unlike the Keynesian arguments behind the Democratic spending and debt plan. In 1964 John F. Kennedy's tax reductions led to 9 million private sector jobs in 5 years. Ronald Reagan's 1981 tax cuts led to 7 million in the same

timeframe. Five years on, the 2001 and 2003 tax cuts led to the creation of 4 million and 6 million jobs, respectively. Every time the United States has cut marginal tax rates, millions of jobs have been created—jobs that lifted the unemployment into the workplace, the working poor into the middle class, and the middle class into long-term economic security.

Similar stories can be told of Great Britain's rescue under Margaret Thatcher in the 1980s. More recently, Israel's economic reforms under their Finance Minister changed their whole economic platform.

President Obama's own chief economist has shown that tax cuts do truly stimulate economic activity to the tune of $3 of increased output for every dollar of tax relief.

On the other hand, the world's greatest experiments in spending our way out of a recession have three textbook examples. The first is Franklin Roosevelt's response to the Great Depression. The New Deal began in 1933 with unemployment around 25 percent and effectively ended with the establishments of F.D.R.'s ''war economy'' in 1940 with unemployment still hovering around 20 percent. The second example is from the 1970s when huge deficits in the United States neither spurred economic growth nor curtailed inflation. The third example is Japan, their so-called Lost Decade, in which the Japanese Government tried in vain for 10 years to spend its way out of a national real estate and investment collapse.

Every discredited idea from these three monuments to economic mismanagement can be found in the fine print of the Democrats' $1 trillion socialist experiment we are considering this week: massive spending, skyrocketing deficits, inevitable tax increases, and the disastrous unintended consequences of hurried and arbitrary meddling in our economy.

Finally, there is another issue I want to address. I have recently heard some of my colleagues say that this recession is the fault of the free market, that President Obama has inherited the problems of a conservative ideology.

Mr. President, the charge is flatly, demonstrably false. In fact, it is incredible that anyone would say it.

Let me be clear: conservatism has nothing to apologize for.

It was not conservatism that foisted Fannie Mae and Freddie Mac onto the national credit market.

It was not conservatism that that shook-down the Nation's banking system with the Community Reinvestment Act.

It was not conservatism that asked for, lied about, and then wasted $350 billion for the Troubled Asset Relief Program.

Nor did conservatism sign on to the second tranche of the TARP funds now in the hands of our esteemed new Treasury Secretary.

It was not conservatism that used taxpayer funds to bail out the perpetrators of the Wall Street meltdown.

It wasn't conservatism that led our financial industry to make these reckless loans, and it certainly wasn't conservatism that made that industry ask for the taxpayers to foot the bill for their idiocy.

It wasn't conservatism that bailed out an auto industry bankrupted by its inability to manage costs and strangled by the tentacles of unionism.

Every problem now plaguing our economy can be directly traced to some Government policy that was passed over the vehement objections and warnings of principled conservatives.

The same scenario is playing out with this spending bill, but the result is not preordained.

The Democrat plan will fail, it will hurt our economy, it will kill jobs, it will lengthen and deepen the recession, and it will delay any hope of recovery.

But it is not enough to merely stop this, the wrong bill—we must pass the right one.

It is not simply a viable alternative—it is the American option to rescue our economy from an inexorable slide toward European social-democracy.

With a troubled economy, mounting national debt, and an entitlement crisis ready to explode, conservatives must offer bold and proven solutions to secure America's future.

We cannot simply derail the ''liberal express''; we must show our fellow countrymen a better path.

There is nothing wrong with our economy that a free people cannot solve. All we need is the freedom to take back from Washington control of our economic destiny.

The policy approach I have outlined can work, and if implemented, will work. How do I know?

Because liberating people to pursue their own happiness and fortune is the only thing that ever does.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to discuss the economic stimulus package. First of all, my friend from South Carolina has raised so many valid points in his discussion. I know he has an amendment that is primarily focused on reduction of taxes to stimulate this economy, create jobs, and put more money into people's pockets. I concur with him 100 percent that this is the direction in which we need to go. I look forward to further debate on his amendment and seeing his amendment reach the floor.

This stimulus package we are now debating gets more expensive and, frankly, less stimulating with every passing day. The Democrat's plan is not a job creating bill. Plain and simple, in its current form it is a spending bill.

We have been going through a number of amendments over the last several days and I am pleased to see that some of those amendments have had success. I think the bill looks somewhat better, but we still have a long way to go. This bill should not be about pet projects. Instead of wasting $600 million, for example, of hard-earned taxpayer money for new cars for the Federal Government or $650 million for a failed digital TV transition program or even $120 million for the Census Bureau to hire personnel who specialize in ''partnerships,'' we should be spending Americans' money on creating jobs for Americans. These jobs should allow Americans to go out and buy new cars themselves and thereby stimulate and energize a very struggling automobile industry. This bill should put money in the pockets of individuals who can buy new TVs instead of having to worry about the digital transmission issue covered in this particular proposal.

I have been in discussions with Senators MCCAIN, MARTINEZ, and others. We are in the process of finalizing an amendment that will be a substitute for the base bill that does exactly that—focus on creating jobs and stimulating the economy.

Any package that is intended to focus on strengthening our economy should focus on three things and three things only:

First of all, job creation. Despite an injection of hundreds of billions of dollars into our banking system, the credit markets remain frozen.

A lack of both confidence in the market and credible borrowers are precluding our credit markets from thawing and freeing much needed capital. Along with the current dual track of the TARP program, we can loosen this tight grip on capital is through job creation.

We must incentivize the creation of new jobs through favorable tax treatment of businesses and individuals. My friend from South Carolina mentioned an issue we are going to have in our amendment that is very critical, I think, to the long-term corporate structure in America. A solution that really will provide for the creation of jobs is the reduction of the corporate tax rate from 35 percent to 25 percent. We have the second highest corporate tax rate in the world. What are we doing about charging corporations that amount of money? What we are doing is exporting jobs out of America.

I talked to one of the leading economists in the country this morning who happens to be a resident of my State and is somebody whom I look to for guidance from time to time. I asked him, ''If you could point to anything that would create jobs in America, what would the first thing be?'' He immediately said, ''Cutting the corporate tax rate.'' He said it is ridiculous what we do and that what we are going to hear from folks on the other side is that what we are doing by cutting the corporate tax rate is looking after the big corporations. The fact is, according to this renowned economist, the big corporations don't pay that 35 percent

anyway. It is the guys on Main Street, the insurance agencies in my home State, the veterinary hospitals down the street, and all the other small businesses that are, in fact, paying that 35 percent. It is our small manufacturers that depend on export markets to be competitive that are having to pay that 35 percent. If we reduce the corporate tax on those entities, then we are going to have the potential and the reality of creating jobs in this country. We also need to put more money in the pockets of individuals. One way we can do that, which we are going to have in our amendment, is by the reduction of payroll taxes. That will put a bigger paycheck into the pockets of every hard-working American every single week; make no mistake about it.

We have to look at spending measures that will have an immediate stimulative effect on our economy. Military and highway construction can provide jobs in the immediate future and put stability and confidence back in the marketplace and start people spending their paychecks again. There is no better way to put money into the manufacturing sector tomorrow than by putting money into defense contracting if it's done in the right and responsible way. We need to increase defense spending and make sure America remains safe and secure. Yet there is nothing in the base bill that the Democrats have offered that will increase pure defense spending.

In addition to job creation, second, we have to focus on housing. The housing crisis is what got us into this real financial mess that we are in today. I don't care what we do with respect to trying to spend or tax our way out of this; unless we fix the housing sector in this country, we are never going to recover from the economic crisis we are seeing today.

How do we do that? Again, you will see measures that have already been discussed in the form of amendments over the next couple of days—amendments such as that from my colleague and friend, Senator ISAKSON, to provide a $15,000 tax credit to anyone who buys a house between January 1 and December 31. Measures that are outside-the-box thinking such as the one by the Senator from Nevada that proposes to provide long-term, low-interest loans for individuals seeking to either purchase a home or to refinance a home, where if they are not able to do this, they will be subject to foreclosure. So it is these types of housing measures and provisions that will allow us to stimulate the housing sector and try to get that portion of our economy back on track.

Third, in addition to the job creation and housing, we have to focus on compassion for folks who have lost jobs during these tough times, through no fault of their own. In my State, we have had 2 weeks of major announcements of job losses. It is simply due to the fact that these corporations are having to develop cost-cutting measures that will improve their bottom line because their sales are down significantly. Their workers are quality workers and they would like to keep them on, but they simply cannot afford it. They have to find cost-cutting measures.

So when you find folks such as that who are in need of assistance, we have an obligation, I think, to provide some relief to them. It is important that we prevent the bottom from getting deeper. We need to work to assist those who have fallen as a result of this spiraling economy and not from irresponsible fiscal decisions.

We must act to expand protections to serve as a compassionate step toward regrowth of our economy, a restrengthening in our markets, and a return to fiscal security.

All these provisions are going to be included, along with others, in the substitute amendment that will be forthcoming either tonight or tomorrow. We must be clear—job creation doesn't mean ''Buy American.'' In tough economic times, it is all too easy to turn inward, to want to build protectionist walls around America. Nobody believes in buying American more than I do, but it is not the time to pretend our economy knows only the bounds of our borders.

I say this as someone who represents a State with a strong manufacturing sector. We live in an interconnected, global economy, where most manufactured products have at least one component not made in America. ''Buy American'' is the quickest way to export American jobs.

The biggest problem I see with the current proposal that is under debate, which came out of the Finance Committee from the Democratic side, is that we are now having to approach that bill in a top-down way. In other words, we are having to take the bill as it is and have amendments forthcoming that seek to strip out provisions in there that are not stimulating. These are the pet projects for individuals in this body, projects that will do nothing but take money out of taxpayers' pockets.

What we should do is develop a system directed toward this crisis that is a bottom-up review and a bottom-up attack on this financial crisis. We can do that basically by scrapping the current bill and starting over again. It is not that complicated to do.

I hope, at the end of the day, that this is the approach we will ultimately take. It is not just this trillion dollar spending package we are looking at in the Senate; we have to be responsible as we move forward because there are other bills that are coming right behind this one. There is a TARP III, which we understand will be laid on the table within the next few days. We have heard numbers as high as another half trillion dollars that may be asked for in TARP III, and that may not be the end of the road there.

There is also an Omnibus bill that I understand has already been put together that spends $1 trillion of taxpayers' money. One of my constituents said to me the other day, ''We used to talk in terms of a million. Then we got to where we talk in terms of a billion. Now you folks are talking in terms of a trillion. What comes after a trillion?''

That is a pretty tough question to answer, but we are fast getting there. We as policymakers in the Senate have to be responsible with the taxpayers' money. Sure, we want to do everything we can from a policy standpoint to stimulate America out of this economic crisis. But spending our way out of this situation is not the answer. That is why I hope we can review where we are with this current proposal, and instead of having a top-down review of it, look at it in more positive terms and have a bottom-up review. Let's start over again with the basics. We should start with the housing sector and figure out how to fix it. If there are other ideas out there than what has already been talked about, let's put them on the table and figure it out.

Secondly, let's look at how we are going to create jobs. We simply know by spending money that we are not going to create or maintain jobs. There are a lot of smart people in this body. Let's figure out the best solution.

Lastly, let's be compassionate. We need to make sure Americans are taken care of when they have lost their jobs through no fault of their own.

Mr. President, I yield the floor. I see the Senator from Rhode Island is here. I assume going back and forth he would be next.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise today to discuss a feature of the economic recovery legislation that will both create jobs in the short term and help us confront the long-term economic challenges that are facing us.

Clearly, creating jobs is a paramount goal of this legislation. In this time of deepening recession, one in ten Rhode Islanders is looking for a job. At 10 percent, our unemployment rate is second in New England and the second highest across this entire Nation. As I have traveled around my State, I have heard from countless Rhode Islanders struggling to hold on to their retirement savings, their homes, and their livelihoods.

Against this dark background, jobs mean security. Steady employment helps families pay the bills and plan for the future. Jobs mean confidence in an unsettled time. In this weakening economy, job creation should be our highest economic priority.

But at the end of the day, the best jobs this legislation can create are jobs that produce lasting infrastructure, assets that will help our economy function smoothly for years to come, such as highways, bridges, weatherized homes and schools, and water treatment plants. These are win-wins for the American people.

Fortunately, this bill goes beyond a definition of infrastructure as just the things the Romans could build. The last few decades have seen enormous innovation in this country—new communications platforms, the Internet and mobile phones, new sources of energy. This technological revolution is transforming the way we live and work, as the rail system did and the highway system did in decades and centuries past. And as the Federal Government helped build the railways and highways, the bricks and mortar infrastructure of the 20th century, today this recovery bill will support the digital infrastructure of the 21st century. It is a dual benefit: jobs today and a platform for growth tomorrow.

To me, one of the most vital parts of our Nation's infrastructure in this 21st century will be the development of a national health information network to improve the quality and efficiency of health care, to save money, and to save lives. But today this network is growing at the speed of mud. Health care is frighteningly behind the rest of American industry in its development and implementation of information technology. Why? Because of economics, the strange, bizarre, twisted economics of our health care system that fails to reward doctors and hospitals when they invest in health information infrastructure.

If we can solve the health information network problem, private industry will develop technology to allow doctors to prescribe drugs electronically and help remind you to take them. Technology will help doctors update your vital information in real time and cross-reference your health issues with the best illness prevention and treatment strategies. And technology promises decision support programs implementing best medical practices which will help health care providers avoid costly, life-threatening, and completely unnecessary medical errors that now bedevil our health care system.

Look at what private technology and innovation have already done with the Internet—Google, e-Bay, Amazon, YouTube, Facebook. Whose life has not been changed?

Imagine what can happen in health care. Wonderful opportunities beckon, both in the near term, because funding this infrastructure will create jobs in the information technology sector, and in the long term to help us bring down the spiraling health care costs that threaten to engulf our economy.

But the broken economics of the health care system mean that those opportunities will not arise without help. Unless the Federal Government gets involved to set standards for this technology on which everyone can agree, the resolution of a digital x-ray image, for instance, or requirements protecting a patient's privacy or leveling economic obstacles, we will never get to a national system.

The Romans could not build an electronic health information infrastructure, but we can and we must, and this legislation will.

There are rumors that an amendment will shortly be adopted that would, among other things, strip out this investment in health information technology. Of all the dumb mistakes we could make in this bill, that would be the very dumbest of all. It would harm the immediate element of job creation that is important to this infrastructure. It would slow down the development of a national health information infrastructure, and it would compromise our ability to deal with the health care crisis that is looming behind the economic crisis we are dealing with now.

As I see it, we have three waves stacked up. We have an economic crisis that is upon us that we need to address. Immediately behind that is a bigger and worse health care crisis, bigger and worse than the crisis we are facing now. And behind that is an environmental, global warming, and climate change crisis that is bigger still.

Now is the time to prepare for that next health care crisis, the one we will have to address as soon as we begin to get our arms around the economic crisis.

I have been a champion of health information technology since I was attorney general of Rhode Island years ago, and the snail's pace of adoption has both perplexed and disappointed me. I frequently ask doctors from all across the country why they insist on using paper, and I always get the same three answers. One: I can't afford in my practice to put all this machinery in. Two: I tried using health information technology, but it was too complicated. Or three: I don't want to invest in this and then get it wrong. I don't want to invest until I know what the standards are. I don't want to take what I call the Betamax risk of investing in the wrong technology.

There is an additional problem, at least for electronic prescribing. The Federal Government insists on doctors maintaining a paper system for controlled prescriptions. If you tried to move to an electronic system, you have to maintain two. It does not make any sense.

The doctors' concerns about health information technology are answered in this recovery package.

First, the bill addresses the cost issue in a number of ways. If you are a doctor who cannot afford to purchase a health information system so that your patients can have an electronic health record of their own that is private and securely theirs, this bill has grant money to help you. If you are a doctor doing well enough not to need a grant but could certainly use a loan to make this happen, the bill has loan money for you. Or maybe you are a doctor who can afford the upfront investment but have not been able to make the business case for the ongoing use of the technology and the change it will require in the day-to-day administration of your practice. This bill reverses the backwards incentives that discouraged the use of health information technology and that discouraged quality improvement efforts.

For the first time, Medicare and Medicaid are going to pay for meaningful use of health information technology in doctors' offices. Starting with this recovery bill, keeping people healthy will keep the business of medicine healthy.

Second is the challenge of technology. Health information technology is about much more than digitizing data, more than going from illegible handwriting to clear electronic type. Health IT is about coordinating care between multiple providers. Anybody who has a serious illness is aware of the confusion that surrounds having to deal with multiple doctors. Health IT is about helping patients and their loved ones manage those complex, chronic conditions. Health IT is about using best practice protocols so the wide variation—the wide and unexplained variation—in American medicine can be narrowed down to the best practices we know of and Americans can be assured they are getting the best quality of care. Health IT is about better care for patients who are ill, and it is also about preventive care for patients so they do not become ill.

The recovery bill recognizes that the goal is not health IT in every pot, but higher quality, more efficient care for every single American who interacts with our health care system. The economic recovery bill also recognizes that for some doctors, this is a lofty goal and that they will need more than money to get there.

Everyone knows that new technologies are hard to learn, hard to adapt to, and hard to incorporate into an existing system. You can be a brilliant doctor, a master at the healing arts, and still have trouble coping with the demands of a new information technology. It often seems easier to keep doing things as they have always been done. So this bill does not just hand out grants to buy big fancy new boxes of equipment to sit in office closets. This bill includes implementation assistance so the doctors have a little help opening that box, installing that technology, and putting it to work on behalf of their patients.

That assistance will be offered through regional extension centers, not unlike our agricultural extension service that has been helping farmers all over this great Nation for decades. Every Senator in this body from a rural State knows how helpful and effective the agricultural extension model is. And for those of us from urban areas, think of it as a ''geek squad'' for American doctors.

Third, the standards issue. Our esteemed colleague Dr. COBURN has often noted that the greatest challenge he sees in building up our national health information infrastructure is the lack of national standards. Doctors are

often afraid to adopt new technology before they are sure their health information system will be able to talk to other doctors' health information systems. Fortunately, significant progress has been made in creating a broad set of standards for health information technology products, thanks in large part to the leadership of outgoing HHS Secretary Mike Leavitt. The recovery bill acknowledges that progress and builds upon it, establishing a new health information technology standards committee and establishing a process for the adoption of future standards, implementation specifications, and certification criteria so you know what you are buying meets the standards.

All that said, we all know that health information technology is ultimately about patients. Patients must trust and participate in the health information technology revolution if it is going to reach its full potential. Therefore, the recovery bill includes a number of vital privacy protections to ensure the security and the confidentiality of electronic patient records. These protections include changes in notification policy if there is an unauthorized acquisition or disclosure of health information. It includes the establishment of privacy officers in HHS regional offices, new restrictions on the sale of health information, improved enforcement of violations to privacy law, and other strong provisions.

I am well aware that privacy is a controversial and highly charged area of debate. I think it is important we all view the privacy provisions in this bill as the beginning and not the end of our national discussion about health care privacy.

These provisions will require oversight and, perhaps over time, adjustment. I look forward to this ongoing challenge and remain committed to being engaged in it. But for now, this is a good, strong privacy package. It has, I think, solid agreement in this building.

Last, but certainly not least, I wish to acknowledge the extraordinary work of the man who has been committed to health care in the Senate longer than anyone else—the incomparable Senator from Massachusetts, EDWARD KENNEDY. He has been a tremendous supporter of advancing health information technology for years, and was the primary architect of this language in the Senate. As always, we are in his debt for the expertise and the leadership, the passion and the compassion he provides, and we look forward to his speedy return to the floor.

I will conclude, Mr. President, by saying I know there is an enormous amount of politics now surrounding this economic recovery plan. But in order to try to make the politics look good, let us not hit what is probably the smartest and the best investment in this whole plan, one that not only works to provide jobs in a key American industry today but that lays the foundation for addressing what is probably the next biggest, most dangerous problem that is facing Americans behind this immediate economic crisis. Let us not be fools here in the service of political expedience. Let us stick with these health information technology elements of the bill, support them energetically, and I hope every colleague will see the wisdom of them and support their inclusion in this bill.

I thank the Presiding Officer very much for his courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 140

Mr. COCHRAN. Mr. President, I am bringing to the attention of the Senate my opposition to an amendment that has been offered on this bill. Earlier today, the Senator from Wisconsin, Mr. FEINGOLD, offered amendment No. 140 to create a so-called ''earmark point of order'' that would lie against appropriations provisions before the Senate. This amendment, if it should be adopted, serves no desirable purpose. In my opinion, on the contrary, it would only serve to weaken the Congress as an institution, and in relationship in particular to the administration, and would yield more authority to the unelected bureaucracy of the Federal Government to make decisions that all of our constituents in all of our States sent us here to make. It is, in effect, a restriction of the power of Congress and the direct representatives of the people and the States.

Individual appropriations bills should be brought to the floor subject to amendment by any Senator, whether a member of the Appropriations Committee or not, without any restrictions. This makes the Senate different from the House of Representatives, as all Senators know. The House has a Rules Committee. When legislation is brought to the floor of the House of Representatives, the originating committee has to go before the Rules Committee and basically get permission to call up the bill and present it to the body. The Rules Committee decides whether amendments will be in order and, if so, which amendments, and how much time for debate on the amendments. Here, we don't have a rules committee; it is not necessary. Each Senator is, in effect, the member of the rules committee. The Senate decides under its rules as a body, with each individual Senator having equal power and equal say as to what amendments can be offered. Any Senator should have the right to offer an amendment to any bill, and it doesn't have to be germane, unless cloture has been invoked.

So what this amendment seeks to do, intentionally or not, is to limit the power of this body to be involved in the process of deciding how taxpayer funds are going to be spent by the Federal Government and for what purposes. So this is an unnecessary abrogation of a constitutionally vested responsibility in the Senate. It subrogates the Senate to the power of the executive, and this amendment should be defeated.

The bill that contains the legislation offered by the Senator would not do anything about $100 billion in new programs that are being funded in this stimulus bill to which the amendment is being offered. There are 128 pages of legislation in the bill before the Senate dealing with health information technology, and $23 billion of funding is associated with that language—$23 billion. It is a new program that has not been authorized by the relevant committee. Is that subject to a point of order, I ask the Senate? I don't think so. But under the language of this amendment by the Senator from Wisconsin, I suppose it would be subject to a point of order, but nobody is demanding a point of order against the bill containing that provision.

Since I have been in the Senate, I have served on authorizing committees and the Appropriations Committee. The authorization process is an important function of our Senate. The Appropriations Committee works closely with authorizing committees. If any Senator opposes authorizing language that is contained in an appropriations bill, the Senator can offer an amendment to strike it. The Senate can strike the language if it determines that is the appropriate thing to do.

Now, all the committees produce earmarks, not just the Appropriations Committee. When I served on the Agriculture Committee, the farm bill customarily contained specific authorizations for expenditures of funds—entitlement to Federal dollars by certain classes of producers of agriculture products. If any Senator had an objection to any portion of that authorizing bill, he or she could offer an amendment to strike it or amend it. Individual Senators are free and have the power to modify any bill before the Senate, and appropriations bills are no different. But to give a Senator a point of order to raise over some provision with which they disagree is not an appropriate change in the rules of the Senate and should not be tolerated in this legislation. It should be stricken. My experience has shown that because a program is authorized doesn't necessarily mean it is a good idea or that it will be funded. And that is another point.

Supporters of the amendment have made it clear their goal is to get rid of all earmarks—however earmarks may be defined by them—regardless of what committee may produce them, regardless of whether they have been specifically authorized. This amendment is a step toward that goal, in my opinion. So I suggest that the Senate should look carefully and consider seriously the impact that this amendment may have, and when it is called up, if it is, I hope the Senate will vote it down.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, one specific area of this cobbled-together bill is spending. The bill provides significant increases in Medicaid spending. There is $87 billion in Medicaid funds in this bill. There is a fundamental change to Medicaid that is in the House bill waiting to be put into the Senate bill when it comes to conference.

There are numerous amendments to try to fix some of the problems with the Medicaid provisions of this bill, and I wish to discuss some of those at this point. I start with this $87 billion of FMAP money they have referred to. This is a huge payment to States. Now, some will say that $87 billion in Medicaid payments in this spending party bill is meant to help States pay for people already enrolled, but the facts tell a different story.

In January, the Urban Institute produced a report for the Kaiser Commission on Medicaid and uninsured titled ''Rising Unemployment, Medicaid and the Uninsured.'' The Urban Institute's research asserts that for every 1 percent increase in nationwide unemployment, Medicaid and Children's Health Insurance Programs will see an increase of 1 million additional beneficiaries nationwide.

I want to make clear that for the unemployed who qualify, we ought to provide enough money in Medicaid to take care of it, but we are raising questions about money beyond that. So we have this formula that is kind of a benchmark—this Urban Institute research. Using that formula and the unemployment baseline that is in the bill, I had the Congressional Budget Office prepare a cost estimate for an amendment giving States additional funding based on the Urban Institute's published research. This amendment would provide for an additional per capita Federal payment to States for every new enrollee—every new enrollee—that the Urban Institute research assumes will go on Medicaid or SCHIP during the 27 months contemplated in this bill.

Everyone watching probably knows that the Urban Institute is not exactly a conservative think tank, so their research should be credible to my friends on the other side of the aisle. Now, remember, the cost of the additional Medicaid funds for States in this bill is a whopping $87 billion. The cost of my amendment to take care of the unemployed going on SCHIP or on Medicaid—$10.8 billion. That is $10.8 billion for what the Urban Institute suggests are enrollment-driven increases in Medicaid spending due to the recession.

So the question is: Why does this bill provide almost eight times what the States actually need for new enrollments resulting from this economic downturn? The Senate is considering $87 billion in funding because States are facing deficits of as much as $312 billion in the aggregate over the next 2 years. So let us not kid ourselves. What this is all about is a bill giving States money to help them fill their deficits. This outlandish sum of money is not needed for Medicaid. It might be needed for something else—and we ought to discuss it in terms of the something else—but not for Medicaid.

So you may want to ask: What commitment is Congress getting from the States in exchange for $87 billion, of which only $10.8 billion might be used for the need for which is supposedly in this legislation? Congress is giving States $87 billion and hoping that States don't take actions contrary to Medicaid actually providing the care that people need. I use the word ''hope'' because the underlying bill doesn't do enough to make sure the States do what is best for Medicaid. Does the bill prevent States from cutting their Medicaid Programs? It does not. The bill only prevents States from cutting Medicaid income eligibility. But if Congress is giving States $87 billion and telling them not to cut Medicaid eligibility, I think it is very important we in Congress also tell the States that they can't cut benefits. But this bill doesn't do that. If Congress is giving States $87 billion and telling them not to cut Medicaid eligibility, shouldn't Congress also tell States they can't cut payments to providers? So you have eligibility, you have providers, you have benefits—and we are only dealing with eligibility in this bill—and, yet, giving out $87 billion of which almost $11 billion is needed for the purpose of unemployed going on Medicaid.

States cannot change income eligibility, but under this bill as written they can cut provider payments to doctors, pharmacists, dentists, and benefits to providers.

Will there be Medicaid beneficiaries who are elderly or disabled, able to receive home- and community-based services? If we want to keep seniors and the disabled in their homes rather than in institutions, paying direct care workers to provide home- and community-based services is very critical to that goal.

Will there be enough pharmacists taking Medicaid? Will there be enough rural hospitals and public hospitals taking Medicaid?

I had one member of the Senate Finance Committee on my side of the aisle tell me in that State, their State legislature owes $400 million to hospitals. Shouldn't we be taking care of problems like that?

Will there be enough community health centers taking Medicaid? Will Medicaid beneficiaries who are elderly or disabled get into nursing homes if they need to do that?

Will States cut mental health services because Congress didn't prevent them from doing so in this bill, even at the same time giving them $87 billion, which is about $76 billion more than the demands of Medicaid because of unemployment?

Will there be pediatricians or children's hospitals there for children on Medicaid?

If the Senate does nothing to protect access to these vital providers, nobody will be able to assure the people who count on Medicaid that the care they need will be there for them. I have filed an amendment that prevents States from generally cutting eligibility and benefits and provider payment rates while they are receiving the $87 billion in additional aid. In other words, I go beyond just a requirement in the underlying bill that eligibility can't be changed. We go to benefits and we go to protecting providers.

If we want to protect Medicaid, then we ought to really protect Medicaid. I hope we will do that by adopting this amendment.

As written, the bill gives States $87 billion, also in the hopes that States do not take action that is contrary to economic growth. Here again, I use the word ''hope'' because the bill doesn't do enough to make sure States do what is best for the economy either. We should ask for more guarantees that States will spend the money appropriately and not make decisions that work against economic recovery. If Congress gives States $87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise taxes because, if States react to their deficit by increasing taxes—even in view of getting this $87 billion—they will defeat the goal of economic recovery that we in Congress are trying to make happen through this legislation. For sure you do not increase taxes at a time of economic distress because it is going to make that distress worse. It makes no sense for us to leave the door wide open then for States to raise taxes while getting a $87 billion windfall from the Federal Government.

I have an amendment that prevents States from raising income, personal property, or sales taxes as a condition of the receipt of $87 billion in Federal assistance. If Congress gives States $87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise tuition at State universities? There is a report out just today that I heard about on the news about how unaffordable college is becoming, particularly to middle-income Americans. People are not going to go to college even though a college degree is very essential for success in our society, and we are here giving $87 billion to States without any direction to the States whether or not they increase tuition once again, as they tend to do every year.

If States can price young people out of an education, that does nothing for preparing our workforce for the 21st century. So I also have an amendment that prevents States from raising tuition rates at State colleges and universities as a condition of the receipt of the $87 billion of Federal assistance.

For $87 billion—we are talking about $87 billion, just to give to the States—shouldn't Congress expect States to modernize their Medicaid Program? We have heard my friend and colleague, Dr. COBURN, having an amendment requiring States to improve chronic care

in Medicaid and develop medical homes as a condition of the receipt of $87 billion in Federal assistance—because these things are some of the best advancements you can make in the practice of medicine that are going to improve the quality of life, but more important they save taxpayer dollars or even private dollars. For $87 billion, what does this bill do to ensure that all those Federal taxpayers' dollars are being spent appropriately? Almost nothing.

During the markup we were able to get funding for the Department of Health and Human Services Office of Inspector General increased by $3.25 million. For those of you doing the math back home, $3,250,000 is just under four one hundredths of 1 percent of the $87 billion Medicaid spending on the bill. Senator CORNYN and I have an amendment that requires States to do something to improve their waste, fraud, and abuse rates in exchange for the $87 billion in Federal taxpayers' money. That is what that money for the inspector general is all about. It provides a list of eight options to combat waste, fraud, and abuse, and the Secretary can provide more options at his or her discretion as well.

States are given time to plan and implement options. States can choose to make their payments transparent. States can choose to implement recovery audit contractors—as is used very successfully in Medicare. States can choose the Medicare/Medicaid data matching program. States can implement third party liability programs that find other insurers who should pay before Medicaid pays out of the public fisc. States can implement electronic verification systems to limit fraud and abuse. States can implement the recently passed Paris system to protect the integrity of the program. States can comply with the recently implemented disproportionate share hospital audit requirement. States can choose to increase their budget for Medicare fraud control units. These are all very reasonable steps that States could and should take, if Congress is going to send them $87 billion in additional Medicaid dollars, when only $10.8 billion of that is necessary to take care of the people who will go on Medicaid because they are unemployed.

They do not have to do all these options I just gave. They only have to do four of these many options; just show the American people that States can take four simple steps to reduce fraud, waste, and abuse. Shouldn't Congress at least ask that much of the State, for $87 billion? If Congress is going to give States $87 billion in Medicaid funds, shouldn't the formula be fair?

While I admire the hard work devoted to the exceedingly complex formula in this bill, it simply is not fair to certain States. States with low unemployment rates, States that have not seen the recession hit in full yet—those States will see less of the $87 billion than other States.

Senator BINGAMAN started down this road to correct this in our Finance Committee markup. You have an amendment that picks up the baton and drives it the rest of the way home. Each State gets a flat 9.5-percent increase in their FMAP payment and States can choose which 9 consecutive quarters in an 11-quarter period best fits the economic needs of their specific State. This is a better, this is a fairer way to spend $87 billion.

If Congress passes all of this Medicaid spending, what guarantee do we have that the fiscal challenges facing Medicaid in the future will be solved? Sooner rather than later, we all must recognize our entitlements are unsustainable as currently constructed.

President Obama has acknowledged this himself on numerous occasions recently. One of my concerns about the additional Medicaid funding that is in this bill is that it places too much emphasis on Medicaid in the here and now, the short term, and ignores future fiscal challenges down the road, the next two or three decades.

Just last year the Center for Medicare Services Office of Actuary reported that Medicaid costs will double over the next decade. That is simply unsustainable, and I think every Senator knows that. It is critical that both the Federal Government and States recognize the fiscal challenges we face and the need to take action right now. Senators CORNYN and HATCH and I have an amendment that requires States to submit a report to the Secretary detailing how they plan to address Medicaid sustainability. It is critical that we look at the future of Medicaid if Congress is to give States $87 billion in additional Medicaid funding when it is only going to take about $10.8 billion to take care of the uninsured because of the economic recession we are in.

The House bill has a provision that fundamentally changes Medicaid. Medicaid is a program that is generally, as we know, for low-income pregnant women, children, and low-income seniors. Under the House bill, the Federal taxpayer would step in to pay the full cost to provide Medicaid coverage to people who lose their jobs and are not eligible for continuing coverage from their employer. Normally, Medicaid is supposed to be a shared State/Federal responsibility, with the States and the Federal Government sharing the costs on a national average—57 percent to 43 percent. In my particular State, the Federal Government pays 62 percent—but not in this new Medicaid Program the House would create because under the House bill—get this—the Federal Government, for the first time ever, would pick up 100 percent of the costs. The House bill transforms Medicaid into a coverage for anyone who loses their job if they do not have access to COBRA coverage from their former employer, and the House bill would offer this taxpayer-paid Medicaid coverage regardless of how wealthy they might be.

Now Medicaid is for low-income people, but it is being expanded in the House to, no matter how wealthy you might be, but being unemployed, you could qualify for Medicaid. Tell me if that is not a waste of taxpayers' money. It is taxing low-income people to help wealthy people, just the opposite of what we normally do in this country.

With all the fiscal challenges this country faces, and with entitlement spending already out of control, this ought to be seen by every Member of the Senate as an outrage. Obviously, it was not an outrage to the 244 people who voted for it in the other body. I hope folks on the other side of the aisle will come to the floor and defend a policy that, if you are unemployed—I suppose if you are an unemployed CEO who previously made $5 million, you can walk into the State office and get Medicaid. I don't understand it.

My bigger concern is what happens in 2 years when the money goes away. On December 31, 2010, what happens to all the people who have been covered by this massive expansion of Medicaid entitlement? What happens to all of the people who have been added to the rolls in States that expand coverage with the $87 billion influx in this bill, when only $10.8 billion is needed, according to CBO, based on the Urban Institute program, for those who are going to be unemployed? Mr. President, $76 billion more is going to be spent someplace.

Someone on the other side needs to convince me that this policy we are putting in place is truly temporary. I do not buy that it is temporary. Every one of us knows the States will be coming back in the middle of next year to beg for an extension so they don't have to cut Medicaid rolls. There are too many former Governors in this Chamber for anyone to argue that it is not going to happen.

I know a lot of people have worked very hard putting this bill together. I respect that they have worked hard. I wish they would have worked smarter. Giving States $87 billion even though that is about eight times what they need to stay ahead of enrollment-driven Medicaid increases is not well thought out. Giving States $87 billion while still allowing them to cut their Medicaid Program is not well thought out. Giving States $87 billion while still allowing them to raise taxes or tuition is not well thought out. Giving States $87 billion without requiring them to do a better job of addressing fraud, waste, and abuse is not well thought out. Giving States $87 billion without making them address the fiscal sustainability of their Medicaid Program is not well thought out. A massive expansion of the entitlements under the guise of the word ''temporary'' is not well thought out.

This bill is cobbled together—a spending party. It is not well thought out. It is out of control. The Senate should support numerous amendments, as I have discussed this afternoon, to

address the shortcomings that occur when partisan bills are moved too quickly.

I filed what is referred to as a Grassley-Schumer amendment to amend the American Opportunity Tax Credit work. In my opinion, the amendment makes the American Opportunity Tax Credit better. Senator SCHUMER agrees with the me, or obviously he would not be cosponsoring this with me, because he is joining me.

I thank Senator SCHUMER for his support and look forward to working with him on simplifying the education tax credit Congress has put into the Tax Code. I have long been an advocate for helping Americans afford college through the Tax Code. So when I was chairman of the Finance Committee, I successfully included a number of education measures in that tax bill of 2001. These measures were enacted into law as part of a bipartisan agreement—I want to emphasize, bipartisan agreement. Now Americans can take an above-the-line deduction for the cost of higher education expenses because of that bill. In addition, people with student loans have greater flexibility when deducting student loan interest. I have also promoted section 529 qualified tuition programs by repealing the sunset provisions Congress imposed back in 2001.

The other education tax provisions we included in the 2001 bipartisan tax legislation should also be made permanent. Several provisions would fall into that category, but that debate will be left to another day. We are not pursuing that on this bill.

Today, Senator SCHUMER and I are here to build on the American Opportunity Tax Credit included in the legislation we are debating today. This is how we do it. The amendment Senator SCHUMER and I are offering would increase the tax credit while maintaining a refundable portion of the tax credit, which will help low-income individuals with college expenses. The amendment would also spread out the way the tax credit is calculated. Under this amendment, more Americans will receive a more robust and uniform tax credit regardless of income. In addition, taxpayers currently claiming the HOPE scholarship credit will get a bigger tax benefit. Again, low-income individuals will continue to benefit from the credit's refundability feature, which I will note has never been done in the area of education tax until now.

If my Senate colleagues argue that the Grassley-Schumer amendment adds to the cost of the stimulus package—which, in full disclosure, the amendment adds $3 billion to the existing $10 billion price tag on the American Opportunity Tax Credit—I will tell them to cut wasteful spending that is included in the bill.

The Grassley-Schumer amendment is stimulative. The same cannot be said for the spending provisions in the bill, including millions upon millions of dollars for parking garages or millions upon millions of dollars for swimming pools, water slides. This spending does not pass the stimulative test.

The Joint Committee on Taxation has even said that under the Grassley-Schumer amendment, we will ''lower the cost of higher education, which will induce more individuals to enroll in higher education programs.''

So I hope everybody agrees that this is a very good thing, particularly considering the fact that there was this report on the news today where there is, particularly because of the recession we are in, not enough middle-income people going to college because of the problems we have. So we need to make more help available for people going to college, especially for displaced workers who would like to go back to school for training in another career. That is more essential during an economic downturn like we now have. An education means jobs, and that is what a large part of this stimulus package is all about.

I urge my colleagues to support the Grassley-Schumer amendment.

Lastly, and then I will yield the floor, I have a statement I wish to read entitled ''CBO Analysis'' that shows stimulus bill jobs to cost as much as $300,000 each. A preliminary analysis by the Congressional Budget Office shows that the jobs created by the economic stimulus legislation being debated in the Senate will cost taxpayers between $100,000 and $300,000 apiece. These numbers should be contrasted to those under the January baseline of the Congressional Budget Office in which there is no stimulus. That shows the gross domestic product per worker is about $100,000. The new analysis indicates the cost of each stimulus job to be as much as three times more than jobs created without the stimulus bill.

There has been a lot of talk about bang for the buck, but there is no talk about actually making sure it happens so that Americans get the help they need. Before Congress spends another $1 trillion, we ought to make sure we are getting our money's worth. Congressional leaders should postpone a final vote on a stimulus bill until the Senate has had the opportunity to carefully review a full analysis of the Congressional Budget Office.

Mr. President, I ask unanimous consent to have the February 4, 2009, CBO report printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 4, 2009.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office (CBO) has conducted an analysis of the macroeconomic impact of the Inouye-Baucus amendment in the nature of a substitute to H.R. 1. CBO estimates that this Senate legislation would raise output and lower unemployment for several years, with effects broadly similar to those of H.R. 1 as introduced. In the longer run, the legislation would result in a slight decrease in gross domestic product (GDP) compared with CBO's baseline economic forecast.

EFFECTS ON OUTPUT AND EMPLOYMENT

The macroeconomic impacts of any economic stimulus program are very uncertain. Economic theories differ in their predictions about the effectiveness of stimulus. Furthermore, large fiscal stimulus is rarely attempted, so it is difficult to distinguish among alternative estimates of how large the macroeconomic effects would be. For those reasons, some economists remain skeptical that there would be any significant effects, while others expect very large ones.

CBO has developed a range of estimates of the effects of the Senate legislation on GDP and employment that encompasses a majority of economists' views. According to these estimates, implementing the Senate legislation would increase GDP relative to the agency's baseline forecast by between 1.2 percent and 3.6 percent by the fourth quarter of 2010. It would also increase employment at that point in time by 1.3 million to 3.9 million jobs, as shown in Table 1. In that quarter, the unemployment rate would be 0.7 percentage points to 2.1 percentage points lower than the baseline forecast of 8.7 percent. The effects of the legislation would diminish rapidly after 2010. By the end of 2011, the Senate legislation would increase GDP by 0.4 percent to 1.2 percent, would raise employment by 0.6 million to 1.9 million jobs, and would lower the unemployment rate by 0.3 percentage points to 1.0 percentage point.

Those estimated effects differ modestly from CBO's estimates for H.R. 1 as introduced. In particular, the effects on output and employment are slightly higher in 2009 and 2010, but slightly lower in 2011. The differences stem from three main sources. First, the Senate legislation's provisions regarding the alternative minimum tax (AMT), which do not appear in the House bill, would add stimulus to the economy, especially in 2010. Second, the Senate legislation would allow faster spending from the State Fiscal Stabilization Fund, increasing such spending by about $20 billion over the 2009–2010 period compared with that under the House bill (and decreasing spending correspondingly in the following years). And last, the estimated decrease in withholding (and thus the reduction in revenues) associated with the Making Work Pay Credit would be greater in 2009 under the Senate legislation than under H.R. 1.

EFFECTS OF VARIOUS TYPES OF LEGISLATIVE PROVISIONS ON OUTPUT

Although the Senate legislation has numerous detailed provisions, the macroeconomic effects can be illustrated by considering the provisions in seven categories. Table 2 shows the range of estimated effects on the economy—the multiplier effects—of a one-time increase of a dollar of additional spending or a dollar reduction in taxes. For all of the categories that would be affected by the Senate legislation, the resulting budgetary changes are estimated to raise output in the short run, albeit by different amounts.

The numbers in Table 2 indicate the cumulative impact on GDP over several quarters. For example, a one-time increase in federal purchases of goods and services of $1.00 in the second quarter of this year would raise GDP by $1.00 to $2.50 in total over several quarters, with most of that effect in the first two quarters and little effect beyond a year.

As shown in the first two categories in the table, direct purchases of goods and services by governments, including investment in infrastructure, tend to have relatively large effects on GDP. Because infrastructure spending takes time to occur, increased funding

for that purpose would not boost outlays or GDP much this year, but it would probably provide significant stimulus from 2010 through 2012.

Grants to state and local governments (such as increased assistance for education) might not increase state spending for the programs designated in the grants but, instead, might free up funds that the states would otherwise spend on those programs. States could use those extra funds in a variety of ways: direct purchases of goods and services (or smaller cuts in such purchases), tax cuts (or smaller tax increases), transfer payments, or reduced borrowing. The impact of grants therefore would depend on how states used them.

Transfers to persons (for example, unemployment insurance and nutrition assistance) would also have a significant impact on GDP. Transfers have a relatively strong effect on consumption because they tend to go to people, such as the poor or unemployed, who are likely to spend much of any additional income. For that reason and because transfers can be increased quickly, they are estimated to have a significant impact on GDP by early 2010. Transfers also include refundable tax credits, which have an impact similar to that of a temporary tax cut.

A dollar's worth of a temporary tax cut would have a smaller effect on GDP than a dollar's worth of direct purchases or transfers, because a significant share of the tax cut would probably be saved. The amount saved, and therefore the size of the effect on GDP, would depend on who received the tax cut and how temporary it would be. Most households probably save most of a temporary tax cut, to keep their purchases relatively smooth over time. However, the predominantly lower-income households that spend all of their income and would like to borrow funds to spend more if they could (that is, households that are ''liquidity constrained'') probably spend a large share of temporary boosts to income. In addition, the longer a tax cut is expected to last, the greater the impact on total after-tax income, and the larger the likely effect on consumption.

CBO's analysis divides the temporary tax cuts in the Senate legislation into those that would go primarily to higher-income households and last for only one year (mostly the provisions affecting the AMT) and those that would go primarily to lower- and middle-income households and last for two years (predominantly the Making Work Pay Credit), with the former having a considerably lower range of multipliers than the latter. Taken together, the temporary nonbusiness tax cuts in the Senate legislation would reduce revenues much more in 2010 than in 2009 because much of the reduction in taxes would be realized by households when they filed their returns in 2010.

The provision for greater tax-loss carrybacks would result in a large up-front cost to the government, but the effect of that provision on business spending would probably be small because it primarily would affect firms' after-tax income rather than their marginal incentives for new investment. Therefore, the effect of the provision on revenues would be significantly greater than its effect on the economy.

THE RELATIONSHIP BETWEEN OUTPUT AND EMPLOYMENT

CBO derived its estimates of the effect of the Senate legislation on employment from the estimated effect on GDP. Historical evidence suggests that GDP growth that is 1 percentage point faster over a year (relative to a baseline forecast) will cause the unemployment rate to decline by a little more than half a percentage point (relative to a corresponding baseline forecast). The fall in the unemployment rate leads more people to enter the labor force and seek jobs and fewer to drop out. Therefore, employment rises both from a decline in the number of unemployed workers and a decline in the number of people out of the labor force. In addition, some workers otherwise working part time move to full-time status.

The change in employment relative to the change in GDP in CBO's estimates is small compared with that in most industry-based studies of stimulus. By the end of 2010, CBO estimates, about $140,000 of additional GDP would lead to one additional person employed. That relationship is similar to those indicated by other macroeconomic studies of stimulus proposals. However, a number of other sorts of studies imply more employment per dollar of additional GDP. Because the macroeconomic studies use the historical relationship between changes in economic growth and changes in jobs, they incorporate a number of broad economic effects. For example, output per employee tends to fall in a recession because employers try not to fire their best workers even as they cut production in response to decreased demand. Therefore, as fiscal stimulus increases demand, firms can ramp up production without increasing employment proportionally. Historical evidence thus suggests that fiscal stimulus boosts both productivity and hours of work as well as employment. Studies that ignore those effects are likely to overstate the impact of fiscal stimulus on employment.

LONG-RUN EFFECTS ON OUTPUT

Most of the budgetary effects of the Senate legislation occur over the next few years. Even if the fiscal stimulus persisted, however, the short-run effects on output that operate by increasing demand for goods and services would eventually fade away. In the long run, the economy produces close to its potential output on average, and that potential level is determined by the stock of productive capital, the supply of labor, and productivity. Short-run stimulative policies can affect long-run output by influencing those three factors, although such effects would generally be smaller than the short-run impact of those policies on demand.

In contrast to its positive near-term macroeconomic effects, the Senate legislation would reduce output slightly in the long run, CBO estimates, as would other similar proposals. The principal channel for this effect is that the legislation would result in an increase in government debt. To the extent that people hold their wealth as government bonds rather than in a form that can be used to finance private investment, the increased debt would tend to reduce the stock of productive capital. In economic parlance, the debt would ''crowd out'' private investment. (Crowding out is unlikely to occur in the short run under current conditions, because most firms are lowering investment in response to reduced demand, which stimulus can offset in part.) CBO's basic assumption is that, in the long run, each dollar of additional debt crowds out about a third of a dollar's worth of private domestic capital (with the remainder of the rise in debt offset by increases in private saving and inflows of foreign capital). Because of uncertainty about the degree of crowding out, however, CBO has incorporated both more and less crowding out into its range of estimates of the long-run effects of the Senate legislation.

The crowding-out effect would be offset somewhat by other factors. Some of the Senate legislation's provisions, such as funding for improvements to roads and highways, might add to the economy's potential output in much the same way that private capital investment does. Other provisions, such as funding for grants to increase access to college education, could raise long-term productivity by enhancing people's skills. And some provisions would create incentives for increased private investment. According to CBO's estimates, provisions that could add to long-term output account for roughly one-quarter of the legislation's budgetary cost.

The effect of individual provisions could vary greatly. For example, increased spending for basic research and education might affect output only after a number of years, but once those investments began to boost GDP, they might pay off over more years than would the average investment in physical capital (in economic terms, they have a low rate of depreciation). Therefore, in any one year, their contribution to output might be less than that of the average private investment, even if their overall contribution to productivity over their lifetime was just as high. Moreover, while some carefully chosen government investments might be as productive as private investment, other government projects would probably fall well short of that benchmark, particularly in an environment in which rapid spending is a significant goal. The response of state and local governments that received federal stimulus grants would also affect their long-run impact; those governments might apply some of that money to investments they would have carried out anyway, thus freeing funds for noninvestment purposes and lowering the long-run economic return to those grants. In order to encompass a wide range of potential effects, CBO used two assumptions in developing its estimates: first, that all of the relevant investments together would, on average, add as much to output as would a comparable amount of private investment, and, second, that they would, on average, not add to output at all.

In principle, the legislation's long-run impact on output also would depend on whether it permanently changed incentives to work or save. However, according to CBO's estimates, the legislation would not have any significant permanent effects on those incentives.

Including the effects of both crowding out of private investment (which would reduce output in the long run) and possibly productive government investment (which could increase output), CBO estimates that by 2019 the Senate legislation would reduce GDP by 0.1 percent to 0.3 percent on net. H.R. 1, as passed by the House, would have similar long-run effects. CBO has not estimated the macroeconomic effects of the stimulus proposals year by year beyond 2011.

OTHER EFFECTS OF STIMULUS PROPOSALS

It is important to note that effects on GDP, the aggregate domestic output of the economy, do not necessarily translate into effects on people's well-being. First, the part of GDP that contributes directly to people's welfare is consumption. However, changes in GDP do not necessarily imply corresponding changes in consumption. For example, if GDP rises because foreigners finance greater investment, much of the additional income generated by the investment will flow overseas as payments to foreigners and will not be available to support higher consumption.

More fundamentally, many things that make people better off do not appear in GDP at all. For example, healthier children or shorter commute times can improve people's welfare without necessarily increasing the nation's measured output in the long run (though spending in those areas would still provide short-run stimulus). Even legislation explicitly intended to affect output may also seek to accomplish other goals and can be evaluated accordingly.

I hope this information is helpful to you. If you have any further questions, I would be glad to answer them. The staff contacts for the analysis are Ben Page and Robert Arnold.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

TABLE 1.—ESTIMATED MACROECONOMIC IMPACTS OF THE INOUYE-BAUCUS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1, FOURTH QUARTERS OF 2009, 2010, AND 2011

	2009	2010	2011
GDP (Percentage from baseline):			
Low estimate of effect of plan	1.4	1.2	0.4
High estimate of effect of plan	4.1	3.6	1.2
GDP Gap [a] (Percent):			
Baseline	−7.4	−6.3	−4.1
Low estimate of effect of plan	−6.1	−5.2	−3.7
High estimate of effect of plan	−3.7	−3.0	−2.9
Unemployment Rate (Percent):			
Baseline	9.0	8.7	7.5
Low estimate of effect of plan	8.5	8.1	7.2
High estimate of effect of plan	7.7	6.7	6.5
Employment [b] (Millions of jobs):			
Baseline	141.6	143.3	146.2
Low estimate of effect of plan	142.5	144.6	146.8
High estimate of effect of plan	144.0	147.2	148.1

Source: Congressional Budget Office.
[a] The GDP gap is the percentage difference between gross domestic product and CBO's estimate of potential GDP. Potential GDP is the estimated level of output that corresponds to a high level of resource—labor and capital—use. A negative gap indicates a high unemployment rate and low utilization rates for plant and equipment.
[b] Figures for employment are based on surveys of households.

TABLE 2.—POLICY MULTIPLIERS: THE CUMULATIVE IMPACT ON GDP OVER SEVERAL QUARTERS OF VARIOUS POLICY OPTION

	High	Low
Purchases of Goods and Services by the Federal Government	2.5	1.0
Transfers to State and Local Governments for Infrastructure	2.5	1.0
Transfers to State and Local Governments Not for Infrastructure	1.9	0.7
Transfers to Persons	2.2	0.8
Two-Year Tax Cuts for Lower- and Middle-Income People	1.7	0.5
One-Year Tax Cuts for Higher-Income People	0.5	0.1
Tax-Loss Carryback	0.4	0

Note: For each option, the figures shown are a range of "multipliers," that is, the cumulative change in gross domestic product over several quarters, measured in dollars, per dollar of additional spending or reduction in taxes.
Source: Congressional Budget Office.

Mr. LIEBERMAN. Mr. President, I rise to address comments made by my colleagues regarding several measures for the Department of Homeland Security in the American Recovery and Reinvestment Act: the $248 million provided for the construction of a consolidated headquarters, and the $500 million provided to fund construction and renovation of fire stations. These are both projects that will save lives, save money, and most importantly for this bill, create jobs.

The Senator from South Carolina has included funding for the DHS headquarters project among a list of what he refers to as ''cats and dogs'' which he is intent on stripping from the bill. But the DHS consolidation project is far more important to our Nation than those comments might suggest.

DHS is responsible for leading a unified, national effort to secure the United States, yet the Department does not have all the necessary tools to do so, including an adequate headquarters. DHS is currently spread throughout more than 70 buildings located on 40 sites across the national capital region making communication, coordination, and cooperation among DHS components a significant challenge. Moreover, the existing space housing the Office of the Secretary, Intelligence, and other key functions is grossly inadequate, contributes to recruitment and morale problems, and is simply not befitting a cabinet agency critical to Americans' security.

Some of my colleagues have argued that funding this important homeland security project is not appropriate in the stimulus bill. I respectfully disagree.

The DHS headquarters project will create jobs. The final environmental impact statement for the headquarters plan found that the overall project would create direct employment opportunities for over 32,000 people in the national capital region. Put another way, the economy would gain payroll earnings of approximately $1.2 billion during construction and renovation of the St. Elizabeths West Campus plus approximately $3.8 billion in additional expenditures during the construction phases.

Funding this project through the stimulus will also expedite the creation of these jobs. DHS estimates that the funding included in this bill will allow the headquarters project to be completed 12 months earlier than previously planned. This means funding will be spent into the local economy earlier creating real jobs and stimulating economic growth in DC, Maryland, and Virginia when it is most needed.

This bill will also save money. Accelerating the project will reduce the cost of the overall headquarters project by $18 million. Moreover, the Federal Government will be able to negotiate better prices with contractors because they can sign larger contracts up front which will result in additional cost savings.

In short, this project creates a win-win situation by creating jobs today and saving money for the taxpayer in the long run. And, most importantly, by fostering a more efficient and effective Department of Homeland Security, it will make our country safer.

I would also like to take a moment to address the mischaracterization by some of my colleagues and members of the media that this money will only be spent on furniture. The $248 million allocated to DHS will fund construction, IT infrastructure, security, and a host of other activities associated with constructing a building. Furniture is one allowable use of the funding, however less than 7 percent of the total funding proposed for the headquarters in this bill would be allocated towards furniture.

And I would also like to address the comments of my colleague from Oklahoma regarding the value and the appropriateness of providing funds for the construction of fire stations. I would argue that as an issue of security, safety, and of job creation, there is nothing more valuable or appropriate.

The Nation's fire houses are in dire need of attention. In cities and towns across America, they are too few in number, aging, and crumbling, and as a result, they are inadequate to provide the necessary protection to families and communities. The U.S. Fire Administration—a part of the Department of Homeland Security—has provided a grim picture in its second needs assessment of the U.S. Fire Services. Consider the following: 60 to 75 percent of fire departments have too few stations to provide an optimal response; 36 percent of fire stations in the United States are over 40 years old; 54 percent of fire stations lack backup power; and 72 percent of fire stations are not equipped for exhaust emission control.

These figures show that our country's fire stations are just not able to ensure that firefighters can serve the needs of their communities with the adequate safety and effectiveness.

These infrastructure problems are spread across the country, in communities large and small. Permit me to address the need for building more fire stations, from the ground up, to ensure that there are enough to protect the public.

Without an adequate number of fire stations, the response time of firefighters may increase significantly in incidents where every moment counts. A fire doubles in size every 60 seconds. A heart attack victim suffers irreversible brain damage after four minutes. So imagine the impact on a neighborhood where the fire houses are spread too far apart—imagine the increase in risk of death, injury, and property damage. This is a risk we cannot afford to take.

This funding, which would be distributed by the Department of Homeland Security to the communities with the greatest need, could be applied immediately to projects in need of attention right now. The U.S. Conference of Mayors has identified over 100 fire station construction or renovation projects that are ''Ready to Go,'' so thousands of jobs would be created immediately with this $500 million. This is funding that we cannot afford to trim from this bill—both for the jobs it creates, and the safety and security it will provide for our communities.

I encourage my colleagues to look at the facts. These projects, which are essential to the security of our Nation and our communities, will also create jobs and stimulate the economy. It is not wasteful spending and belongs in the stimulus bill we are considering today.

Mr. INOUYE. Mr. President, earlier today Senator MCCONNELL singled out for criticism funding in this bill for upgrades of outdated information technology at the State Department and U.S. Agency for International Development.

He said: ''$524 million for a program at the State Department that promises to create 388 jobs . . . that comes to $1.35 million per job.'' He went on to say: ''$100 million for 300 jobs at the U.S. Agency for International Development, $333,333 per job.''

With all due respect to my friend, the minority leader and former chairman of the State and Foreign Operations Subcommittee who was a strong supporter of these programs in the past, that is a simplistic statement which does not tell the whole story.

First, it undercounts the number of jobs these funds will generate, as I will explain. And second, it implies that the only value of a stimulus project is the jobs created, as if the resulting product is of no value. If we adopt that standard, I hate to think what the minority leader would say about other Federal projects, whether the cost of building the Washington Monument or a project in his State.

Computer systems are inherently not personnel intensive, but they do have a significant impact on the supply chain economy.

The State Department's and USAID's estimate of the number of jobs related to information technology upgrades is approximately 688 jobs. I doubt the unemployed citizens of Kentucky, any more than the citizens of Hawaii, would scoff at that number.

But this does not take into account the jobs created across the country when a Federal agency has a major investment in computer technology and systems. Much of the hardware would be manufactured by workers here in the U.S. Other components are made overseas and shipped to our ports, like Long Beach, CA.

U.S. workers unload the container ships and load the computer parts onto trucks or rail cars. Those trucks or trains travel across the country, and their drivers purchase fuel and food. The components are then unloaded and delivered to their final destination.

The 688 jobs cited by the Senate Appropriations Committee were merely those jobs directly identified with installing these computer systems and providing services to these Federal agencies. It does not take into account the impact of manufacturing, purchasing, and transporting new equipment.

But this funding will do more than create jobs.

The information technology upgrades proposed in this bill would improve the worldwide technology capabilities of two Federal agencies which are out of warranty and not up to current user demands. These technology systems form the core of communications between Washington and posts overseas.

Some of these funds would be used to upgrade secure phones as the current secret level phones are no longer supported by the available technology.

The Department has identified serious weaknesses in cybersecurity which these funds will address. Recent legislation mandating the Comprehensive National Cybersecurity Initiative requires all Federal agencies to become compliant with new standards to prevent cybercrime.

Federal agencies working overseas are particularly vulnerable to attack from foreign agents attempting to hack into the State Department's computer system. Sometimes this is to gain intelligence, but recently entire government computer systems have been taken down by malicious actors.

We cannot take this risk, which is why the Congress supported legislation last year to improve cybersecurity measures. Funds in this bill would address that need. Without these funds the State Department would not likely be able to make these critical investments for some years.

Funds will also be used to construct a back-up site for the worldwide information technology system, to prevent a single-point failure in communications. This need was identified after the 9/11 attacks by many independent reviews, but there have not been sufficient funds in the budget. This investment would ensure that the State Department's technology system, which supports 265 embassies and consulates in 154 countries, would not shut down if there is a major incident on the east coast of the U.S., like a power failure.

No. 1, the bill includes funding for many Federal agencies and departments to upgrade facilities or technology, and the State Department funding is in line with these same types of projects.

No. 2, this funding included for the State Department and USAID is for existing construction projects and upgrades that have been under-funded or deferred for years.

No. 3, these will support only domestic facilities which will improve the efficiency of the State Department's operations and create jobs in the U.S.

No. 4, in several instances, like the diplomatic security training facility and cybersecurity upgrades, the funds will strengthen security for U.S. diplomats posted overseas.

No. 5, all of the funds will be spent domestically at facilities in the U.S.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that at 5:45 today, the Senate proceed to vote in relation to the amendments specified in this agreement in the order listed; that no amendment be in order to any of the amendments prior to the vote; that there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote; and that after the first vote, the succeeding votes be limited to 10 minutes each: Vitter amendment No. 179; Isakson amendment No. 106, as modified; Cardin amendment No. 237; DeMint amendment No. 168; Thune amendment No. 238; Martinez amendment No. 159, that the amendment be modified with the changes at the desk; McCain amendment No. 278, that the amendment be modified with the changes at the desk; Bond amendment No. 161; Inhofe amendment No. 262; Cornyn amendment No. 277; Bunning amendment No. 242; Dorgan amendment No. 300; and McCain amendment No. 279.

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

The amendments (Nos. 159 and 278), as modified, are as follows:

AMENDMENT NO. 159

At the end of division B, add the following:

TITLE VI—FORECLOSURE MITIGATION

SEC. 6001. SHORT TITLE.

This title may be cited as the ''Keep Families in Their Homes Act of 2009''.

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-

backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the Act'' means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 6003;

(9) the term ''Office'' means the Office of Aggrieved Investor Claims established under section 6004(a); and

(10) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 6003(b).

SEC. 6003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the Act, to make payments to eligible servicers in an amount not to exceed an aggregate of $10,000,000,000, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the Act, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed $60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

SEC. 6004. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this title; and

(B) damages described in subsection (d)(3), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this title;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this title for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this title by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this title that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Secretary under this section may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of Columbia, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Secretary.

(3) STANDARD.—The decision of the Secretary incorporating the findings of the Secretary shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection with a claim submitted under this section, fees in excess of 10 percent of the amount of any payment on the claim.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than $10,000.

(k) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3716 of title 31, United States Code, shall not apply to any payment under this section.

(l) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f), and annually thereafter, the Secretary shall submit to Congress a report that describes the claims submitted under this section during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this section.

(m) GAO AUDIT.—The Comptroller General of the United States shall conduct an annual audit on the payment of all claims made under this section and shall report to the Congress on the results of this audit beginning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to $1,700,000,000, to remain available until expended.

SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

SEC. 6006. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

AMENDMENT NO. 278

On page 431, after line 8, insert the following:

SEC. ___. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

''(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

''(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

''(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

''(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

''(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

''(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

''(2) MAXIMUM DEFICIT AMOUNTS.—

''(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

''(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105-33.

''(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99-177..''.

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 253 of this Act and any procedure with respect to such

sections in this Act shall be effective beginning on the date of enactment of this subsection.''.

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. I would like to talk about a few of the amendments I will be offering to this very important piece of legislation. Let me say this again: This is a very important piece of legislation. I think everyone needs to take a moment, take a deep breath, and consider what the alternatives are. Either we come together in the Senate over the next few days and pass this bill or we do nothing—or we do nothing. I will tell you, where I live in Missouri, ''nothing'' is not an option. If people think we can do nothing and this problem will begin to take care of itself, they do not understand the economic situation we are facing. So I have no problem with a full debate. I have no problem with us looking at every line and figuring out whether there is money we can take out that is wasteful or not stimulative. But at the end of the day, this notion that we are going to put this on the shelf—are you kidding me? Put it on a shelf.

We have a crisis in this country. We are in a dramatic recession. The Government must act to stimulate job creation. If we do not, then we are going to have some explaining to do. Being brave and bold enough to do something is always harder than finding something wrong with something. And we will always be able to find something wrong in everything we do around here. So buck up. Be strong. Move forward for the American people because that is what they said to us last November. That is what they want. They wanted it to be a new day.

I am glad we are talking with each other. I am glad we are debating amendments. I am glad we are working in a bipartisan fashion to try to pull some of the things out of this bill that have distracted the conversation about the Economic Recovery Act. They have distracted us. They put us on defense. Excuse me, we are on offense. We are trying to help our economy. Sitting back and shooting that thing is not going to get us there.

There are some things I think we can do to make it better, and several of the amendments I have offered have to do with our ability to make this process transparent and to make sure we are accountable for the money.

First, I have submitted an amendment to strengthen the whistleblower protection. We have to make sure our whistleblowers are well taken care of. Some of the best information we get in cleaning up Government comes from inside the companies that work for the Federal Government. We gave these protections to defense contractors in last year's Defense Authorization Act. We need to give it to every Federal contractor so that we can get the best information possible about what is going on internally in these companies as they spend public money.

Another amendment improves the transparency requirements for the public database Web site.

We need this public database to work, because it is a new tool to allow us to track all the money to make sure the money is going where it was intended to go, to make sure we don't have fraud, waste, and abuse in these contracts and programs, as we fund the various infrastructure needs of the country, whether it is building a school, a bridge, or an electric grid.

Another amendment I have will boost the resources for the inspectors general. Those are our cops in terms of accountability. We cannot do this kind of government spending without giving the same kind of increase to the inspector general community for them to do their jobs.

Also additional funding for acquisition personnel is included. Acquisition personnel are going to be called to this cause in a dramatic fashion. As we spend this money, we have to make sure we have enough folks that we can monitor the contracts, make sure the contracts are drafted in a way that protects taxpayer money. So we need to increase both acquisition personnel and inspector general resources.

There is also another technical amendment I will be offering that has to do with a vagary in Missouri law and another State's laws as it relates to the ability of my State and another State to use water and sewer funding.

Let me say this before yielding the floor. I compliment the President today on the dramatic steps he took on curbing executive pay in the various companies that have received Federal money. The proposal he laid out today is aggressive. It is broad in scope. It is just what the doctor ordered. I am so pleased that not only the President but Senator WYDEN and Senator SNOWE offered another amendment in the area of taxing some of the excessive bonuses that have occurred. We are watching Wall Street. We are paying attention. Please behave as you should, if you have taken this kind of public money. Please understand it is not business as usual. It is not luxury retreats and fancy parties and big-time bonuses. It is a new day. Please start behaving as if you get it. Because if we cannot convince the American people that we are looking after them, we will never get the recovery we must have so that everyone has the opportunity to succeed. That is all it is about, that opportunity that is unique to America—that everyone can have a chance to succeed.

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

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

AMENDMENT NO. 179

Mr. VITTER. Before we start voting in a little less than an hour, I encourage all colleagues to look seriously at and to support the Vitter amendment which will be voted on tonight. The Vitter amendment is an attempt to start the important work of cutting out some of the clearly nonstimulative parts of this bill. Fundamentally, it does two things. First, it cuts out $35 billion of spending, which is not stimulative, which is not focused on quick job creation and economic stimulus. It takes that out of the bill. Secondly, it takes out the Davis-Bacon language, which is not part of any reasonable stimulus program and which will, in fact, cost the Government more money by significantly increasing labor costs on many projects. That has been estimated to cost about $17 billion. The American people get it. This is a big debate, an important matter they have been watching carefully. Every day that goes by, they understand ever more clearly that this is a big spending bill with the whole spectrum of traditional big government Washington spending items, a laundry list, and that is not the same animal at all as real focused job creation, economic stimulus.

There is now a plurality of all Americans who think this is a bad bill, not stimulative, and it should be either dramatically changed—not at the margin but at the core—or defeated. Quite frankly, that plurality is growing every hour of every day. They are staggered, the Louisianians I have talked to, by two things. First, the enormous size and cost of the bill. This is a direct cost. There is no argument that we can recoup this as possibly we can recoup some of the TARP money. This is a direct cost. It adds on to the debt and the deficit penny by penny. A trillion dollars is a lot of money. As one of my colleagues said: A trillion dollars or nearly that surely is a terrible thing to waste. This current stimulus bill of almost a trillion dollars is the largest spending bill ever enacted by Congress. It makes the entire New Deal, even adjusted for inflation, look small. If it would be divvied up equally, the $825 billion, it would be like every family in America borrowing $10,520. That is not an analogy drawn from the air. In fact, we are collectively borrowing every cent of this money. Every dollar is another dollar of deficit and debt. We are borrowing that, $10,520 for every American family. If all of our families were asked to equally shoulder that burden, this would be the equivalent of what each average family roughly spends on food, clothing, and health care in a year.

The bill, if it were a country with a GDP, would be the fifteenth largest GDP in the world, right between Australia and Mexico, greater than the gross domestic products of Saudi Arabia and Iran put together. It does cost well over $1 billion for every page it is

printed on, $400,000 for every job it hopes or even claims to save or create.

This is about job creation. A lot of us have questions, if any of these goals are going to be met. But let's assume the stated goals are met of saving and creating jobs, $400,000 per job. Of course, I don't think it will ever meet those goals. Altogether, by the analysis of many expert analysis, only 11 percent of this bill has anything to do with recovery or reinvestment. Fact one is the enormous size and cost of this bill which is staggering and frightening to so many Americans. Part two is that Americans get it. It is common sense, and they can tell the difference between a laundry list of spending items, traditional Washington, big government items. Virtually every major item we find in the Federal Government's budget every year, they can tell the difference between that, which this bill is, which the House bill is, and true focused job creation, economic stimulus. They know the difference. They know this is a laundry list of spending.

The Vitter amendment would begin to try to change that. It would not be enough, but it would begin to make a dent in that by cutting $35 billion of spending that is line item spending, nothing particularly focused on job creation, economic development. That spending is in a number of different categories. I invite Members to look at all details of the amendment. It starts with the truly inane. For instance, $20 million for the removal of fish barriers. Let me clarify, small and medium-size fish barriers, in case one was wondering. What the heck is that, to begin with? I would venture to say 95 percent of the Senate has no idea, but we are going to throw $20 million at that issue. How many jobs will that save or create?

That is similar to some of the items in the bill as originally introduced: An enormous amount of money for honeybee insurance; $400 million for the prevention of sexually transmitted diseases; $70 million still in the bill for supercomputing related to global climate change models. I am starting with what is the truly ridiculous and inane. From there we go to a lot of other items we can debate, which we may have to do, we may have to consider, but it is not stimulus. It is traditional Washington spending. How about $1 billion for the 2010 census. We just threw $210 million at the new census a few months ago. We are going to throw a billion dollars more. I don't know if that is needed. I don't know if that is a good idea. But I know with absolute certainty, as does everyone in this body, that that is normal spending. That is a normal appropriations matter, not job creation, economic recovery, economic stimulus.

There are so many examples like that. FBI construction. I am a big supporter of the FBI. They may have capital needs. It is not economic stimulus. NIST construction. Most Americans don't know what NIST is, the National Institute of Standards and Technology. Maybe they have capital needs. It is not significant job creation and economic stimulus. The Commerce headquarters, we are going to spend $34 million there under this bill. DHS, Department of Homeland Security, consolidation, reorganization, streamlining, saving. That is going to save money; right? Not exactly, $248 million to streamline and consolidate. USDA modernization, let's modernize that Department for $300 million.

Some of these may be good ideas. Some of this spending may be worthy. I don't know, as I stand here today. But I absolutely know—and I daresay everybody in this body knows—it is not job creation. It is not economic stimulus. It is pent-up Washington demand for government spending. Most of what I am talking about right here in our Nation's capital, in the heart of the megabureaucracies. State Department training facility, that is another $75 million; State Department capital investment fund, $524 million. That is almost a billion dollars. How many jobs in the heartland of America will that create? How much impact in terms of real people in the real world in mainstream America will that have in stimulating the economy? My answer is zero. That is the obvious answer on the minds of Americans. The District of Columbia sewer system, $125 million. Are communities around the country getting the same treatment? No. The Economic Development Assistance Program, and another biggie, Amtrak, almost a billion dollars. Again, we deal with Amtrak in the normal appropriations process every year. We have an important debate about whether to continue to subsidize Amtrak. We need to have that debate. We need to get it right. I don't know what the precisely right answer is, but I know it is a normal spending item. It is not job creation. It is not economic stimulus. It is just turning this bill into a whole other year of appropriations inserted somehow magically between 2009 and 2010.

NASA climate change studies, a cool half a billion dollars. It is nice to use round figures like half a billion—neighborhood stabilization, historic preservation, fish and wildlife resource construction, comparative research, the pandemic flu, the smart grid.

People might say: You are not worried about a pandemic flu and the threat that causes to our Nation? I am. That is a serious subject. We need to address it. We have debated it and begun to address it in the normal appropriations process. Maybe we need to do more; I do not know. But I do know one thing. That is average spending and typical spending that is nothing to do with job creation and economic stimulus. Yet this bill is littered line after line after line with all of those items. Many are ridiculous. Some are obscene. Others are debatable as spending items, but they are clearly not job creation and economic stimulus.

So I hope this vote tonight on the Vitter amendment will be the beginning of fundamentally changing this bill so it is no longer simply a laundry list of traditional Washington, big government spending items.

Again, the American people get it. No. 1, they know a trillion dollars is a terrible thing to waste. And, No. 2, they know this bill, as it stands now, just like the House bill, is simply a laundry list of spending items, traditional Washington, big government spending, pent-up demand for spending here in the Nation's Capital. It has been pent up and building for several years. It is not focused, disciplined, economic stimulus, or job creation.

There is a big difference between the two, and the American people, with their common sense, can spot that difference a mile away; and they have because they have been making their voices heard. Scientific polls, several polls—not one here, not one there—several across the board say that a plurality of the American people now say this is a bad idea. This bill should be changed at its core, not at the margins but at its core, or it should be stopped, and we should start over. That is what we need to do.

The speaker immediately before me, the distinguished junior Senator from Missouri, said that not acting, doing nothing, is not an option. She said that with great passion and great focus. I agree. I am a little puzzled about how animated she was about that because I do not know anyone, at least in this body, who thinks or says that inaction is an option. The choice being laid out that it is this bill even after the amendments or nothing is a superficial, false choice. Nobody thinks it is this bill even after amendments or nothing.

We have to act. But this is not the universe of possibilities. We need to change this bill at its core or, if we cannot, we need to say no. We will stay on the subject. We will focus on the economy. We will start over. We will act with real focus and speed. But it is not worth saying yes to a bad bill, particularly at the cost of nearly a trillion dollars.

So I urge all of my colleagues, Republicans and Democrats, to begin that bipartisan path forward toward making this a fundamentally different and worthy bill, and beginning that by adopting the Vitter amendment tonight.

With that, Mr. President, I yield back my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TESTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 179 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I would urge all of my colleagues to support this amendment. This would be an important start—not a finish but a start—to trimming down this bill and trimming down pure spending items out of the bill which are not job creation and economic stimulus. The whole savings would be about $35 billion of spending in the bill. That is obviously outlined and delineated in the amendment. In addition, it would omit the Davis-Bacon language which would cost the Government in terms of increased costs of projects another $17 billion.

The American people know the difference between a long laundry list of traditional Washington big government spending items and true, focused job creation and economic development. They know this bill right now is the former, not the latter. Let's begin to change that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, if there are no other speakers, I ask for the yeas and nays.

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

The question is on agreeing to amendment No. 179.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—32

Alexander	Cornyn	Kyl
Barrasso	Crapo	Martinez
Bennett	DeMint	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Risch
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Chambliss	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Wicker
Corker	Johanns	

NAYS—65

Akaka	Feingold	McCaskill
Baucus	Feinstein	Menendez
Bayh	Gillibrand	Merkley
Begich	Hagan	Mikulski
Bennet	Harkin	Murkowski
Bingaman	Hutchison	Murray
Boxer	Inouye	Nelson (FL)
Brown	Johnson	Nelson (NE)
Burris	Kaufman	Pryor
Byrd	Kerry	Reed
Cantwell	Klobuchar	Reid
Cardin	Kohl	Rockefeller
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Collins	Leahy	Shaheen
Conrad	Levin	Shelby
Dodd	Lieberman	Snowe
Dorgan	Lincoln	Specter
Durbin	Lugar	Stabenow
Tester	Voinovich	Whitehouse
Udall (CO)	Warner	Wyden
Udall (NM)	Webb	

NOT VOTING—2

Gregg
Kennedy

The amendment (No. 179) was rejected.

AMENDMENT NO. 106

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No.—the Senator from Montana is recognized.

Mr. BAUCUS. We are now going to vote on the Isakson-Lieberman amendment, No. 106, the housing tax credit. I am prepared to accept the amendment.

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

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

Mr. DODD. Mr. President, I want to add my voice to that of our colleague from Georgia, Senator ISAKSON, in support of his amendment. This is an idea that is not inexpensive to do, but I think it may be the kind of confidence-building measure that is necessary to free our credit markets and begin to get the housing issue moving again. It is not the only answer. I think it is a critical component and element in achieving the results we all desire.

I think our colleague from Georgia came up with an idea worth our support. Therefore, I am going to be a cosponsor as chairman of the Banking Committee, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I thank the chairman of the Banking Committee and other Members on both sides of the aisle who worked on this amendment. I am happy to accept his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 106) was agreed to.

AMENDMENT NO. 237

Mr. BAUCUS. Mr. President, next is the Cardin amendment, No. 237. I understand the chairman and ranking member of the Small Business Committee agree to this. I don't see the chairman. I see Senator CARDIN on the Senate floor. I urge him to speak to the amendment. Otherwise, I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I thank the chairman. This amendment will make it easier for small businesses to be able to get surety bonds in order to participate in these contracts with Government. It has the support of the chairman and ranking member of the Small Business Committee. I am prepared to accept a voice vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 237) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Montana.

AMENDMENT NO. 168

Mr. BAUCUS. Madam President, I understand the next amendment is DeMint amendment No. 168, the tax cut substitute.

This amendment is very simple. It strikes the entire bill. Then it replaces the entire bill with a $2.5 trillion increase in the national debt, according to the Joint Committee on Tax. With debt service and added tax provisions, it increases the national debt over 10 years by $3 trillion because it is a massive tax cut.

Again, it replaces the underlying bill, which means no aid to States, no energy provisions, no infrastructure provisions, nothing that is in the bill, replaced by a tax cut which takes effect in 2011. Joint Tax scores this, adding interest on the debt, about a $3 trillion increase in the national debt over 3 years.

I strongly urge this amendment not be adopted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, how long do I have?

The PRESIDING OFFICER. One minute.

Mr. DEMINT. Madam President, what this bill does is probably one of the most important things we need to do in this economic debate, and it is stop the planned tax increases that are going to happen in 2011 for every American.

The large score that is being thrown around here assumes we are going to let those taxes go up, but we are not. This is a misrepresentation of the cost of this bill. This bill stops the current tax increases that are planned in 2011, keeps the current tax rate the same. The only change it makes is it lowers the top marginal rate from 35 to 25 percent for businesses, for investors, and for individual Americans.

We call it the American option because it leaves money in the hands of the American people and businesses, rather than bringing it to Washington and distributing it our way.

I encourage everyone to stop the planned tax increases with the American option.

Mr. GRASSLEY. Madam President, I will vote for DeMint Amendment No. 168 because it provides long-term tax relief. However, I do not agree that

State and local tax deductions and other itemized deductions should be eliminated. If the amendment passes, I would work in conference to restore the State and local tax deductions, as well as other itemized deductions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. DEMINT. Madam President, I move to waive the applicable portion of the budget.

Mr. BAUCUS. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—36

Alexander	Crapo	Lugar
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

NAYS—61

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Pryor
Bayh	Harkin	Reed
Begich	Inouye	Reid
Bennet	Johnson	Rockefeller
Bingaman	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Snowe
Byrd	Landrieu	Specter
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	Lincoln	Voinovich
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	
Feinstein	Nelson (FL)	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote the yeas are 36, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

AMENDMENT NO. 238

The PRESIDING OFFICER. There will now be 2 minutes of debate evenly divided on the Thune amendment. The Senate will be in order.

Mr. THUNE. Madam President, what my amendment very simply says is that any of the funding in this bill that was not authorized as of February 1 of this year could not be funded under the bill. The point very simply is that, in order for a stimulus to be effective, it has to be timely, it has to be targeted, it has to be temporary. Funding in this or programs in this that are created that are new programs are going to be none of the above. It is going to take a long time, as we all know, to get regulations in place and create the bureaucracies. All these programs that are new programs included in this legislation are going to take a very long time to implement and, therefore, I do not believe ought to be considered stimulus and they ought not be funded as a part of this stimulus bill.

My amendment simply says any program that was not authorized as of February 1 of this year will not be funded under the stimulus bill. It is a way of trimming the cost of this bill back and doing something that actually I think eliminates a lot of the extraneous spending that is included in the bill. I urge my colleagues to support it.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, I rise in opposition to this amendment. This amendment says any item, unless the project was authorized prior to February 1 of this year, would be thrown out. No authorization bills have passed this Senate so far this year, so many worthwhile items might not meet the terms. In addition, there are new programs which were authorized but not before February 1, such as the $9.5 billion for energy loan guarantees, $3.2 billion for western area power, $5.5 billion for competitive grants. These are dead.

I urge all of you, keep in mind that this is not an easy amendment. This is a tricky one. I vote no.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. THUNE. 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 Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 35, nays 62, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—35

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Corker	Johanns	Wicker
Cornyn	Kyl	

NAYS—62

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Begich	Inouye	Pryor
Bennet	Johnson	Reed
Bingaman	Kaufman	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Sanders
Burris	Kohl	Schumer
Byrd	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Collins	Lincoln	Udall (CO)
Conrad	Lugar	Udall (NM)
Dodd	Martinez	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 238) was rejected.

AMENDMENT NO. 159

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on amendment No. 159 offered by the Senator from Florida, Mr. MARTINEZ.

Mr. MARTINEZ. Madam President, the housing crisis got us into this problem we are in today which necessitates the need for a stimulus bill. Until we deal with housing problems, we are not going to be out of this problem.

My proposal creates a situation where, for 3 years, it compensates private servicers of mortgages so they can be incentivized to work out mortgages for families who are in trouble, so that they might be able to stay in their homes and not be foreclosed.

This is a way to utilize the private sector, with some incentives from government money, to make sure we do not foreclose on more families. Two things will be accomplished. It also provides a safe harbor for the servicers, so that they are beyond legal liability for anything they might do in those workouts.

At the end of the day, what we will do is stabilize home prices by freezing foreclosures. Not only will we be helping families, but we will also be trying to put a floor on the housing economy, on housing prices, which continue to decline. This will stabilize housing prices, it will avoid future foreclosures, and it will begin to turn us around and create the kind of housing economy we need in order for the American economy to come back.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, first, I want to commend my colleague from Florida. This is a well-intended proposal. Here is the one problem with it that I tell my colleague: It breaks contracts. There is a constitutional issue here, where servicers could sue.

What we are doing with this amendment, if I understand it correctly, is that the compensation due to a servicer would now fall on the taxpayer. So we would have to set up a bureaucracy to pay the servicer where the legal liability was determined. That poses some real problems.

The other part of the amendment I totally agree with. In fact, we try to cover it. In fact, we established a safe harbor, my colleague will recall, in the bill we did together, and also trying to figure out a way to deal with this.

But I am nervous. There is $1.7 billion dollars in the amendment. No one can say with any certainty whether that would be an adequate amount to cover the government costs were these determined to be liabilities of the government. So I am uneasy about establishing a new bureaucracy here, and also the constitutional question of breaking these contracts which raises some very serious issues.

But what I recommend to my colleague is, we have got an amendment coming up in a little while, maybe tomorrow, where we can work together to try to accommodate this to deal with exactly what he is talking about. But I have a very difficult time accepting this for the reasons I have described.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KYL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this moment there is not a sufficient second.

AMENDMENT NO. 159 WITHDRAWN

Mr. MARTINEZ. Madam President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 278

Under the previous order, there will now be 2 minutes of debate equally divided on the McCain amendment No. 278.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, every dollar of the $1.2 trillion we are contemplating spending with this legislation would add to the national debt. The national debt has already climbed to more than $10.2 trillion. This amount does not include any of the funding provided in the legislation we are considering. After achieving economic growth for two quarters, then, according to this legislation, the President shall submit in his first budget, after the restoration of economic growth, fixed deficit targets that would achieve a balanced budget not later than 5 years from that date.

The discretionary spending caps are restored in the first fiscal year after the restoration of economic growth for 5 fiscal years at a level equal to the budget baseline, excluding any and all portions of the Economic Recovery and Reinvestment Act.

Basically, this legislation calls for, as soon as there are two quarters of GDP growth after inflation, that we embark on an effort to balance the budget. We are mortgaging our children's future.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I strongly share the desire of the Senator from Arizona to put the budget back on track, and put it on a path to balance. But I do not think this proposal has received the consideration it deserves. It has not had a hearing before the Budget Committee, yet includes a proposal to create deficit targets that were badly gamed during the Gramm-Rudman era, and turned out to actually cover for additional deficits. So I think that would be a profound mistake. We need a process that works. It deserves the consideration of the President and the Budget Committee.

I strongly urge my colleagues to oppose this amendment at this time.

I raise a point of order that this amendment violates section 306 of the Congressional Budget Act.

Mr. MCCAIN. Madam President, I move to waive the applicable portions of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—44

Alexander	DeMint	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Hatch	Roberts
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Coburn	Johanns	Specter
Cochran	Kyl	Thune
Collins	Lieberman	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Wicker
Crapo	McCain	

NAYS—53

Akaka	Bennet	Brown
Baucus	Bingaman	Burris
Begich	Boxer	Byrd
Cantwell	Kaufman	Reed
Cardin	Kerry	Reid
Carper	Klobuchar	Rockefeller
Casey	Kohl	Sanders
Conrad	Landrieu	Schumer
Dodd	Lautenberg	Shaheen
Dorgan	Leahy	Stabenow
Durbin	Levin	Tester
Feingold	Lincoln	Udall (CO)
Feinstein	Menendez	Udall (NM)
Gillibrand	Merkley	Warner
Hagan	Mikulski	Webb
Harkin	Murray	Whitehouse
Inouye	Nelson (FL)	Wyden
Johnson	Pryor	

NOT VOTING—2

Gregg Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is sustained, and the amendment fails.

The Senator from Montana.

AMENDMENT NO. 161

Mr. BAUCUS. Mr. President, it is my understanding the next amendment is Bond amendment No. 161. I have checked with our side. Our side is willing to accept this amendment. I understand it is also acceptable by the other side, but I will let Senator BOND speak to that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have to do a couple things, and I just want to tell you, thanks so much for agreeing to support this bipartisan amendment cosponsored by my partner on the Transportation and Housing and Urban Development Subcommittee, Senator MURRAY, and Senator DODD, Senator REED of Rhode Island, and Senator KOHL.

Mr. President, I ask unanimous consent that Senators VOINOVICH and BROWNBACK be added as cosponsors to the amendment.

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

Mr. BOND. Some people are a little confused. In 30 seconds—50 seconds maybe—let me tell you, this is $2 billion in direct equity that goes to State housing finance programs to produce affordable housing. The funds come from the home moneys in the bill. The funds go to shovel-ready projects that have already been approved by State credit agencies. Why can't they go forward? Because of the credit crisis and the crunch, the tax credits are no longer worth what they used to be worth. This amendment allows to fill in the hole. It makes the projects viable. There will be tens of thousands of new units and tens of thousands of new jobs.

I appreciate very much my colleagues on the other side.

I yield to my colleague from Washington.

Mr. BAUCUS. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment.

The amendment (No. 161) was agreed to.

AMENDMENT NO. 262

The PRESIDING OFFICER. Under the previous order, there will be now 2 minutes of debate equally divided prior to a vote on amendment No. 262, offered by the Senator from Oklahoma.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that Senators MARTINEZ, CHAMBLISS, ROBERTS, BROWNBACK, and BUNNING be added as cosponsors to the amendment.

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

Mr. INHOFE. Mr. President, there has been a lot of discussion and complaints about there not being enough funds in terms of infrastructure—roads and buildings and all that. Actually, it is under 4 percent in this bill. We have talked about that. What we have not talked about is the need for military procurement.

In a Washington Post article, Martin Feldstein talked about the fact that infrastructure spending on domestic military bases and procurement is one of the things we could do that would be very helpful, citing there are 655,000 employees in the aerospace industry alone.

Now, what I am trying to do with this amendment is to increase procurement by $5.3 billion. It is offset. So you have a decision: Do you want to spend $20 million for fish passage barrier removal, $34 million to renovate the Department of Commerce, or have a strong national defense? Do you want to spend $13 million to research volunteer activities or have a strong national defense?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I urge adoption of my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment adds $5.2 billion for defense. It pays for it by cutting a long list of programs out of the bill: energy-efficient motor vehicle fleet—that is one I see right here—grants for the National Passenger Rail Corporation, among others.

On behalf of Senator INOUYE, I make a point of order that the pending amendment violates section 302(f) of the Budget Act.

Mr. INHOFE. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—38

Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Crapo	Lugar	Wicker
DeMint	Martinez	

NAYS—59

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	Lincoln	Warner
Corker	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, we have four more votes tonight, and then we will have no more votes tonight after those four.

What I wanted to talk about a little bit is tomorrow. We started on this bill Monday evening. Everyone who has stood to give a speech on this—Democrat or Republican—has talked about the financial crisis our country is in. There are different ways of addressing it, and we understand that. I wanted to do everything I could to make sure there is an open process, and there has been. There have been no restrictions on amendments. There have been no complaints from us as to subject matter of amendments. However, the stark reality is we need to complete this bill. We have stated and the Speaker has stated that we need to finish this bill before the Presidents Day recess. To do that, to jump through all the hurdles, is very difficult.

In my last conversation with the Republican leader, he indicated that he would like to go to conference. I am not holding him to that. Something could go wrong the next couple of days or today or tomorrow, but that is our intention. If we don't go to conference, then we will do what we have done in the past: send something back over here. I would rather we did a conference. I think it would set a good tone. But conferences are sometimes slow and a little bit tedious. We have to get two different committees and maybe as many as three different committees represented in that conference. We have to get everybody together and have a series of meetings.

To solve the financial crisis we have in our country is going to take a lot of cooperation. We know this bill is imperfect. Democrats and Republicans acknowledge it is an imperfect piece of legislation.

Without belaboring the point, we are going to have votes again tomorrow. Now, my colleagues will note that the vast majority of the votes we have had have been Republican amendments. That is fine. We are happy with that. We want to make sure that people with concerns about this bill offer those amendments, but we are now arriving at a point where we are offering amendments upon amendments.

I understand there are two big amendments I know the Republicans have tomorrow. One of them is the Ensign-McConnell amendment dealing with housing. I understand my friend—the man I have been with now going on 27 years; we came to Washington together—JOHN MCCAIN has an important amendment. There are probably other amendments everybody thinks are important. I would at least note those two.

I hope we can look to finishing this legislation tomorrow. That doesn't mean at 5 o'clock. It may be later in the evening—and that is an understatement—but I think we should work to see if we can complete this legislation.

I know we are getting toward the end of amendments being offered because I have been told by my staff that now we are getting into amendments dealing with religious liberty and other things that don't have a lot to do, in my opinion, with this legislation, but we are setting no restriction or parameters on what amendments can be offered.

We all do acknowledge we have a crisis facing the American people. If someone isn't absolutely happy about this legislation, let's vote and move it on to the next program. If we do something in conference that is revolting to the minority, they can stop the conference report. So let's move on. Let's finish this. For us to finish this bill tomorrow or Friday is going to still take a lot of our work so that the President has a piece of legislation on his desk and so we can leave and do our Presidents Day recess.

Now, we don't have to take our recess, but we have responsibilities that are more than in Washington, DC. We have a constituency at home to whom we also have responsibilities. I doubt there is one of us who doesn't have a lot to do during the Presidents Day recess at home. We aren't often able to go home during the week, so there are things I know that I schedule during the breaks that I can't do any other time. Weekends don't do the trick.

So in light of the crisis facing the American people, there is no reason the American people shouldn't expect us to complete action on this bill tomorrow. If people need more time, I am a patient man. Now, we understand—we will take a 60-vote margin. We are happy to have this legislation require 60 votes. I hope we don't have to go through filing cloture and a cloture vote on Saturday or Sunday and 30 hours and all that stuff.

I just think the picture the people have here of the Senate is one where we have really tried these first few weeks, including the time during this legislation, to have the Senate work as it used to. I hope everyone feels—as we start getting the extraneous amendments dealing with matters I don't think conform with what the intention of this bill is, which is economic recovery—that we should be worried about people not having the opportunity to offer amendments. I think we have offered a number of amendments on housing. You name the subject, we have done multiple amendments. I am a patient person, as I have indicated, willing to work with everyone, but my goal is to get this legislation over to the House as soon as we can.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me just say I think the amendment process has been well handled. We had a lot of amendments to offer today, and they are in the process of being voted on. We have a lot more amendments to offer tomorrow, and then I think we can discuss sometime during the day tomorrow exactly what the endgame might be on this legislation.

I am pleased and my Members are pleased, I would say to the majority leader, with the way it has been handled to this point, and sometime tomorrow we will discuss how we might move toward a conclusion.

I yield the floor.

AMENDMENT NO. 277

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 277 offered by the Senator from Texas, Mr. CORNYN.

The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, my amendment reduces the 10-percent marginal income tax bracket to 5 percent—10 percent to 5 percent—in 2009 and 2010. Currently, the 10-percent tax bracket that was created in 2001 by the Economic Growth and Tax Relief Reconciliation Act applies to the first roughly $8,000 that a single taxpayer earns and $16,000 for a joint tax return. My amendment provides broad-based relief to more than 105 million taxpayers, including every hard-working American with an income tax liability.

My amendment does not add to the bill's total. Instead, my amendment is paid for by striking the refundable making work pay credit which picks winners and losers by providing relief to only a select group of taxpayers. It also, I might say, repeats a mistake we made last year, or earlier—I guess last year, last January—when we spent $150 billion of our children's and grandchildren's money to try to stimulate the economy, and everybody agrees it did not work.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the amendment is very simple. Let me explain the consequence of the amendment.

Those who pay income taxes will get a tax reduction. Those who work but do not pay income taxes—they pay payroll taxes—will not get any benefit from this amendment. That is the portion that is cut out. That is about 50 million Americans. So this amendment would give a tax cut to those who pay income taxes—a modest amount—and to pay for it, it disenfranchises those 49 million, 50 million Americans who will get a tax break under this bill because they work; that is, they pay payroll tax. Those who work but who are not wealthy will spend the money more than people who are wealthier and get a tax cut. So I suggest very strongly that we do not support this amendment.

I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21.

Mr. CORNYN. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—37

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Specter
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—60

Akaka	Feinstein	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Voinovich
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

AMENDMENT NO. 242

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on amendment No. 242 offered by the Senator from Kentucky, Mr. BUNNING.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, my amendment is simple. It suspends for the year 2009 the tax increase on Social Security benefits that Congress passed in 1993. This increase taxes seniors above certain income levels on 85 percent of their Social Security taxable income. We should not be in the business of taxing Social Security benefits. It is unfair, and it is punitive.

CRS estimates that at least 12 million seniors pay this tax. This amendment holds the Medicare trust funds harmless. Joint Tax says the amendment scores at $14.4 billion, so I reduce discretionary spending in the bill, except spending for veterans, by the necessary amount.

Now is the time to fix this problem at least for 1 year. I urge support of the amendment.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment effectively undoes part of the budget agreement that was agreed to in 1993. We effectively balanced the budget and ended up with a $10 billion, $11 trillion surplus. The fact is, the amendment reduces taxes only on the top 24 percent, the highest income-earning seniors. Twenty-four percent of the most wealthy seniors—that is highest income—will get a break in taxes. Other seniors will not. The other 76 percent will get no break.

The Senator from Kentucky pays for it by reducing parts of the bill which create jobs. This is highways, this is roads, this is energy, and so forth. Frankly, I don't think that is a wise course of action to take.

Accordingly, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I move to waive the applicable portion of the Budget Act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

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

The yeas and nays resulted—yeas 39, nays 57, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—39

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Specter
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Wicker

NAYS—57

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kaufman	Rockefeller
Burris	Kerry	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NOT VOTING—3

Gregg	Kennedy	Voinovich

The PRESIDING OFFICER. On this vote the yeas are 39, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Montana is recognized.

AMENDMENT NO. 300 TO AMENDMENT NO. 98

Mr. BAUCUS. The next amendment is the Dorgan amendment, No. 300, which we are prepared to take.

Mr. DORGAN. Mr. President, I ask we consider amendment No. 300.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. BAUCUS and Mr. BROWN, proposes an amendment numbered 300 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To clarify that the Buy American provisions shall be applied in a manner consistent with United States obligations under international agreements)

On page 430, strike lines 7 through 12 and insert the following:

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

Mr. DORGAN. I offer this amendment on behalf of myself, Mr. BAUCUS, Mr. INOUYE, and Mr. BROWN. It simply says the ''Buy American'' section shall be ''applied in a manner consistent with United States obligations under international agreements.''

I yield the remainder of my time to Senator BROWN.

Mr. BROWN. I thank the Senator from North Dakota and thank Senators BAUCUS and INOUYE for their support.

Americans are willing to reach into their pockets and spend billions of dollars for infrastructure to build bridges and highways and water and sewer and put people back to work. All that Americans want is that we provide jobs in this country—jobs, construction jobs—and that what they use for this construction, the materials, are made in America. This is WTO compliant. It follows U.S. and international global trade rules. It is a commonsense amendment.

Some people say ''protectionism,'' but how can you have an $800 billion trade deficit and call us protectionist? How can you have a $200-billion-a-day net outflow and say we are closing our borders? It makes sense to vote for the Dorgan amendment.

Mr. MCCAIN. Mr. President, I ask for 1 minute to speak in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, what this amendment does is basically stand in direct contradiction to the amendment itself. It is impossible to say the section would be applied in a manner consistent with the U.S. obligations under international agreements and then say that anything that is manufactured in the United States, whether iron, steel, or manufactured goods will have to be subject to ''Buy American.''

The reaction to this amendment has been strong and widespread, including the President of the United States, who said, ''I think this would be a mistake right now.'' The President said, ''It is a potential source of trade wars that we cannot afford at a time when trade is sinking all over the globe.''

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, I am pleased to express my support for the Dorgan amendment that would clarify that the Buy American provisions of this bill shall be applied in a manner that is consistent with our international trade obligations.

The original Buy American language in the bill doesn't specifically provide an exemption for countries that provide reciprocal access for the United States in the area of government procurement. But we are obligated under international agreements to provide such a carveout. This amendment will fix this problem.

The United States has obligations to its trading partners. If we don't live up to our commitments to other countries under trade agreements, we can't expect them to live up to their commitments to us. The last thing that we should do in this time of economic uncertainty is fail to comply with our international obligations.

I would like to thank Senator DORGAN and Senator BAUCUS for working together to craft this amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to be listed as a cosponsor on the Dorgan amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 300) was agreed to.

AMENDMENT NO. 279

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the amendment offered by the Senator from Arizona.

Mr. MCCAIN. Mr. President, nearly 80 years ago, two men—Mr. Smoot and Mr. Hawley—led an effort to enact protectionist legislation in hopes of curing the woes of the American worker. Despite the strong objection of over a thousand leading economists of the time, the Smoot-Hawley legislation was enacted. This bill helped spark an international trade war that turned a severe recession into the greatest economic depression in modern history.

The Buy American provision in the current bill has echoes of the disastrous Smoot-Hawley tariff act. It prohibits the use of funds in this bill for projects unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. These anti-trade measures may sound welcome to Americans who are hurting in the midst of our economic troubles and faced with the specter of layoffs. Yet shortsighted protectionist measures like Buy American risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the Buy American provisions in this bill will actually cost the United States more jobs than it will generate.

Some of our largest trading partners, including Canada and the European Union—who account for hundreds of billions of dollars in annual trade—have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth. And it seems

clear that this provision violates our obligations under more than one international agreement, including the WTO Agreement on Government Procurement and the procurement chapter of the North American Free Trade Agreement.

Just last November in Washington, the U.S. signed a joint declaration with members of the G–20 pledging that ''within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services.'' Yet barely 2 months later, we are contemplating whether or not to go back on a commitment to some of our closest allies and trading partners, potentially damaging our credibility to uphold future agreements.

Even President Obama himself spoke out against the Buy American provision. ''I think that would be a mistake right now,'' he said yesterday. ''That is a potential source of trade wars that we can't afford at a time when trade is sinking all across the globe.''

We know the lessons of history, and we cannot fall prey to the failed policies of the past. We should not sit idly by while some seek to pursue a path of economic isolation, a course that could lead to disaster. It didn't work in the 1930s, and it certainly won't work today. I hope all senators will support this amendment, which would strike the existing Buy American provision and replace it with a limitation on Buy American clauses in this bill.

As I said, the President of the United States said it would be a mistake right now. It sends a message to the world that the United States is going back to protectionism.

I ask unanimous consent the comments of literally every leader in the world, including the Canadian leader, the European leader, and over 100 major industries in the United States of America in opposition to this amendment and an op-ed article by Douglas Irwin be printed in the RECORD at this time.

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

LETTERS FROM WORLD LEADERS

CANADA

Ambassador Michael Wilson: ''We are concerned about contagion, that is, other countries also following protectionist policies. If Buy America becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930s.''

EUROPEAN UNION

Ambassador John Bruton: ''The United States and the European Union should take the lead in keeping the commitments not to introduce protectionist measures taken by the G20 in November 2008. Failing this risks entering into a spiral of protectionist measures around the globe that can only hurt our economies further.''

U.S. INDUSTRY

Over 100 signatories: ''Enacting expansive new Buy American restrictions would invite our international partners to exclude American goods and services from hundreds of billions of dollars of opportunities in their stimulus packages and perhaps to adopt Buy-Local rules or raise other barriers to American goods more broadly across their economies. The resulting damage to our export markets and the millions of high-paying American jobs they support would be enormous.''

QUOTES FROM WORLD LEADERS

U.K.

Prime Minister Gordon Brown: ''The biggest danger the world faces is a retreat into protectionism''.

U.S.

President Barack Obama: It would be a mistake when worldwide trade is declining for the United States ''to start sending a message that somehow we're just looking after ourselves and not concerned with world trade.''

QUOTES FROM REPORTS AND NEWS SOURCES

PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS

Report on 'Buy American': EU spokesman Peter Power stated that ''if a bill is passed which prohibits the sale or purchase of European goods on American territory, [the European Union] will not stand idly by and ignore.'' Buy American provisions would particularly damage US reputation abroad since they would come just a few months after the United States pledged to reject protectionism at the G–20 summit on November 15, 2008.

In a country of 140 million workers, with millions of new jobs to be created by the stimulus package, the number of employees affected by the Buy American provision is a rounding error.

General Electric (GE) Senior Counsel Karan Bhatia: ''You would be creating an ample basis for countries to close their markets to U.S. products.''

Bill Lane—Caterpillar, Inc. Director of Governmental Affairs: . . . ''The so-called Buy America amendment is really an anti-export provision,'' . . . ''At Caterpillar we are doing everything we can to export American-made products to the numerous infrastructure projects being proposed around the world, particularly those in China. Embracing new Buy American restrictions would totally undermine those efforts to increase U.S. exports.''

Fred Smith—Chairman of FedEx: . . . ''If the Congress passes this buy-American provision, I can assure you—and we operate in 220-some-odd countries around the world and are a huge part of the import-export infrastructure of the United States—we will get retaliation, and it will be American jobs at risk.''

LIST OF COMPANIES AND ORGANIZATIONS IN OPPOSITION TO BUY AMERICAN

(Signatories of attached industry letter)

ABB; The ACE Group of Insurance and Reinsurance Companies; AT&T; Alticor, Inc.; AgustaWestland North America Inc.; Avaya Inc.; BAE Systems, Inc.; BASF Corporation; Boston Scientific Corp.; Case New Holland Inc.; Caterpillar Inc.; Cisco Systems, Inc.; Citibank N.A.; Cummins Inc.; Dassault Falcon Jet; The Dow Chemical Company; Eastman Kodak Company; Forsberg International Logistics, LLC; Fujitsu.

General Electric Company; IBM Corporation; Intel Corporation; International Bancshares Corporation; International Bank of Commerce; ITT Corporation; John Deere; Lockheed Martin Corporation; Manitowoc Company Inc.; The McGraw-Hill Companies, Inc.; McKesson Corporation; Michelin North America, Inc.; Microsoft Corporation; NEC Corporation of America; Oracle Corporation; Panasonic Corporation of North America; PCS VacDry USA LLC; Philips Electronics North America; The Procter & Gamble Company; SAP America.

Siemens Corporation; TEREX; Texas Instruments Incorporated; Transact Technologies; Trimble Navigation Limited; Unilever United States; United Technologies Corporation; US Trading & Investment Company; Volvo Group North America; XOCECO USA; Xerox Corporation; The Advanced Medical Technology Association; Aerospace Industries Association; American Business Conference; American Chemistry Council; American Council of Engineering Companies; Associated Builders & Contractors; Associated Equipment Distributors.

Association of International Automobile Manufacturers, Inc.; Business Roundtable; The Associated General Contractors of America; The Association of Equipment Manufacturers; Brazil-U.S. Business Council; Business Software Alliance; California Chamber of Commerce; Canadian American Business Council; Consuming Industries Trade Action Coalition; The Coalition for Government Procurement; Coalition of Service Industries; Computer & Communications Industry Association; Computing Technology Industry Association; Consumer Electronics Association; Emergency Committee for American Trade.

European-American Business Council; Grocery Manufacturers Association; Hong Kong-U.S. Business Council; Information Technology Industry Council; International Wood Product Association; National Association of Foreign-Trade Zones; National Association of Manufacturers; National Defense Industrial Association; National Electronic Distributors Association; National Foreign Trade Council; Ohio Alliance for International Trade; Organization for International Investment; Retail Industry Leaders Association; Securities Industry and Financial Markets Association; Semiconductor Industry Association; Software & Information Industry Association.

Technology Association of America (formerly AeA and ITAA); Technology CEO Council; Telecommunications Industry Association; United States Council for International Business; US–ASEAN Business Council; U.S.-Bahrain Business Council; U.S. Chamber of Commerce; U.S.-India Business Council; U.S.-Korea Business Council; U.S.-Pakistan Business Council; U.S.-UAE Business Council; Washington Council on International Trade.

[From the New York Times, Jan. 31, 2009]

IF WE BUY AMERICAN, NO ONE ELSE WILL

(By Douglas A. Irwin)

HANOVER, NH.—World trade is collapsing. The United States trade deficit dropped sharply in November as imports from the rest of the world plummeted in response to the financial crisis and global recession. United States imports from China, Japan and elsewhere declined at double digit rates. The last thing the world economy needs is for governments to give a further downward shove to trade. Unfortunately, we may be doing just that.

Steel industry lobbyists seem to have persuaded the House to insert a ''Buy American'' provision in the stimulus bill it passed last week. This provision requires that preference be given to domestic steel producers in building contracts and other spending. The House bill also requires that the uniforms and other textiles used by the Transportation Security Administration be produced in the United States, and the Senate may broaden such provisions to include many other products.

That might sound reasonable, but history has shown that Buy American provisions can raise the cost and diminish the effect of a spending package. In rebuilding the San Francisco-Oakland Bay Bridge in the 1990s, the California transit authority complied with state rules mandating the use of domestic steel unless it was at least 25 percent more expensive than imported steel. A domestic bid came in at 23 percent above the foreign bid, and so the more expensive American steel had to be used. Because of the large amount of steel used in the project, California taxpayers had to pay a whopping $400 million more for the bridge. While this is a windfall for a lucky steel company, steel production is capital intensive, and the rule makes less money available for other construction projects that can employ many more workers.

American manufacturers have ample capacity to fill the new orders that will come as a result of the fiscal stimulus. In addition, other countries are watching closely to see if the crisis becomes a general excuse for the United States to block imports and favor domestic firms. General Electric and Caterpillar have opposed the Buy American provision because they fear it will hurt their ability to win contracts abroad.

They're right to be concerned. Once we get through the current economic mess, China, India and other countries are likely to continue their large investments in building projects. If such countries also adopt our preferences for domestic producers, then America will be at a competitive disadvantage in bidding for those contracts.

Remember the golden rule, or the consequences could be severe. When the United States imposed the Smoot-Hawley Tariff in 1930, it helped set off a worldwide movement toward higher tariffs. When everyone tried to restrict imports, the combined effect was a deeper global economic slump. It took decades to undo the accumulated trade restrictions of that period. Let's not make the same mistake again.

Mr. MCCAIN. Mr. President, this amendment may lose. We are making a very dangerous move tonight.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, both Mr. Smoot and Mr. Hawley are dead, but this amendment is a part of a very significant debate that is on the floor of the Senate and across the country. Mr. President, 20,000 people a day are losing their jobs—20,000 people a day. We are going to shove a lot of money out the door of this Congress in support of economic recovery. The question is, Are we going to try to put people back to work? Will we put people back to work on America's factory floors making iron and steel and manufactured products?

We already have a ''Buy American'' provision under current law. That is not violative of our trade agreements. We just added an amendment that says this section, the ''Buy American'' section, ''shall be applied in a manner consistent with United States obligations under international agreements.''

I don't think anyone can credibly argue that somehow this undermines our international agreements. But we do have a $700-billion-a-year trade deficit, and my hope would be that as we push this money out the door, we do it in support of American jobs.

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

The question is on agreeing to the amendment.

Mr. MCCAIN. 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 Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

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

The result was announced—yeas 31, nays 65, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—31

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Hatch	Risch
Bunning	Inhofe	Roberts
Chambliss	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Kyl	Thune
Corker	Lieberman	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—65

Akaka	Feinstein	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Graham	Nelson (NE)
Begich	Grassley	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Hutchison	Rockefeller
Brown	Inouye	Sanders
Brownback	Johnson	Schumer
Burr	Kaufman	Shaheen
Burris	Kerry	Snowe
Byrd	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carper	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Collins	Levin	Vitter
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feingold	Mikulski	

NOT VOTING—3

Gregg	Kennedy	Voinovich

The amendment (No. 279) was rejected.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, on behalf of Senator LANDRIEU, I ask unanimous consent that the pending amendments be temporarily set aside, and Senator LANDRIEU's amendment No. 102 be called up and agreed to, and that the motion to reconsider be temporarily laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I have checked with Senator COCHRAN.

Mr. ENSIGN. Mr. President, reserving the right to object, while we are waiting, may I lay down my amendment?

Mr. BAUCUS. Mr. President, on the Landrieu amendment, I withdraw my request.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 353 TO AMENDMENT NO. 98

(Purpose: In the nature of a substitute)

Mr. ENSIGN. I ask unanimous consent that the pending amendments be set aside. I send an amendment to the desk and ask for its immediate consideration.

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

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. MCCONNELL, and Mr. ALEXANDER, proposes an amendment numbered 353 to Amendment No. 98.

Mr. ENSIGN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. BAUCUS. Mr. President, it is my understanding that with the amendment just offered by the Senator from Nevada, tomorrow morning the first amendment to be considered will be the amendment offered by Senator MCCAIN from Arizona. The second amendment will be the amendment offered by the Senator from Nevada, Mr. ENSIGN. I ask unanimous consent that be the order.

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

The Senator from Connecticut is recognized.

AMENDMENT NO. 354 TO AMENDMENT NO. 98

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 354 to Amendment No. 98.

The amendment is as follows:

(Purpose: To impose executive compensation limitations with respect to entities assisted under the Troubled Asset Relief Program)

At the end of division B, add the following:

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established

under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term ''TARP recipient'' means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(c) SPECIFIC REQUIREMENTS.—The standards established under subsection (b) shall include—

(1) limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period that any obligation arising from TARP assistance is outstanding;

(2) a provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;

(3) a prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period that any obligation arising from TARP assistance is outstanding;

(4) a prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period that the obligation is outstanding to at least the 25 most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

SEC. 6003. BOARD COMPENSATION COMMITTEE.

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(b) NONBINDING VOTE.—A shareholder vote described in subsection (a) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(c) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue any final rules and regulations required by this section.

SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.

(a) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to employees of each entity receiving TARP assistance before the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

Mr. DODD. Mr. President, I will be very brief. I know others want to be heard. I appreciate the consideration of the manager of this part of the bill, Senator BAUCUS.

This amendment would apply to recipients of TARP assistance, stronger restrictions on executive compensation. I will make some comments this evening and invite my colleagues to look at the language of the amendment.

It is the one that I hope all Members will be able to support. It does not directly apply to the stimulus package, but it is an opportunity for us to speak on the executive compensation issues which are critically important.

The amendment bans bonuses for most highly paid executives of TARP-recipient firms: Prohibits TARP recipients from paying a bonus, retention award, or other similar incentive compensation to the 25 most highly-paid employees ''or such higher number as the Secretary of the Treasury may determine is in the public interest with respect to any TARP recipient.''

It requires a retroactive review: The Secretary of the Treasury must review bonus awards paid to executives of TARP recipients to determine whether any payments were excessive, inconsistent with the purposes of the act or the TARP or otherwise contrary to public interest and, if so, seek to negotiate with the recipient and the subject employee for appropriate reimbursement to the Government.

It requires each TARP recipient to include on annual proxy statement a ''say on pay'' proposal or advisory shareholder vote on the company's executive cash compensation program.

It allows for the Government to clawback any bonus or incentive compensation paid to an executive based on reported earnings or other criteria later found to be materially inaccurate.

It prohibits compensation plans that would encourage manipulation of reported earnings.

The Board Compensation Committee of each TARP recipient must be composed entirely of independent directors; and requires the committee to evaluate compensation plans and their potential risk to the financial health of the company.

It prohibits golden parachutes to top senior executives.

It prohibits a compensation plan that has incentives for employees to take unnecessary and excessive risks that threaten the value of the company.

This will encourage the companies to use the TARP funds for the purposes they were intended and assure the American taxpayers that their funds are being used properly.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 326.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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 Wyoming.

Mr. BARRASSO. Mr. President, the bill we are looking at today represents a massive Federal investment. It will provide Federal funds for a host of activities at State and local levels. This would be a new experience for many of our States.

The requirements set forth for Federal involvement have caused some State and local officials to take pause. But in the West, we have already learned the lessons of Federal involvement. In my State of Wyoming, we deal with the Federal Government in the day-to-day operations of our land, of our businesses and of our communities. More than 45 percent of the land in Wyoming is federally owned. The Federal Government has introduced major predators into our landscape. The Federal Government controls most of our dams, lakes, and reservoirs. The Federal Government manages the irrigation and grazing for agriculture production. We depend on Federal managers to access Federal lands for hunting and fishing. Living with this heavy Federal involvement in Wyoming, we struggle every day to cut red tape and to get work done. I urge the Members of the Senate to seriously consider the experience of the people of Wyoming.

We in Congress need to face the realities of our Federal system. Bureaucratic delays impact everyday life in Wyoming. Unless we seriously consider legislative alternatives, delays will affect many of the projects proposed for funding through this piece of legislation we are considering. The vast majority of the projects proposed for this funding are subject to environmental laws. These laws provide for measured, thoughtful decisionmaking. They allow public involvement in our Government, but they are not built for speed. Virtually every school to be built, every road, and every bridge in this legislation would require documentation under the National Environmental Policy Act, called NEPA. From my Wyoming experience, NEPA reviews can take years—not weeks, not months but years. Even after NEPA documentation is finalized, activist groups can file appeals and litigation and hold up projects for many years to come.

To address this pressing need, I am proposing an amendment today numbered 326, along with several colleagues, to provide for a streamlined process of approval. The amendment would require that NEPA be completed in 9 months. We require that administrative appeals be combined for expedient consideration. Once the administrative remedies are exhausted, judicial review is available in the Federal Court of Appeals right here in Washington, DC. This provides a single, clear system to review decisions and provide a fair ruling.

A host of experts have called for Congress to face the reality of NEPA during this stimulus package debate. The nonpartisan Congressional Budget Office, in their January 28 letter to the Senate, gave recommendations for ''actions that could accelerate spending.'' NEPA is the very first point they offered. CBO wrote that Congress should consider ''waiving requirements for environmental and judicial reviews.'' CBO is not alone. Governor Schwarzenegger of California, a very moderate Governor, listed waiving NEPA as a priority for his State to succeed with stimulus funding. He wrote that Congress should ''waive or greatly streamline NEPA requirements,'' in order to speed delivery of the projects. The U.S. Chamber of Commerce, the largest group of businesses in the Nation, called for NEPA reform. These are exactly the people we expect to lift us out of the recession. The U.S. Chamber of Commerce feels that this amendment is necessary for the stimulus package to succeed. The knowledgeable, moderate, hard working people of America are calling on Congress to make this improvement to the stimulus legislation. In fact, some of them are calling for us to go further than this amendment would go.

This amendment is not a waiver of NEPA responsibility. Rather, it requires that NEPA documentation be timely and effective. If bureaucratic delays stand in the way of project completion, it provides for the project to go forward. This amendment is a practical middle ground. I urge Members of the Senate to support it.

This amendment will make the aims of this legislation possible. The Federal Government should not stand in the way of people trying to help out and to help us out of the recession. Community projects should be reviewed quickly and allowed to go forward after a reasonable time. This amendment would prevent bureaucratic delays. Approval of the amendment will allow our transportation, our public land management, and construction goals to be met on time. If the aim of H.R. 1 is to provide quick, efficient funding for projects that will stimulate our economy, we must approve this amendment. If projects are truly shovel ready, if our partners in the agencies, States and local governments have done their homework, they won't depend on this amendment. But by approving this amendment, we will guarantee that no Federal bureaucrat sitting in Washington can waste time and money on endless paperwork. Frankly, I believe this kind of requirement should be available to all of us who struggle with bureaucratic delays in the Federal Government.

I will explain a few of the difficulties we face in Wyoming with Federal delays and bureaucratic red tape. I am sure my fellow cosponsors of the amendment have similar stories. I hope my colleagues will heed our cautionary tales.

In the Medicine Bow National Forest, we have watched millions of acres of forest die year after year. Bark beetles have infested our pine trees. They spread quickly and leave behind stands of dense, dry timber waiting to burn. We see entire mountain ranges of standing dead timber. This is a health problem, a safety problem for our communities in and around the forest. The Forest Service recognizes the importance of moving quickly to reduce wildfire risk and remove the hazardous fuels. Yet it takes nearly 2 years to plan and review a single project, 2 years before we can even begin work on the projects. Most of that time is consumed by analysis and review in order to reach NEPA compliance. This is a clear example where red tape and bureaucratic requirements are failing the people of Wyoming. These same policies will fail the people of America if we do not include a process of expedited NEPA regulations in this legislation.

The Eastern Shoshone and Northern Arapaho tribes also face delays due to red tape that the Federal Government imposes on transactions involving Indian lands. Almost every proposal to lease or develop the surface minerals, timber, water, and other resources located on Indian land is subject to approval by a Federal official. However, that official's decision cannot be made until the NEPA review and documentation requirements have been fulfilled. The lengthy paperwork must be completed regardless of what the Indian tribe or the landowner wants and regardless of the tribe or the landowner's participation in negotiating the transaction. Those review and documentation requirements take time, even when the process goes smoothly. If there is a court challenge to the NEPA review, the process can be dragged on for many months or even years. The challenge of complying with NEPA has its own impacts on the human environment in the case of Indian lands. It makes Indian lands less attractive to prospective investors and developers, and it can lead to substantial delays and considerable uncertainty.

I am not saying that NEPA has no benefits and that it is all bad. But as we consider this stimulus bill, we in Congress must be honest with ourselves. We must face the fact that NEPA compliance may create significant delays in the spending contemplated by this bill. That should not happen. We should make it clear that NEPA will not be available as a mechanism to block or substantially delay a project authorized by this legislation.

With that in mind, I hope Members of the Senate will support this amendment. We know in Wyoming that delay and red tape are part of every Federal project. If Washington is serious about implementing massive Federal investment in local communities, we must

ask ourselves the same questions being asked by our constituents: How do we make the process effective? How do we harness the most resources in the least amount of time? How can we best serve the people?

If you consider the on-the-ground realities of Federal projects, you see the necessity of this amendment. We need to put an end to bureaucratic delays. We must allow our communities to move forward with projects in a reasonable timeframe. We should allow the public to dispute Federal decisions, but we should limit unending lawsuits and delays. These are improvements that will vastly improve the effectiveness of Federal funding and allow truly shovel-ready projects to proceed without delay.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, at this point, I appreciate that the Senator from Wyoming has an amendment. I wondered if perhaps he could hold off and offer his amendment tomorrow and work out with Senator BOXER the appropriate accommodations for both Senators. That would be my hope. In the meantime, Senator HARKIN has an amendment he would like to offer.

Mr. BARRASSO. Mr. President, I will work on that with Senator BOXER.

Mr. BAUCUS. I thank the Senator for his accommodation.

Mrs. BOXER. Mr. President, I thank Senator BARRASSO. I didn't know about the Senator. As he knows, he is waiving the National Environment Act as it pertains to these projects. I will be glad to work with him to figure out a way to do a side-by-side, however he wants to deal with it, a second degree.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 338 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BARRASSO. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wish to talk about the amendment I will be calling up at some point. There is no doubt that the automobile industry is the heart and soul of America's manufacturing sector. It is absolutely critical to a healthy and diversified, vibrant U.S. economy. Right now this essential industry is on life support, hemorrhaging jobs, slashing production, closing dealerships, and, in the case of GM and Chrysler, dependent on Federal loans to avoid bankruptcy. Chrysler announced a 50-percent decline in January sales compared to a year ago. GM had a 49-percent decline in sales. Ford had a 39-percent decline. Toyota, with major plants in America, suffered a 32-percent decline in U.S. sales. These numbers are shocking, and people who think this is only an automakers' problem just don't get it.

The auto industry is not just a few assembly plants in Detroit. The Big Three and foreign automakers have plants in Alabama, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

There are car dealerships and auto parts manufacturers in thousands of communities all across America. Directly or indirectly, the auto industry supports one 1 of every 10 jobs in this country.

So let's be very clear, we are not going to have a strong economic recovery in the United States without a strong recovery in the automobile industry. That is why it is important this economic stimulus bill provide a major boost to automakers. The real question is, What is the best way to give a boost to the automakers? Is it giving them money at the top and letting them deal with it as they will? Well, that is like old trickle-down economics; all we have to do is give it to the top and somehow it will all trickle down.

Some of us have a better idea, and I think a better approach. It is to put it in at the bottom and let it percolate up. Here is what I mean by that.

The auto workers want nothing more than to be back on the job producing full time, producing high-quality cars, providing for their families, paying their taxes.

Now, I am offering this amendment which will give low- and modest-income consumers a $10,000 subsidy for the purchase of a new car that is assembled in America—a car or pickup truck assembled in America.

Now, here are the conditions that apply to this. First of all, the car you are bringing in has to be at least 10 years old. You have to have title for the car in your own possession prior to the date of the enactment of this bill. The new car you are purchasing has to get at least 5 miles per gallon more than the car you are bringing in. The new car must have a fuel economy rating of 25 miles per gallon or better or, in the case of a pickup, 20 miles per gallon or better. And the old car you are bringing in must be relinquished to the Government and be destroyed. This offer, this $10,000 subsidy, would be available only to individuals with incomes of $50,000 a year or less or couples with an income of $75,000 or less.

So let me run through that again. Here is the way it would work. If you have an income of less than $50,000—or for a couple less than $75,000—if you have a car that is at least 10 years old, and you have had title to that car since before the enactment of this bill—actually before January of this year—you could take your W–2 form to show your income, take the title of the old car to show you have owned it, show how old the car is, and you can go to any auto dealer anywhere you want and buy a new car and the subsidy will be $10,000. You will get $10,000. All you have to do is relinquish your old car, and that car has to be destroyed.

Well, what would this amendment accomplish? First of all, it will bring a lot of customers back into the auto showrooms, and they will not just be looking, they will be buying. This will be a shot of adrenaline right into the bloodstream of the domestic auto industry. Secondly, it will accelerate the shift from older gas-guzzling vehicles to new high mileage cars. Third, and very important in these tough economic times, it will make it affordable for ordinary working Americans to buy a new car.

Think about it. Think about people who make less than $50,000 or a couple who makes less than $75,000 a year. Chances are, they are the ones who have the old clunkers. They need it to go back and forth to work. If you live in a rural area, it is absolutely essential. These are the people who have these old cars, and they put repairs in them—a couple hundred here, a couple hundred there—because they can afford to do that, but they cannot afford to buy a new car. But it is a much different story if the Federal Government is going to give you $10,000 to buy that new car.

For example, let's take this example: A basic 2009 Chevrolet Cobalt gets 34 miles per gallon on the highway. It has a manufacturer's suggested retail price starting at $16,330. After the Federal subsidy—assuming you are under the income limits, and you have this 10-year-old car—you will be able to buy that car for $6,330.

Now, what is also important is that you will be able to get financing under this program. Because the lender, with a $10,000 reduction in price, will be offering a car loan for far less than the car's worth after it leaves the lot.

We had a session today, and we heard Mr. Larry Summers. We all know who he is down at the White House. He said there are a lot of willing lenders out there, but they do not have worthy borrowers.

Well, now, if you are a person—a low-income, moderate-income person—and you are making $50,000 a year, and you need a new car—you have an old clunker, and you keep paying for repairs on it, but you wish to buy a new car—let's say it costs you $20,000 to buy a new car—you can go to your local bank and try to get a loan for $15,000 or $18,000 for a $20,000 car, and you will not get it. You will not get it. But if you go to that bank to try to get a loan for a $20,000 car and $10,000 of it is a subsidy from the Government, and you are only borrowing $10,000 for that car, you will get the financing.

So that is another important thing this amendment will do. It will start opening channels of credit. Money will start to begin to flow through banks

and other lending organizations—savings and loans, credit unions, institutions such as that—for people to buy a car.

This amendment will make it affordable for a modest-income American to buy a new car. Make no mistake about it, it would stimulate a surge in auto sales—not just the automakers, but a broad swath of the economy impacted by the auto industry. Think about all of the other things that go into these cars in almost every community in America.

The Federal Government has given General Motors and Chrysler a few months to come up with a plan to ensure their long-term viability as businesses while producing a greener mix of vehicles. But we have failed to address two big questions.

In the midst of a severe recession, how do you boost demand for cars assembled in America? How do we get rid of that surplus we have out there? Go to any auto lot in your State. There are new cars all over the place, and there is no one buying them. So we failed to address that. How do we boost demand? Secondly, how do we give consumers compelling incentives to purchase fuel-efficient cars, especially at a time when gas prices have fallen dramatically? I was in my home State of Iowa this week, and gas is $1.77 a gallon. I have not seen it that low for a long time.

So this amendment provides a realistic answer to both questions. It would boost demand incredibly. We estimate that for the $16 billion this amendment would provide, it would cover more than 1.5 million purchases of new fuel-efficient, domestically assembled cars. It would accelerate the transition of our U.S. vehicle fleet toward more fuel-efficient cars, and this would be a gain for our whole country, reducing the demand for gasoline, reducing the dependence on foreign oil, lowering the operating costs of these new cars.

It will do little good to extend loans to GM and Chrysler if consumer demand for new cars remains dead. Now, we had the Mikulski amendment earlier today—today or yesterday—and that will help a little bit. But it is a tax deduction for modest-income Americans. It probably will not mean that much, maybe $1,000, $1,500. It is better than nothing. But if you want to sell those cars, give them $10,000, give $10,000 to modest-income Americans. Say: Go buy a car with these conditions.

We are very good around here at passing billions of dollars. What are we up to, $900 billion now on this bill? There is a lot of good stuff in this stimulus bill, and I support it. We are good at giving a lot of money to Wall Street and banks and GM and Chrysler at the top. We seem to be very good at giving a lot of money at the top. How about giving some money down at the bottom?

You want to talk about rebuilding confidence in America? Think what would happen to all these modest-income Americans who could now go out and get a new car. Think of all the old clunkers we would take off the road and destroy. That would rebuild confidence. As I mentioned, we would get our lending channels going. There would be a lot of loans made out there for these cars. With lending institutions, my gosh, loaning $6,000 on a $16,000 car, that is not everyone breaking a sweat.

So it is going to do little good for us to demand that automakers shift production to fuel-efficient cars if consumers are unwilling to buy them or they cannot buy them because of the recession.

This amendment is designed to address these challenges, to stimulate demand for new fuel-efficient cars, accelerate the shift toward a more fuel-efficient fleet, and help working-class Americans. As I said, you only qualify as an individual if you make $50,000 a year or less, or for a couple making $75,000 or less. Let's help working-class Americans. Now, people might say: Gee, that is a lot of money, $16 billion. But aren't we trying to stimulate the economy?

Again, in closing, I say, you are not going to get economic recovery until we address the automobile sector. That is the big driver in this country, no pun intended, of course. But that is what we have to address. We are not doing it. We keep punting the ball down the field: loans to GM, loans to Chrysler; they come up with a plan. But with all those new automobiles sitting out there, no one is buying them. Well, let's give them a subsidy. Let's give a subsidy to working-class Americans for a change, and give them a little hand up—not a handout, but a hand up. I will tell you, it will reverberate all through our economy if we are to do something like this.

Mr. President, 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. DODD. 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.

Mr. DODD. Mr. President, I understand there has been an objection. I am not going to offer an amendment at this point until after this is resolved.

I wish to take a couple of minutes, if I may, on an amendment I will call up either this evening or tomorrow once this has been resolved, this process matter has been resolved. I intend to offer an amendment that would statutorily require a dedication of $50 billion from the second tranche of the so-called TARP funding to be dedicated to foreclosure mitigation.

As chairman of the Senate Banking Committee—and I am pleased to recognize that the distinguished Presiding Officer is a new member of that committee—for the last 2 years—in fact, 2 years ago this very week, we had our very first hearing, and I became chairman of the committee on the foreclosure problems in this country and the problems with the residential mortgage market generally. We had witnesses at that time who warned that we might face as many as 2 million foreclosures in the country. I recall when the witness testified to that effect, there were those who scoffed at that prediction, that nothing such as that could possibly happen in the United States. Now it seems like a modest prediction in light of what has occurred over the last 2 years regarding our economy, in this country, all of which began with the residential mortgage market in this Nation.

More so than anything else, it was the predatory lending that drew people into mortgages they were ill-prepared to meet, did not require documentation; they were actually called liar loans, in a sense. Of course, the brokers and the servicers and lenders were all passing on the responsibility with little or no accountability, were being compensated for their efforts, and no longer had any underwriting standards or requirements that would have required that the borrowers meet certain requirements in order to protect that mortgage and that homeowner.

I won't dwell on that this evening except to say that now we have 8 million homes underwater in effect, where the mortgages exceed the value of the homes. It is predicted that several millions more could lose their homes. Mr. President, 10,000 people a day in this country are losing their homes, along with the 20,000 losing their jobs, and there is an increase in the likelihood of further deterioration in the housing market.

I had hoped earlier on, with the first tranche of $350 billion, that more would be done in foreclosure mitigation. Regretfully, despite promises to the contrary, that never occurred. I am hopeful—in fact, beyond hopeful—because this amendment would require that $50 billion of that remaining $350 billion be dedicated to this purpose. I am confident that the new administration is committed to that. They certainly indicated as much in their comments. While not specifically identifying a number, they certainly indicated they intend to dedicate serious resources toward foreclosure mitigation. This amendment would secure, beyond any doubt—that those resources I have identified would be allocated for foreclosure mitigation. There are some other points in the amendment, but that is the major thrust.

Most economists, regardless of ideology or political perspective, have agreed that until we deal with the foreclosure crisis, the economic situation will continue to deteriorate until we get to the bottom of that. There are a variety of different proposals that have been suggested on how we might

achieve that. This amendment I am offering does not insist upon any particular formulation. There are a number of ideas out there. I think Sheila Bair, who is the chairperson of the Federal Deposit Insurance Corporation, has one of the more creative ideas, an idea that has been warmly embraced by the Obama administration. That is not to say they agree with every dotted ''I'' and crossed ''t,'' but they certainly indicated they think it is more than just a reasonable idea but may very well contribute to putting a tourniquet on this hemorrhaging that is occurring in the residential mortgage market. That is one idea. There are others as well. Several of my colleagues on both sides of this political divide have offered ideas that I think would contribute to the reduction of foreclosures in the country, many of which are very solid ideas. Some may need further work than others, but I think all of us are now aiming in the right direction.

It has been a journey of some length. It was only in the spring of last year that we faced some six filibusters in this Chamber when we tried to fashion a housing program that would reduce some of the problems we saw a year ago. Obviously, the mood has changed dramatically. We now have virtually everyone talking about how to deal with the foreclosure problem. I only regret that same consensus had not developed earlier. Had it done so, in my view, we would not be where we are today. This is not a natural disaster that has occurred; this was an avoidable problem. That is the great tragedy of it. This was an avoidable economic problem that has at its roots the mortgage crisis. Unfortunately, it went unattended for so long despite repeated warnings by many of us.

But here we are at the outset of 2009 with the worst economic crisis since the Great Depression and a problem that has now spread throughout the globe. So it is incumbent upon us to take various steps to try to address this issue. I think the money that was allocated back last fall minimized the problem in a sense that it would have been far worse than it is today without those resources. Unfortunately, the management of those resources has not been as well executed as it could have been. My hope is that this next tranche will be far better managed with far greater accountability, far greater transparency, and far greater controls on such things as executive compensation.

Obviously, the stimulus package is also important. I wish to commend President Obama because he has said this well; that is, these steps we are taking are not in and of themselves going to resolve the economic crisis. What I think they do is minimize further deterioration of our economy. The President said the other day that he wishes these actions would turn the corner for us. What he hopes it will achieve is to stop the deterioration or the flow of this economy moving in the wrong direction.

So I think it is important as we talk about the stimulus package that we talk about these TARP funds. These are all steps that are needed to get us moving in the right direction, to create jobs in the country and stop the tremendous increase in unemployment—as I mentioned, 20,000 jobs a day—and begin to repair our credit market and the financial system in this country.

Far more will need to be done. Anyone who stands on this floor or elsewhere and predicts that because of the steps we are taking we are going to miraculously or immediately cure our economic ills is misspeaking. It will not. But it will get us pointed in the right direction. That is what is important about these steps we are about to take. It will move us in a direction of improving our economy.

I see my colleague from Missouri.

Mrs. MCCASKILL. Mr. President, will the Senator yield for a question?

Mr. DODD. I am pleased to yield.

Mrs. MCCASKILL. Mr. President, through the Presiding Officer, I wish to ask my colleague from Connecticut whether, when we were trying to deal with the foreclosure crisis last year, there were many people in the Chamber who said: Well, let's just shelve that for awhile. Let's forget about that problem right now. We don't need to do anything right now.

My recollection is that is what a lot of the response was from some of our friends.

Mr. DODD. Mr. President, I would say to my colleague from Missouri that she has an excellent memory. I had 82 hearings in the Banking Committee, over a third of them on this subject matter alone. We came to the floor of the Senate at the behest of the majority leader, Senator REID, who was a champion of these issues. We had these hearings prior to the Passover, Easter break in committee, over a third of them on this subject matter alone. We faced six filibusters—almost a record number—on a single piece of legislation. It was after that break that things began to open up and move.

My colleague from Missouri has this exactly right. There were those who were vehemently opposed. There were all sorts of amendments, all sorts of efforts made to obstruct any effort for us to come up with ideas to allow us to mitigate the rising foreclosures in the country. Had we dealt with it then, a year ago, I think it is safe to say to my colleagues that we would not be in the situation we are in today.

Mrs. MCCASKILL. Mr. President, I would ask my colleague, it is almost like what a famous baseball player once said: ''It is deja vu all over again.'' Because what I am hearing, if I am correct—and I would certainly ask him this question—I am hearing the same thing now on the economic recovery bill, that we need to shelve it.

I heard one of our colleagues, who I believe is the ranking member on Senator DODD's committee, actually today on TV and the last couple of days saying: We need to shelve this thing.

I would ask the Senator from Connecticut, through the Presiding Officer, I have this feeling that if we shelve it, we will be back here next year and, as with the housing crisis, the economic crisis in this country will do nothing but get demonstrably worse and more painful for the American people.

Mr. DODD. Mr. President, responding to my colleague and friend from Missouri, she is absolutely correct. I think there is a tendency to look at these issues as if they were somehow stovepiped, separate from each other, this dealing with the TARP legislation and dealing with the financial crisis and now dealing with the stimulus package is unrelated. It has been pointed out that there is a likelihood we will lose as much as $2 trillion out of our economy over the next 2 years. Making up that gap is going to require some effort.

This bill will ultimately, I hope, result in an appropriation of something between $800 billion and $900 billion—no small amount but far short of what will be lost in our economy over the next 2 years. If we defeat this or shelve this, as has been suggested, we exacerbate the economic problems of this Nation to a significant degree, which would require this body coming back at a later date with something that none of us even wants to contemplate at this point.

So this is not an unrelated matter. You shelve this, you walk away from this responsibility, and you burden the American taxpayer to the likes none of us could even begin to calculate.

So I thank my colleague from Missouri for pointing that fact out. This is related. If our economy does not begin to improve or at least not get worse, as the President has accurately pointed out, the problems only become more pronounced, more difficult to resolve in the coming weeks and months. So our economic future depends upon each of these pieces in place that will allow us to begin to turn that corner, see credit begin to move, borrowing occur, lenders lending, and activity economically in this country begin to move in the direction we need for recovery. So I thank her immensely for her comments. She identified exactly what needs to be done and explained it to our citizens.

This is not an idle effort just to secure some spending. It is absolutely essential if we are going to produce the kinds of jobs that are necessary, contribute to economic growth, and make a difference for our country. That is the reason I thought on this bill—it is a stimulus bill—of requiring to be set aside $50 billion of the TARP money in the next tranche to be dedicated to the rising number of foreclosures of residential properties in our Nation. If you are losing 20,000 jobs a day, you don't need to be a degreed economist to know that with every one of those people who loses a job, the greater the likelihood they will lose their home.

We need to do everything we can to try to stop that erosion in the job market and simultaneously do what we can to make it possible for people to stay in their homes. There is a direct correlation between the stimulus effort and TARP regarding mitigation of foreclosures. That is why I will ask my colleagues to be supportive of that effort tomorrow.

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. BAUCUS. 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. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be set aside and the following Senators be permitted to call up amendments at the desk as follows: DeMint, No. 189; Boxer, an amendment regarding environmental laws; Barrasso, an amendment regarding environmental laws; Harkin, amendment No. 338; Dodd, amendment No. 145; McCaskill, amendments Nos. 125 and 236, with a modification; that the Landrieu amendment No. 102 be called up, and once that is reported this evening, it be considered and agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 326 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendments be set aside and I be allowed to call up amendment No. 326.

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 Wyoming [Mr. BARRASSO], for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT, proposes an amendment numbered 326 to amendment No. 98.

Mr. BARRASSO. Mr. President, 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 expedite reviews required to be carried out under the National Environmental Policy Act of 1969)

On page 431, between lines 8 and 9, insert the following:

SEC. 16___. (a)(1) Notwithstanding any other provision of law, all reviews carried out pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed by the date that is 270 days after the date of enactment of this Act.

(2) If a review described in paragraph (1) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in paragraph (1)—

(A) the action shall be considered to have no significant impact to the human environment for the purpose of that Act; and

(B) that classification shall be considered to be a final agency action.

(b) The lead agency for a review of an action carried out pursuant to this section shall be the Federal agency to which funds are made available for the action.

(c)(1) There shall be a single administrative appeal for all reviews carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court described in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to a review carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court described in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

AMENDMENT NO. 189 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 189 on behalf of Senator DEMINT.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for Mr. DEMINT, proposes an amendment numbered 189 to amendment No. 98.

Mr. BARRASSO. Mr. President, 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 allow the free exercise of religion at institutions of higher education that receive funding under section 803 of division A)

On page 192, after line 21 insert the following:

SEC. 807. ELIMINATION OF FUNDING PROHIBITION. Notwithstanding section 803(d)(2)(C), section 803(d)(2)(C) shall have no effect.

Mr. BARRASSO. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

AMENDMENTS NOS. 145, 338, 125, AND 236, AS MODIFIED TO AMENDMENT NO. 98

Mr. BAUCUS. Mr. President, on behalf of Senators DODD and HARKIN, I call up amendments, one for each Senator, and on behalf of Senator MCCASKILL, I call up two amendments as under the previous order.

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the amendments will be considered pending.

The amendments are as follows:

AMENDMENT NO. 145

(Purpose: To improve the efforts of the Federal Government in mitigating home foreclosures and to require the Secretary of the Treasury to develop and implement a foreclosure prevention loan modification plan)

On page 263, between lines 10 and 11, insert the following:

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1201. Section 257 of the National Housing Act (12 U.S.C. 1715z-23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), is amended—

(1) in subsection (e)(1)(B), by inserting after ''being reset,'' the following: ''or has, due to a decrease in income,'';

(2) in subsection (k)(2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''shall, upon any sale or disposition of the property to which the mortgage relates, be entitled to 25 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the eligible mortgage refinanced under this section.'';

(3) in subsection (i)—

(A) by inserting '', after weighing maximization of participation with consideration for the solvency of the program,'' after ''Secretary shall'';

(B) in paragraph (1), by striking ''equal to 3 percent'' and inserting ''not more than 2 percent''; and

(C) in paragraph (2), by striking ''equal to 1.5 percent'' and inserting ''not more than 1 percent''; and

(4) by adding at the end the following:

''(x) AUCTIONS.—The Board shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

''(y) COMPENSATION OF SERVICERS.—To provide incentive for participation in the program under this section, each servicer of an eligible mortgage insured under this section shall be paid $1,000 for performing services associated with refinancing such mortgage, or such other amount as the Board determines is warranted. Funding for such compensation shall be provided by funds realized through the HOPE bond under subsection (w).''.

At the end of division B, add the following:

TITLE VI—FORECLOSURE PREVENTION

SEC. 6001. MANDATORY LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended—

(1) by striking the last sentence;

(2) by striking ''To the extent'' and inserting the following:

''(1) IN GENERAL.—To the extent''; and

(3) by adding at the end the following:

''(2) LOAN MODIFICATIONS REQUIRED.—

''(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

''(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than $50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

''(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

''(i) loan guarantees and credit enhancements;

''(ii) the reduction of loan principal amounts and interest rates;

''(iii) extension of mortgage loan terms; and

''(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

''(D) DESIGNATION AUTHORITY.—

''(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

''(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

''(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

''(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

''(i) upon development of the plan required by this paragraph, a report describing such plan; and

''(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.''.

AMENDMENT NO. 338

(Purpose: To require the Secretary of the Treasury to carry out a program to enable certain individuals to trade certain old automobiles for certain new automobiles)

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. AUTOMOBILE TRADE-IN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AUTOMOBILE, FUEL, MANUFACTURER, MODEL YEAR.—The terms ''automobile'', ''fuel'', ''manufacturer'', and ''model year'' have the meaning given such terms in section 32901 of title 49, United States Code.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual—

(A) who does not have more than 3 automobiles registered under his or her name;

(B) who filed a return of Federal income tax for a taxable year beginning in 2007 or in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

(C) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins;

(D) whose adjusted gross income reported in the most recent return described in subparagraph (B) was not more than $50,000 ($75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986));

(E) who has not acquired an automobile under the Program; and

(F) who did not file such return jointly with another individual who has acquired an automobile under the Program.

(3) ELIGIBLE NEW AUTOMOBILE.—The term ''eligible new automobile'', with respect to a trade of an eligible old automobile by an eligible individual under the Program, means an automobile that—

(A) has never been registered in any jurisdiction;

(B) was assembled in the United States; and

(C) has a fuel economy that—

(i) is not less than 25 miles per gallon (20 miles per gallon in the case of a pick up truck), as determined by the Administrator of the Environmental Protection Agency using the 5-cycle fuel economy measurement methodology of such Agency; and

(ii) has a fuel economy that is more than 4.9 miles per gallon greater than the fuel economy of such eligible old automobile, as determined by the Administrator using the 2-cycle fuel economy measurement methodology of such Agency for both automobiles.

(4) ELIGIBLE OLD AUTOMOBILE.—The term ''eligible old automobile'', with respect to a trade for an eligible new automobile by an eligible individual under the Program, means an automobile that—

(A) is operable;

(B) was first registered in any jurisdiction by any person not less than 10 years before the date on which such trade is initiated;

(C) is registered under such eligible individual's name on the date on which such trade is initiated; and

(D) was registered under such eligible individual's name before January 16, 2009.

(5) PICK UP TRUCK.—The term ''pick up truck'' means an automobile with an open bed as determined by the Secretary in consultation with the Secretary of Transportation.

(6) PROGRAM.—The term ''Program'' means the Automobile Trade-In Program established under subsection (b).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Treasury, or the Secretary's designee.

(b) PROGRAM ESTABLISHED.—The Secretary shall establish the Automobile Trade-In Program to provide eligible individuals with subsidies to purchase eligible new automobiles in exchange for eligible old automobiles.

(c) DURATION OF PROGRAM.—The Program shall commence on the date on which the Secretary prescribes regulations under subsection (h) and shall terminate on the earlier of—

(1) September 30, 2010; and

(2) the date on which all of the funds appropriated or otherwise made available under subsection (j) have been expended.

(d) TRADES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an eligible individual and a seller of an eligible new automobile initiate a trade as described in subsection (e) for such new automobile with an eligible old automobile of the eligible individual before the termination of the Program under subsection (c), the Secretary shall provide to the seller of such new automobile $10,000.

(2) LIMITATION ON PURCHASE PRICE OF ELIGIBLE NEW AUTOMOBILES.—The Secretary may not make any payment under this subsection for a trade for an eligible new automobile under the Program if—

(A) the purchase price of such new automobile exceeds the manufacturer's suggested retail price for such new automobile; or

(B) the price of the non-safety related accessories, as determined by the Secretary in consultation with the Administrator of the National Highway Traffic Safety Administration, of such new automobile exceeds—

(i) the average price of the non-safety related accessories for the prior model year of such new automobile; or

(ii) in the case that there is no prior model year for such new automobile, the average price of non-safety related accessories for similar new automobiles (as determined by the Secretary), with consideration of the types of non-safety related accessories that are typically provided with such automobiles.

(3) COMPENSATION FOR DELAYED PAYMENTS.—In the case that a payment under this subsection to a seller for a trade under the Program is delayed, the Secretary shall provide to such seller the amount otherwise determined under this subsection plus interest at the overpayment rate established under section 6621 of the Internal Revenue Code of 1986.

(e) INITIATION OF TRADE.—An eligible individual and the seller of an eligible new automobile initiate a trade under the Program for such eligible new automobile with an eligible old automobile of such individual if—

(1) the eligible individual, or the eligible individual's designee, drives such old automobile to the location of such seller;

(2) the eligible individual provides to the seller—

(A) such old automobile; and

(B) an amount (if any) equal to the difference between—

(i) the purchase price of such new automobile; and

(ii) the amount the Secretary is required to provide to the seller under subsection (d); and

(3) the eligible individual and the seller notify the Secretary of such trade at such time and in such manner as the Secretary considers appropriate.

(f) LIMITATION ON RESALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who purchases an automobile under the Program may not sell or lease the automobile before the date that is 1 year after the date on which the individual purchased the automobile under the Program.

(2) EXCEPTION FOR HARDSHIP.—The limitation in paragraph (1) shall not apply to an individual if compliance with such limitation would constitute a hardship, as determined by the Secretary.

(g) DISPOSAL OF ELIGIBLE OLD AUTOMOBILES.—

(1) IN GENERAL.—A seller who receives an eligible old automobile in exchange for an eligible new automobile under the Program shall deliver such old automobile to an appropriate location for proper destruction and disposal as determined by the Secretary in accordance with paragraph (2).

(2) DISPOSAL AND SALVAGE.—The Secretary may permit a seller under paragraph (1) to salvage portions of an automobile to be destroyed and disposed of under such paragraph, except that the Secretary shall require the destruction of the engine block and the frame of the automobile.

(3) COMPENSATION.—The Secretary shall compensate a seller described in paragraph (1) for costs incurred by such seller under such paragraph in such amounts or at such rates as the Secretary considers appropriate.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall prescribe rules to carry out the Program.

(2) EXPEDITED PROCEDURES FOR RULEMAKING.—The provisions of chapter 5 of title 5, United States Code, shall not apply to regulations prescribed under paragraph (1).

(i) MONITORING.—The Secretary shall establish a mechanism to monitor the expenditure of funds appropriated under subsection (j).

(j) DIRECT SPENDING AUTHORITY.—

(1) IN GENERAL.—There is authorized to be appropriated and is appropriated to the Secretary $16,000,000,000, including administrative expenses, to carry out the Program.

(2) AVAILABILITY.—The amount appropriated under paragraph (1) shall be available for the purpose described in such paragraph until September 30, 2010.

(3) EMERGENCY DESIGNATION.—Amounts appropriated pursuant to paragraph (1) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AMENDMENT NO. 125

(Purpose: To limit compensation to officers and directors of entities receiving emergency economic assistance from the Government)

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Limits on Executive Compensation

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the ''Cap Executive Officer Pay Act of 2009''.

SEC. 1552. LIMIT ON EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no person who is an officer, director, executive, or other employee of a financial institution or other entity that receives or has received funds under the Troubled Asset Relief Program (or ''TARP''), established under section 101 of the Emergency Economic Stabilization Act of 2008, may receive annual compensation in excess of the amount of compensation paid to the President of the United States.

(b) DURATION.—The limitation in subsection (a) shall be a condition of the receipt of assistance under the TARP, and of any modification to such assistance that was received on or before the date of enactment of this Act, and shall remain in effect with respect to each financial institution or other entity that receives such assistance or modification for the duration of the assistance or obligation provided under the TARP.

SEC. 1553. RULEMAKING AUTHORITY.

The Secretary shall expeditiously issue such rules as are necessary to carry out this subtitle, including with respect to reimbursement of compensation amounts, as appropriate.

SEC. 1554. COMPENSATION.

As used in this subtitle, the term ''compensation'' includes wages, salary, deferred compensation, retirement contributions, options, bonuses, property, and any other form of compensation or bonus that the Secretary of the Treasury determines is appropriate.

AMENDMENT NO. 236, AS MODIFIED

(Purpose: To establish funding levels for various offices of inspectors general and to set a date until which such funds shall remain available)

On page 3, line 22, strike ''2010'' and insert ''2011''.

On page 3, line 23, insert before the period ''and an additional $17,500,000 for such purposes, to remain available until September 30, 2011''.

On page 41, line 4, strike ''2010.'' and insert ''2011, and an additional $4,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 41, line 21, strike ''2010'' and insert ''2011''.

On page 47, line 8, strike ''2010'' and insert ''2011''.

On page 47, line 26, strike ''2010'' and insert ''2011''.

On page 60, line 4, strike ''2010.'' and insert ''2011, and an additional $3,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 77, line 19, strike ''expended.'' and insert ''September 30, 2012, and an additional $10,000,000 for such purposes, to remain available until September 30, 2012.''.

On page 95, line 12, insert before the period ''and an additional $13,000,000 for such purposes, to remain available until September 30, 2011''.

On page 105, line 24, strike ''2010'' and insert ''2011''.

On page 116, line 21, strike ''2010.'' and insert ''2011, and an additional $7,400,000 for such purposes, to remain available until September 30, 2011.''.

On page 127, line 14, strike ''2010'' and insert ''2011''.

On page 137, line 8, strike ''2011.'' and insert ''2012, and an additional $15,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 146, line 12, insert before the period ''and an additional $10,000,000 for such purposes, to remain available until September 30, 2012''.

On page 149, between lines 5 and 6, insert the following:

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $1,000,000, which shall remain available until September 30, 2011.

On page 214, line 19, strike ''2010'' and insert ''2011''.

On page 225, line 6, strike ''2010'' and insert ''2011''.

On page 226, line 23, strike ''2010'' and insert ''2011''.

On page 243, line 6 insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 263, line 7, insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 733, line 2, strike ''expended'' and insert ''September 30, 2012,''.

Mr. BAUCUS. 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. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 363 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I am just waiting to take the Senate out tonight. But I did want to say there was a little bit of a surprise that happened tonight when one of my colleagues offered an amendment to essentially repeal environmental laws as they relate to this bill. All activities of this bill, if this Barrasso amendment were to pass, all the activities would no longer be covered by the National Environmental Policy Act.

That is a very disturbing amendment and I was very surprised by it as chair of the Environment and Public Works Committee here. Thanks to the diligent staff—and I do appreciate them letting me know—I was able to craft another amendment that I hope will precede the amendment of Senator BARRASSO and allow the Senate to express itself, saying that we do not intend to waive environmental laws that will protect the public health of our communities and, if there are projects that are such a harm to our community, they should be replaced by the many shovel-ready projects that our mayors are telling us are out there, that our Governors are telling us are out there.

We will have that debate tomorrow but I wanted to mention why I was still here at 10 after 10, here protecting our communities across America.

I have sent an amendment to the desk. I hope that amendment will be queued up as per the suggested list of Senator BAUCUS.

The ACTING PRESIDENT pro tempore. The amendment is now pending among the amendments that have been sent up.

The amendment is as follows:

(Purpose: To ensure that any action taken under this act or any funds made available under this act that are subject to the National Environmental Policy Act (NEPA) protect the public health of communities across the country)

At the appropriate place, insert the following:

FINDINGS

The Senate finds that:

According to leading national and state organizations, there are many more NEPA compliant, ready-to-go activities, than are funded in this bill, and

If there is an action or funds made available for an action that triggers NEPA, and that activity could cause harm to public health, and that harm has not been evaluated under NEPA, the project would not meet the requirements of NEPA and should not be funded.

SECTION 1

Any action or funds made available for an action that triggers NEPA, that have not complied with NEPA, and therefore pose a potential danger to our communities across the country, must either come into compliance with NEPA or be replaced by other eligible activities.

AMENDMENT NO. 102 TO AMENDMENT NO. 98

The ACTING PRESIDENT pro tempore. The Chair notes for the record that amendment No. 102, sponsored by Senator LANDRIEU, is considered offered and adopted.

The amendment (No. 102) was agreed to, as follows:

(Purpose: To ensure that assistance for the redevelopment of foreclosed and abandoned homes to States or units of local government impacted by catastrophic natural disasters may be used to support the redevelopment of homes damaged or destroyed as a result of the 2005 hurricanes, the severe flooding in the Midwest in 2008, and other natural disasters)

On page 251, lines 13 and 14, strike ''housing:'' and insert the following: ''housing: *Provided further*, That funding used for section 2301(c)(3)(E) of the Act shall also be available to redevelop demolished, blighted, or vacant properties, including those damaged or destroyed in areas subject to a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.):''

MORNING BUSINESS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate

proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

We consider ourselves very fortunate that we can still do the things we want. However, we certainly feel the bite at the pump. We are retired (but still working) and were hoping to travel, but the cost is going to get in the way of that. We have cut out unnecessary trips, have a small, efficient car that we use now more often than our pickups and look for ways to conserve. We live in a rural area and no matter how we try to stay close to home, we still have to travel some distance to get supplies and groceries. We still need to drive our pickups and cannot always take the car. Our tractors and other machinery need fuel. Rural Americans are going to feel this more than others. We have longer distances to drive, we have more need for fuel and we do not have public transportation, etc. There is only so much cutting back we can do and still earn a living or make ends meet.

High gas prices cannot help but have a negative effect on other businesses. In an area that used to have a thriving economy based on natural resources (timber), we were told to become dependent on tourism to replace that. This is what happens when tourism is the basis of your economy—people stay home, businesses go belly up, the local economy suffers.

The solution is to begin stepping up the pace to develop our own energy and accompanying infrastructure so that we do not need to be so dependent on countries who certainly do not have our best interests at heart. We cannot afford to place our natural resources off limits and expect the world to meet our needs. It is morally wrong to exploit other countries' resources while our own are locked away.

Thanks for the opportunity to comment.

WAYNE and JULIE BURKHARDT,
Indian Valley.

I most likely will never meet anyone of you. I believe that you must be great, because you were voted to your place where you are seated today, by others just like me, barely keeping my head above water. I believe in this great nation, I believe that your jobs are to be the voice of the great people of this nation. We believed that you could that why we voted for you. So fight for us, our voices are lifted and we are screaming for help. There is no reason we should be here; as a young set of thirteen colonies we broke away for taxes and tyranny. Please tell me why we are at the mercy of tyranny again, and paying those very high taxes.

If we can create a nuclear bomb that kills people, we can spend a trillion dollars a year on a war that kills people and brings this country to its knees. By god we can do something other than this dependence on oil.

Let us be leaders again. Let us be a great people again.

ANNA REED, *Idaho Falls.*

First of all I thank God that I live in Idaho and for the most part my representatives represent me. Secondly, I feel that the rest of the U.S. Congress is absolutely out of touch with average American citizens. I feel that MY beautiful state of Idaho where I live with like-minded people will not be able to make its voice heard in the U.S. Congress. I could tell you how my family is being hit hard by sky-high gasoline, and energy prices, and how I have cut back on driving. I could tell that if gas prices and the cost of energy continues to rise I will be forced to take drastic measures just to keep food on the table and get to work. However, I am truly worried that the elitists in the U.S. Congress will just rub their hands together and say, our plan is working we are saving the globe from warming. Somewhere along the way the majority of our representatives in Congress have forgotten they are just that—representatives. They have taken it upon themselves to be gods thinking they have the moral high ground and who cares how the everyday average American is effected by their decisions. Yes, the United States is too dependent on petroleum for our energy and we are far too dependent on foreign sources of that petroleum. But are we willing to let the economy continue to be crushed because our Congress has bought into the fallacy of Climate Alarmism? Yes! We should be passing legislation to fully utilize proven American oil and natural gas reserves in a way that preserves the environment for future generations. That is why I strongly support policies that will take further and full advantage of nuclear energy technologies, wind and solar power, and effective renewable and alternative fuels. The Congress must take serious action that will result in reduced energy dependence of fossil fuels or provide financial relief for those hit by the recently-skyrocketing prices. If the moral elitists in Congress don't act quickly there will not be any tax payers left to save the world. The oil companies make four cents a gallon; the government collects 18 cents a gallon—I think we should be investigating Congress.

TOBY ANDERSON.

My family has very much felt the painful effects of high oil prices as I have seven children (four of them teenagers). Even with planning our trips into town we spend an average of $570 just on fuel, not mention the increased burden of escalated costs of all other commodities that we purchase! I am a believer in taking care of our environment and being responsible caretakers of the earth, but our government and our economy being held hostage by ''save the planet'' extreme leftist special interest groups has got to end!!! We need to wean off of oil as a major source of energy but that will take time as I understand it. Therefore, as a temporary measure we need to tap into our resources. That will buy us enough time to establish new technologies such as hydrogen (which I believe is a great method of powering vehicles). The best and one of the safest methods of producing electricity is nuclear, utilizing the ability to reuse the fuel. Drilling for oil, harvesting coal, nuclear, and production of hydrogen can all be done in an environmentally sound way, freeing us from bonds of other countries that would like to kill us and the environmental wackos that believe that the world would be a perfect place without humans and they would like to see us revert back to the 1700s or go away completely! To me, energy is a national security issue that must be dealt with immediately. Please help us out of this mess that we have allowed ourselves to get in through bad government policies.

Thanks for letting me vent.

PAUL PETERSEN.

Sen Crapo, let us see, I can't drive my diesel truck and I do not use my boat, I go to work and back. I think you need to take the oil off the stock market and start drilling. What the hell is wrong with everyone in D.C.? You are making so much money off of oil you cannot take care of this.

Thanks.

DON.

In response to the story we saw on KTVB 10 p.m. last night, and again this morning, I would like to submit the following:

It is amazing how God knows what is coming and has a way of preparing us for it.

Seven years ago, before gas prices started their initial climb, I stumbled upon a deal on a '79 Honda CB650. I had not ridden a motorcycle for eleven years (same length of time it had been sitting in a warehouse). Initially, I did not think I should spend the $800. But a few weeks later decided I could not pass up the deal. Right after I bought it, gas prices started inching upward.

Last year, my wife, who has never even expressed interest in motorcycles and even asked me what I needed one for when I bought the CB650, began asking questions about riding. And about a month later (May), she decided to go ahead and do it. We got her a little 150 scooter and signed her up for Idaho STARS, but the first opening was not until Sept 7th. So we did a lot of practice in parking lots before the course began.

My elder daughter (31 at the time) had been asking me to teach her to ride for a couple years. But I had to tell her I did not have a bike that was suitable for beginners. It was a high-revving machine that was easy to stall, besides being a rather heavy machine for her to pick up if she dropped it. So when she heard about her mom and found out they provide the bikes for the STARS course, she signed up for the same class, and so did her husband. All three were trained the same weekend.

In short, our solution for high gas prices (at least until Congress acts to provide more permanent relief) is to ride two wheels as much as the weather will allow. We prefer not to ride in the rain, and fortunately for us, summertime is very dry here in the Treasure Valley. However, we do have to face the fact that such tactics will not do us much good when fall and winter come along.

For the moment, we marvel how God prepared us well in advance, and now gas prices are $1.00/gallon higher than last year.

Here is a sample of our present savings. Nancy's present, freeway-capable 400 scooter gets 52 mpg. She can go 135 miles on 2.6 gallons. We are presently paying $4.289/gal for premium at Shell. Those 135 miles cost us $11.15, or little over 8 cents a mile.

If she drives the same 135 miles in our '02 Pontiac Bonneville that gets 22 mpg, she will burn 6.1 gallons of regular unleaded at 4.099/gallon for $25.01 (18.5 cents a mile.) So every time she fills the scooter, she saves $14.14 in fuel cost at present prices. Savings numbers on my ''bike'' are slightly less, but comparable since it gets 46 mpg. My fill up for 135 miles is 2.9 gallons (same grade) for $12.59, about half of what it costs to drive. And a little publicized fact is that motorcycles contribute a lot less to air pollution, besides being fun to ride, and easier to park.

Like a lot of other comments I have seen on the subject, I also think we should be drilling oil in ANWR as well as our own oil fields in Texas (where production numbers are managed by the Texas Railroad Commission), Oklahoma, California and off-shore to reduce our dependence on foreign oil from countries that do not have our best interests at heart.

We definitely need to build more nuclear power plants, more refineries to balance supply with demand, and proceed with coal conversion, wind energy, and solar power. I know that hydrogen powered cars only emit water, but hydrogen is so highly explosive, I think it will be a tough sell and will take decades to develop an infrastructure for those daring souls willing to participate. A scary thought is what effect the presence of such cars will have on the safety of other travelers.

Respectfully,

GENE HEIKKOLA, *Meridian*.

Today's energy prices and the rate of incline are far exceeding the rate of pay for many jobs in our area (Idaho Falls). As young adults just starting a family, it is depressing to think about the future and not know if I am going to able to provide for my family.

If we are waiting for a rainy day to tap into our domestic oil sources, that time is now! With all of the advancement in technology hopefully our reliance on fossil fuel is going to diminish so why not use them now. Our economy needs it; if less money is spent on filling vehicles people could travel and spend money to boost the economy.

Thanks.

JARED.

Thank you for your concern and for taking action on our behalf on the high costs of energy and its effects on the average Idaho family. In your email you mention that the average Idaho family spends $200 per month on gasoline. I feel that that is way too conservative of an estimate. My wife and I spend are now spending $600 per month on just gasoline. I drive a Honda Accord and my wife drives a minivan, neither of which are horrible gas guzzling SUVs. This is putting a real strain on our budget and we are having to cut back in other areas to compensate for the high cost of fuel. We believe that as a nation we should become energy independent. We both support offshore drilling, drilling in the ANWR, processing oil shale in the Rocky Mountain states, nuclear energy, along with all other forms of energy production. We need to clear the way of lawsuits by declaring a national emergency, of which this is. We cannot continue to be the light of freedom to the world if we are dependent upon the countries that are trying to stomp that light out for our very existence. Thank you for concern in this matter.

FRED and KAMALA FREE, *Idaho Falls*.

The inability of our government to work together has reached a point it is killing our country. When one party tries to advance an idea the other kills it because it does not fit just right with their program. I have never seen the likes of it. I am a registered and a dyed-in-the-wool Republican but have been having these crazy thoughts that I should vote for a Democrat for President so at least there would be a majority in Congress with a President to go along with it. Crazy thoughts but I am sick of the gridlock.

We are retired and have spent a lifetime getting ready so we could travel and see the country and enjoy these last years of our life. All of the sudden we cannot even hardly drive any longer and we find ourselves not being able to make ends meet at the end of the month. As prices keep going up we will find ourselves in trouble as our income is fixed.

We should be drilling for oil everywhere it is. Why we have blocked drilling all over the country and allowed ourselves to become hostages to OPEC, I will never be able to understand. We are a free society but oil is so critical to our well being there needs to be some oversight on this business to make sure they are refining to capacity and drilling everywhere. We should not be importing one barrel of oil. The way it is now, the oil companies hold down refining to keep the prices up.

Also we should be building nuclear power plants now for the future. Why we stopped building them I do not know.....

Good luck. Please get with your Democrat partners and work something out....anything is better than nothing.

VAL MEIKLE.

Thank you for taking enough interest in the issue of high gas prices to ask Idahoans. Personally, though it is a hit on the budget and will change the amount of time our fifth wheel spends in storage rather than on the road, the high prices are more of a nuisance than a threat. For that my wife and I are blessed. The bigger issue for me and for the many other Idahoans that I talk to is that we, the little people, understand how to fix the problem and apparently our government does not or will not. We need to immediately start drilling where we know there are oil reserves (Alaska, North Dakota/Montana, off shore) and begin construction of new refineries as the drilling progresses. Also, begin the immediate construction of nuclear power plants to eliminate natural gas fired plants so that those resources can be diverted to other uses. We should begin work on oil shale research and development. Lastly, continue to encourage the development of economically feasible alternatives for our next generation of automobiles but let's not abandon what we already have. I had two ten-year-olds staying at our house last night and as we watched the 10:00 p.m. news they made comments that made it clear to me that they understood that government was the biggest obstacle to solving our current 'energy crisis' (so called). Congress needs to shed the bonds they voluntarily accepted from the environmental crowd and do what is right for our country.

DON and GAE BURTON, *Meridian*.

I own a small landscape design and build firm in Boise. The skyrocketing fuel costs are a big hit to my little company. At the prices today, I am spending nearly $3,000 a month on fuel for four trucks and some small equipment. That is a cost to my company of $150 per day. It is hard to pass on all the higher expenses and still be competitive in the marketplace so the net effect is a hardship to my bottom line. This year my fuel costs will be more than 50 percent of my salary.

What is our energy policy? Why do we allow other nations to drill off our coast lines only to ship the oil away from our shores and sell it back to us at high prices? When are we going to free ourselves from the Middle East and other nations such as Venezuela whom have such a hatred of America? Showing the rest of the world that we are serious about our own energy independence will have an immediate impact on the current price we pay at the pump.

We need to develop a dual approach. We need to open up drilling in ANWR and other areas around our country. We need to work towards weaning ourselves off of foreign oil and gain American oil independence.

At the same time we need to work on alternative forms of energy and collectively, government and private industry will be able to solve this crisis.

How about a little focus on our own energy independence and let's start taking care of ourselves, stop all the back biting political posturing and come together as Americans for the good of the nation and our long term survival as the greatest nation on God's Green Earth.

Thanks for listening.

DAVE, *Boise*.

HONORING OUR ARMED FORCES

CHIEF WARRANT OFFICER JOSHUA M. TILLERY

Mr. MERKLEY. Mr. President, I rise today to honor a brave Oregonian who tragically lost his life last Monday in Kirkuk, Iraq. CWO Joshua M. Tillery, was a pilot with the 6th Squadron, 6th Cavalry Regiment, 10th Combat Aviation Brigade, 10th Mountain Division at Fort Drum. Chief Warrant Officer Tillery was serving his second tour of duty in Iraq at the time of his death.

Joshua Tillery was a recipient of the Bronze Star, the Air Medal, the National Defense Service Medal, the Iraq Campaign Medal for Combat Service, the Global War on Terror Service Medal, two Army Commendation Medals, six Army Achievement Medals, the Noncommissioned Officers Professional Development Ribbon, the Army Service Ribbon, the Army Overseas Service Ribbon, the Army Air Assault Badge, the Army Aviator Badge, the Combat Action Badge, and the Parachutist Badge for his courageous service to our country.

Chief Warrant Officer Tillery represents the most selfless and most honorable of men in our country. His friends and family recall how he was to serve his country and how he always wanted to do whatever he could to help people. Joshua loved to fly and was on his way to becoming a flight safety officer. Like so many Oregonians, he enjoyed oudoor activities, and particularly loved snowboarding and riding dirt bikes. He was 31 years old when he passed, a devoted husband, and father of three young boys with another baby on the way.

I offer my prayers and condolences to his family and friends. Oregon has lost one of its bravest and brightest young men, and I know I join all Oregonians in honoring the legacy of Joshua Tillery.

ADDITIONAL STATEMENTS

TRIBUTE TO SYBIL MOSES

• Mr. LAUTENBERG. Mr. President, I wish to pay tribute to Sybil Moses, a

judge and pioneer who for 21 years brought to New Jersey her commitment to the rule of law and passion for the administration of justice. Sybil passed away on January 23, 2009, and is survived by her husband of 48 years, her son, her daughter, and her five beautiful grandchildren. She will be sorely missed by her family and by my home State of New Jersey.

Sybil opened up new opportunities for women by virtue of her hard work, and she created a path that many will follow in the future. After proving herself as a prosecutor and a judge, Sybil was appointed the State's first female assignment judge in 1997. Sybil understood not only the law, but also the needs of residents who came in contact with the court. While serving at the courthouse, for example, she created a free day care center, so that anyone attending a court matter could bring their child with them, rather than having to make other arrangements. Sybil served as an assignment judge until her retirement in October. Even retirement, however, could not stop Sybil, who accepted two Supreme Court committee assignments so that she could continue her work improving New Jersey's judiciary system.

Sybil attended Rutgers Law School in the early 1970s after the birth of her two children. Women were a rarity on campus, and she became part of a group of women who called themselves ''The Band of Mothers.'' Throughout her life, Sybil exhibited an unwavering strength and commitment to succeed, no matter the circumstances.

New Jersey was blessed to have such an enthusiastic, dedicated civil servant administering the rule of law for the past 21 years. Sybil blazed a path that made it easier for women everywhere to accomplish their goals. For that, she will be missed and will serve as a role model for future generations.●

HONORING GENEST CONCRETE

● Ms. SNOWE. Mr. President, 2 weeks ago, our Nation witnessed history when Barack Obama was sworn in as President of the United States. I am proud to say that the Sanford High School marching band, from my home State of Maine, was able to participate in the remarkable parade following the inauguration. This would not have been possible without the generosity of many individuals and businesses across southern Maine. I rise today to recognize one of the companies that made a significant donation toward the band's trip, Genest Concrete.

A family-owned small business manufacturing architectural, landscaping and masonry products, Genest Concrete was founded over 70 years ago by Hermangilde Genest. The company started simple, producing hand-pressed concrete blocks with materials mined from Mr. Genest's gravel pit. Over the years, four generations of the Genest family have continually strived to make their company more innovative and cutting edge, eventually becoming one of the largest manufacturers and distributors of masonry products in New England. Headquartered in Sanford, Genest also has locations in Biddeford and Windham, with authorized dealers throughout northern New England and Massachusetts.

Genest Concrete provides landscape contractors, homeowners, masons, architects and engineers with dozens of durable and superior concrete and masonry products. From stormwater brick to a variety of paving and wall stones, Genest has all the essential tools for producing unique driveways, patios, paths, and freestanding and retaining walls.

More than just a company, Genest is like a family. In fact, it recently launched an inventive effort designed to keep its staff and their families healthy. Performed in coordination with the Worksite Stars of York County program at Goodall Hospital, Genest brings nurses to the company to perform staff health risk assessments. These assessments allow the company to target physical activity and nutritional assistance to their employees. So far, an astounding 90 percent of employees have participated. And as part of the next phase, Genest plans to hold an on-site physical activity program this spring. All employees that complete the 12-week course will be given an additional vacation day. This is on top of the partial reimbursement the firm already offers toward gym memberships. Genest also hopes to make financial wellness and other classes available to its employees later this year.

In addition to helping sponsor the Sanford marching band's trip, Genest has made many other generous contributions to the community throughout the years. In 2001, Genest provided materials for David Hopkins to build a skate park in South Berwick as his Eagle Scout project. In 2006, the company donated concrete to Habitat for Humanity in York County for its Blitz Build, when the group constructed a new house in Shapleigh. Genest Concrete also actively sponsors the Sanford Mainers, part of the New England Collegiate Baseball League, as well as teams in the Sanford-Springvale Youth Athletic Association basketball league. And among many other efforts, Genest serves as part of the Maine Children's Alliance Business Advisory Group, as well as supports Day One, an initiative aimed at reducing substance abuse by Maine youth.

While rising to the top of its field, Genest has never forgotten the community that helped it get there. Its consistent and dedicated endeavors to serve the community have not gone unnoticed. Thank you to everyone at Genest Concrete for all of your philanthropic efforts, and best wishes for your continued success.●

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 549. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes.

H.R. 553. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

H.R. 559. An act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

H.R. 748. An act to establish and operate a National Center for Campus Public Safety.

The message also announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. HINCHEY of New York, Mr. HILL of Indiana, Ms. LORETTA SANCHEZ of California, Mr. CUMMINGS of Maryland, Mr. SNYDER of Arkansas, Mr. PAUL of Texas, Mr. BURGESS of Texas, and Mr. CAMPBELL of California.

At 1:40 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

ENROLLED BILL SIGNED

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2. An act to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 4:52 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 352. An act to postpone the DTV transition date.

The message further announced that pursuant to section 8002 of the Internal Revenue Code of 1986, the Committee on Ways and Means designated the following Members of the House of Representatives to serve on the Joint Committee on Taxation: Mr. RANGEL of New York, Mr. STARK of California, Mr.

LEVIN of Michigan, Mr. CAMP of Michigan, and Mr. HERGER of California.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 549. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 553. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 559. An act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 748. An act to establish and operate a National Center for Campus Public Safety; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS):

S. 374. A bill to amend the Consumer Product Safety Act to provide regulatory relief to small and family-owned businesses; to the Committee on Commerce, Science, and Transportation.

By Mr. TESTER (for himself and Mr. BAUCUS):

S. 375. A bill to authorize the Crow Tribe of Indians water rights settlement, and for other purposes; to the Committee on Indian Affairs.

By Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY):

S. 376. A bill to provide rules for the modification or disposition of certain assets by real estate mortgage investment conduits pursuant to division A of the Emergency Economic Stabilization Act of 2008, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 377. A bill to designate the United States courthouse located at 131 East 4th Street in Davenport, Iowa, as the ''James A. Leach United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. BAYH (for himself and Mr. GRAHAM):

S. 378. A bill to correct the interpretation of the term proceeds under RICO; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. CORKER, and Mrs. BOXER):

S. 379. A bill to provide fair compensation to artists for use of their sound recordings; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 380. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. INOUYE, and Ms. MURKOWSKI):

S. 381. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 382. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in States with more cost-effective health care delivery systems; to the Committee on Finance.

By Mrs. MCCASKILL (for herself, Mr. GRASSLEY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. DODD, Mr. BUNNING, Mr. SCHUMER, Mr. NELSON of Nebraska, and Mrs. SHAHEEN):

S. 383. A bill to amend the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) to provide the Special Inspector General with additional authorities and responsibilities, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY (for himself and Mr. SPECTER):

S. Res. 27. A resolution congratulating the Pittsburgh Steelers on winning Super Bowl XLIII; considered and agreed to.

ADDITIONAL COSPONSORS

S. 261

At the request of Mr. GRAHAM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 261, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel.

S. 271

At the request of Ms. CANTWELL, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to provide incentives to accelerate the production and adoption of plug-in electric vehicles and related component parts.

S. 359

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 359, a bill to establish the Hawai'i Capital National Heritage Area, and for other purposes.

S. 371

At the request of Mr. THUNE, the names of the Senator from North Carolina (Mr. BURR), the Senator from Nevada (Mr. ENSIGN), the Senator from Iowa (Mr. GRASSLEY) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. CON. RES. 3

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary.

AMENDMENT NO. 102

At the request of Ms. LANDRIEU, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Mississippi (Mr. WICKER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of amendment No. 102 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 105

At the request of Mr. CASEY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of amendment No. 105 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 106

At the request of Mr. ISAKSON, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of amendment No. 106 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 114

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 114 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 116

At the request of Mr. CARDIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from

New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 116 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 138

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 138 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 139

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 139 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 140

At the request of Mr. FEINGOLD, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 140 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 145

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 145 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 161

At the request of Mr. BOND, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Alaska (Mr. BEGICH) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 161 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. KERRY, his name was added as a cosponsor of amendment No. 161 proposed to H.R. 1, supra.

AMENDMENT NO. 171

At the request of Mr. CARPER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 171 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 173

At the request of Mr. LEVIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 173 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 189

At the request of Mr. DEMINT, the names of the Senator from Louisiana (Mr. VITTER), the Senator from Kansas (Mr. BROWNBACK), the Senator from South Dakota (Mr. THUNE) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 189 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 197

At the request of Mr. THUNE, the names of the Senator from Arizona (Mr. KYL), the Senator from South Carolina (Mr. DEMINT) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 197 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 204

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 204 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 206

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 206 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY):

S. 376. A bill to provide rules for the modification or disposition of certain assets by real estate mortgage investment conduits pursuant to division A of the Emergency Economic Stabilization Act of 2008, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, today I introduce, along with Senators DODD, KERRY, SCHUMER, and STABENOW, the Real Estate Mortgage Investment Conduit, REMIC, Improvement Act. This legislation could provide one of the keys to solving our national foreclosure crisis by unlocking mortgage securitization trusts so that more homeowners can stay in their homes.

In my own state of Rhode Island, 7.30 percent of all outstanding home loans are delinquent and 5.33 percent of all home loans are in the foreclosure process. This is the 10th highest foreclosure rate in the Nation, and the highest in New England. I have heard story after story of how difficult it is to get a loan modified or restructured if it is part of a mortgage securitization pool. As we have learned, part of the reason we are in the worst housing crisis since the Depression is that Wall Street firms packaged mortgages into pools and then sold different tranches of these pools to investors from all over the world. This diverse and convoluted ownership structure has made it difficult to get investor approval to modify or restructure them. Unlike in the movie ''It's a Wonderful Life,'' most families can no longer walk into their local bank to talk to George Bailey about modifying or restructuring their loan.

The Emergency Economic Stabilization Act of 2008 required the Treasury Department to use its new authorities to incentivize servicers toward more loan restructurings. However, it has become clear that additional legislation is needed to free servicers of these loan pools from conflicting requirements regarding modifications and provide them with the ability to sell mortgages to Treasury for foreclosure avoidance.

Many servicers, managing pools of loans for investors, are constrained by the trust agreements from modifying loans to a level that families can afford to pay or from selling the underlying

mortgage loans. In other cases, servicers must obtain the approval of a significant number of the trust's beneficiaries or third parties in order to make changes to how loans within the pool are handled. However, the trust agreements also provide that servicers must amend the agreements if doing so would be helpful or necessary to stay in compliance with tax rules under the REMIC statute; REMIC status frees these securitization trusts from taxation at the entity level and therefore provides important benefits to its investors.

Under the REMIC Improvement Act, in order to keep their preferred tax status under the REMIC provisions of the Internal Revenue Code, servicers would need to modify their trust agreements to remove artificial restrictions that keep them from modifying loans that provide a greater return to investors as a whole than foreclosing would, and keep families in their homes to prevent entirely unnecessary foreclosures at the same time. This is a practical way for servicers to modify loans without undue fear of legal sanctions. This also would allow servicers to sell loans to Treasury for restructuring without having to obtain an affirmative response by a significant number of the beneficiaries of the trust if it was for the good of the overall trust. Participation in any Treasury program would be voluntary, but some of the key legal impediments to participation would be removed.

Additionally, the Treasury Department has not put in place a loan modification program, even after Congress gave it the authority to do so in the Emergency Economic Stabilization Act. Many experts believe such a program would be helpful in helping resolve the current housing crisis. The REMIC Improvement Act will ensure that Treasury uses its authority to set up a program to achieve broad-scale modifications and, where necessary, dispositions of foreclosed property.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Real Estate Mortgage Investment Conduit Improvement Act of 2009''.

SEC. 2. SPECIAL RULES FOR MODIFICATION OR DISPOSITION OF QUALIFIED MORTGAGES OR FORECLOSURE PROPERTY BY REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) IN GENERAL.—If a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) modifies or disposes of a troubled asset under the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 3 of this Act—

(1) such modification or disposition shall not be treated as a prohibited transaction under section 860F(a)(2) of such Code, and

(2) for purposes of part IV of subchapter M of chapter 1 of such Code—

(A) an interest in the REMIC shall not fail to be treated as a regular interest (as defined in section 860G(a)(1) of such Code) solely because of such modification or disposition, and

(B) any proceeds resulting from such modification or disposition shall be treated as amounts received under qualified mortgages.

(b) TERMINATION OF REMIC.—For purposes of the Internal Revenue Code of 1986, an entity which is a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) shall cease to be a REMIC if the instruments governing the conduct of servicers or trustees with respect to qualified mortgages (as defined in section 860G(a)(3) of such Code) or foreclosure property (as defined in section 860G(a)(8) of such Code)—

(1) prohibit or restrict (including restrictions on the type, number, percentage, or frequency of modifications or dispositions) such servicers or trustees from reasonably modifying or disposing of such qualified mortgages or such foreclosure property in order to participate in the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 3 of this Act,

(2) commit to a person other than the servicer or trustee the authority to prevent the reasonable modification or disposition of any such qualified mortgage or foreclosure property,

(3) require a servicer or trustee to purchase qualified mortgages which are in default or as to which default is reasonably foreseeable for the purposes of reasonably modifying such mortgages or as a consequence of such reasonable modification, or

(4) fail to provide that any duty a servicer or trustee owes when modifying or disposing of qualified mortgages or foreclosure property shall be to the trust in the aggregate and not to any individual or class of investors.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Subsection (a) shall apply to modification and dispositions after the date of the enactment of this Act, in taxable years ending on or after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) shall take effect on the date that is 3 months after the date of the enactment of this Act.

(B) EXCEPTION.—The Secretary of the Treasury may waive the application of subsection (b) in whole or in part for any period of time with respect to any entity if—

(i) the Secretary determines that such entity is unable to comply with the requirements of such subsection in a timely manner, or

(ii) the Secretary determines that such waiver would further the purposes of this Act.

SEC. 3. ESTABLISHMENT OF A HOME MORTGAGE LOAN RELIEF PROGRAM UNDER THE TROUBLED ASSET RELIEF PROGRAM AND RELATED AUTHORITIES.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall establish and implement a program under the Troubled Asset Relief Program and related authorities established under section 101(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a))—

(1) to achieve appropriate broad-scale modifications or dispositions of troubled home mortgage loans; and

(2) to achieve appropriate broad-scale dispositions of foreclosure property.

(b) RULES.—The Secretary of the Treasury shall promulgate rules governing the—

(1) reasonable modification of any home mortgage loan pursuant to the requirements of this Act; and

(2) disposition of any such home mortgage loan or foreclosed property pursuant to the requirements of this Act.

(c) CONSIDERATIONS.—In developing the rules required under subsection (b), the Secretary of the Treasury shall take into consideration—

(1) the debt-to-income ratio, loan-to-value ratio, or payment history of the mortgagors of such home mortgage loans; and

(2) any other factors consistent with the intent to streamline modifications of troubled home mortgage loans into sustainable home mortgage loans.

(d) USE OF BROAD AUTHORITY.—The Secretary of the Treasury shall use all available authorities to implement the home mortgage loan relief program established under this section, including, as appropriate—

(1) home mortgage loan purchases;

(2) home mortgage loan guarantees;

(3) making and funding commitments to purchase home mortgage loans or mortgage-backed securities;

(4) buying down interest rates and principal on home mortgage loans;

(5) principal forbearance; and

(6) developing standard home mortgage loan modification and disposition protocols, which shall include ratifying that servicer action taken in anticipation of any necessary changes to the instruments governing the conduct of servicers or trustees with respect to qualified mortgages or foreclosure property are consistent with the Secretary of the Treasury's standard home mortgage loan modification and disposition protocols.

(e) PAYMENTS AUTHORIZED.—The Secretary of the Treasury is authorized to pay servicers for home mortgage loan modifications or other dispositions consistent with any rules established under subsection (b).

(f) RULE OF CONSTRUCTION.—Any standard home mortgage loan modification and disposition protocols developed by the Secretary of the Treasury under this section shall be construed to constitute standard industry practice.

By Mr. LEAHY (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. CORKER, and Mrs. BOXER):

S. 379. A bill to provide fair compensation to artists for use of their sound recordings; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, Senator HATCH and I renew our bipartisan effort to improve and modernize our intellectual property laws. We are reintroducing the Performance Rights Act to ensure artists are compensated fairly when their works are used. I am pleased that performance rights legislation will be introduced in the House today, as well.

When radio stations broadcast music, listeners are enjoying the intellectual property of two creative artists—the songwriter and the performer. The success, and the artistic quality, of any recorded song depends on both. Radio stations pay songwriters for a license to broadcast the music they have composed. The songwriters' work is promoted by the air play, but no one seriously questions that the songwriter

should be paid for the use of his or her work. The performing artist, however, is not paid by the radio station.

The time has come to end this inequity. Its historical justification has been overtaken by technological change. In the digital world, we enjoy music transmitted over a variety of platforms. When webcasters, satellite radio companies, or cable companies play music, and profit from its use, they compensate the performing artists. Terrestrial broadcast radio is the only platform that still does not pay for the use of sound recordings.

Radio play surely has promotional value to the artists, but there is a property right in the sound recording, and those that create the content should be compensated for their work. The United States is behind the times in this regard. Ours is the only Nation that is a member of the Organization for Economic Cooperation and Development but still does not compensate artists. An unfortunate result of the lack of a performance rights in the United States is that American artists are not compensated when their recordings are played abroad.

Artists should have the same rights regardless of the platform over which their work is used. All platforms promote artists and all platforms profit off the artists' work. Today, different rate standards and restrictions are applied to different music delivery platforms, with broadcast radio stations being uniquely and completely exempt. In the last Congress, Senator FEINSTEIN chaired a hearing in the Judiciary Committee that addressed whether the time has come to achieve platform parity by harmonizing the terms and conditions for use of the statutory copyright license. Senator FEINSTEIN has been a leader on this issue, and I am pleased to accept her offer to lead negotiations this year to develop a new standard that can be applied across platforms.

We also need to make certain that songwriters are protected in this process. Songwriters currently do receive compensation from radio stations. The changes made by this legislation, which will ensure performing artists are compensated, should not have any negative effect on songwriters. I will work closely with the songwriters and we will make sure that is the case.

In introducing the Performance Rights Act today, we are sensitive to the needs of broadcast radio stations; we are sensitive to the regulatory regime under which they operate; and we are particularly sensitive to the fact that it is not just artists, but also broadcasters that are facing a difficult economic climate. Rather than require all radio stations to pay fair market value to artists for the songs they play, the legislation includes special provisions for noncommercial and all but the largest commercial stations. In addition, every radio station can use a statutory copyright license to transmit sound recordings, instead of negotiating licenses separately in the marketplace.

Noncommercial stations have a different mission than do commercial stations and they require a different status. Our legislation, appropriately, permits noncommercial stations to take advantage of the statutory copyright license subject only to a nominal annual payment to the artists.

Similarly, we intend to nurture, not threaten, small commercial broadcasters. Smaller music stations are working hard to serve their local communities while finding the right formula to increase their audience size. We intend to foster the growth of these stations—nearly 85 percent of the radio stations in Vermont—and the legislation does that by also providing a flat fee option for use of the statutory license to the more than 75 percent of commercial music stations earning less than $1.25 million a year. This payment may only provide minimal compensation to the artists whose music is used by the vast majority of commercial music stations, particularly when viewed against the fair market value of the music, but by helping radio stations grow, artists, the stations, and the public will all benefit.

I am an avid music fan and much of the music I enjoy I first heard on the radio. There is no question that radio play promotes artists and their sound recordings; there is also no doubt that radio stations profit directly from playing the artists' recordings.

Traditional, over-the-air radio remains vital to the vibrancy of our music culture, and I want to continue to see it prosper as it transitions to digital. But I also want to ensure that the performing artist, the one whose sound recordings drive the success of broadcast radio, is compensated fairly. I will continue to work with the broadcasters—large and small, commercial and noncommercial—to strike the right balance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Performance Rights Act''.

SEC. 2. EQUITABLE TREATMENT FOR TERRESTRIAL BROADCASTS.

(a) PERFORMANCE RIGHT APPLICABLE TO RADIO TRANSMISSIONS GENERALLY.—Section 106(6) of title 17, United States Code, is amended to read as follows:

''(6) in the case of sound recordings, to perform the copyrighted work publicly by means of an audio transmission.''.

(b) INCLUSION OF TERRESTRIAL BROADCASTS IN EXISTING PERFORMANCE RIGHT.—Section 114(d)(1) of title 17, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking ''a digital'' and inserting ''an''; and

(2) by striking subparagraph (A).

(c) INCLUSION OF TERRESTRIAL BROADCASTS IN EXISTING STATUTORY LICENSE SYSTEM.—Section 114(j)(6) of title 17, United States Code, is amended by striking ''digital''.

(d) ELIMINATING REGULATORY BURDENS FOR TERRESTRIAL BROADCAST STATIONS.—Section 114(d)(2) of title 17, United States Code, is amended in the matter preceding subparagraph (A) by striking ''subsection (f) if'' and inserting ''subsection (f) if, other than for a nonsubscription and noninteractive broadcast transmission,''.

SEC. 3. SPECIAL TREATMENT FOR SMALL, NONCOMMERCIAL, EDUCATIONAL, AND RELIGIOUS STATIONS AND CERTAIN USES.

(a) SMALL, NONCOMMERCIAL, EDUCATIONAL, AND RELIGIOUS RADIO STATIONS.—

(1) IN GENERAL.—Section 114(f)(2) of title 17, United States Code, is amended by adding at the end the following:

''(D) Notwithstanding the provisions of subparagraphs (A) through (C), each individual terrestrial broadcast station that has gross revenues in any calendar year of less than $1,250,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of $5,000 per year, in lieu of the amount such station would otherwise be required to pay under this paragraph. Such royalty fee shall not be taken into account in determining royalty rates in a proceeding under chapter 8, or in any other administrative, judicial, or other Federal Government proceeding.

''(E) Notwithstanding the provisions of subparagraphs (A) through (C), each individual terrestrial broadcast station that is a public broadcasting entity as defined in section 118(f) may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of $1,000 per year, in lieu of the amount such station would otherwise be required to pay under this paragraph. Such royalty fee shall not be taken into account in determining royalty rates in a proceeding under chapter 8, or in any other administrative, judicial, or other Federal Government proceeding.''.

(2) PAYMENT DATE.—A payment under subparagraph (D) or (E) of section 114(f)(2) of title 17, United States Code, as added by paragraph (1), shall not be due until the due date of the first royalty payments for nonsubscription broadcast transmissions that are determined, after the date of the enactment of this Act, under such section 114(f)(2) by reason of the amendment made by section 2(b)(2) of this Act.

(b) TRANSMISSION OF RELIGIOUS SERVICES; INCIDENTAL USES OF MUSIC.—Section 114(d)(1) of title 17, United States Code, as amended by section 2(b), is further amended by inserting the following before subparagraph (B):

''(A) an eligible nonsubscription transmission of—

''(i) services at a place of worship or other religious assembly; and

''(ii) an incidental use of a musical sound recording;''.

SEC. 4. AVAILABILITY OF PER PROGRAM LICENSE.

Section 114(f)(2)(B) of title 17, United States Code, is amended by inserting after the second sentence the following new sentence: ''Such rates and terms shall include a per program license option for terrestrial broadcast stations that make limited feature uses of sound recordings.''.

SEC. 5. NO HARMFUL EFFECTS ON SONGWRITERS.

(a) PRESERVATION OF ROYALTIES ON UNDERLYING WORKS.—Section 114(i) of title 17, United States Code, is amended in the second sentence by striking ''It is the intent of Congress that royalties'' and inserting ''Royalties''.

(b) PUBLIC PERFORMANCE RIGHTS AND ROYALTIES.—Nothing in this Act shall adversely affect in any respect the public performance rights of or royalties payable to songwriters or copyright owners of musical works.

Mr. HATCH. Mr. President, I rise today to express my support for the Performance Rights Act, S. 379, introduced today by Senate Judiciary Committee chairman, PATRICK LEAHY, and myself. It is time to amend copyright law to establish performance rights on sound recordings. I believe that artists should be compensated for their work. This is an issue of fairness and equity.

I agree with the position of the Department of Commerce Working Group on Intellectual Property Rights: the lack of a performance right in sound recordings is ''an historical anomaly that does not have a strong policy justification—and certainly not a legal one.''

This legislation would ensure that musical performers and songwriters receive fair compensation from all companies across the broadcast spectrum, not just from Web casters, satellite radio providers, and cable companies. The proposed legislation attempts to strike a harmonious balance between fair compensation for artists and a vibrant radio industry in the U.S.

By amending sections 106 and 114 of the Copyright Act, the Performance Rights Act would apply the performance right in a sound recording to all audio transmissions thereby removing the exemption on paying performance royalties currently in place for over-the-air broadcasters.

The legislation also provides for a blanket license of $5,000 for small commercial broadcasters whose gross revenues do not exceed $1.25 million a year. In addition, noncommercial broadcasters as defined by section 118 of the Copyright Act, such as public, educational and religious stations, would have a blanket license of $1,000 per year. No payment would be due until the Copyright Royalty Board determines the rates for large commercial broadcasters. The proposed language provides that sound recordings used only incidentally by a broadcaster and sound recordings used in the transmission of a religious service are exempt.

Finally, the legislation strengthens the provision in section 114 that preserves the rights of songwriters and clarifies that nothing in the Performance Rights Act shall adversely affect the public performance rights of songwriters or copyright owners of musical works.

Let me repeat, this provision is to ensure that songwriters are not adversely affected by enactment of this bill. I understand the concerns of the songwriting community and the difficultly some have in recouping royalties on infringed works. We must ensure that our songwriters are not placed in situations where their property rights are ignored by infringers. Chairman LEAHY agrees that additional work to address the issue of willful infringement is necessary before enactment, and I look forward to working with him.

I want the broadcasting community to know that I am committed to working with them throughout the legislative process. I continue to have an open-door policy and welcome a productive dialogue on this issue. There is no question that radio play promotes artists and their sound recordings. There is also no question that radio stations profit directly from playing the artists' recordings. Indeed, we must strike a fair balance, one that fosters a vibrant broadcast radio community and compensates artists for their work.

By Mr. AKAKA (for himself, Mr. INOUYE, and Ms. MURKOWSKI):

S. 381. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President. Today I introduce the Native Hawaiian Government Reorganization Act of 2009. While this legislation is especially significant to Native Hawaiians, I introduce this measure for all the people of Hawaii. This bill authorizes a process to extend federal recognition to Hawaii's indigenous people for the purposes of a government-to-government relationship with the United States. This benefits all the people of Hawaii, as they will now have a structured, formal process to come together to address many unresolved issues confronting our state and our residents.

Unlike our Nation's other indigenous people, the Federal policy of self-governance and self-determination has not been extended to Native Hawaiians. The bill addresses this need and establishes parity. It provides Native Hawaiians a formal opportunity to participate in making policy decisions and empowers them to interact at the State and Federal levels through a government-to-government relationship. The legislation is consistent with federal and state law and allows Native Hawaiians to be treated the same way as our country's other indigenous people.

The United States has recognized and upheld a responsibility for the wellbeing of indigenous, native people, including Native Hawaiians. Congress has enacted more than 160 statutes to address the needs of Native Hawaiians. In 1993, I sponsored a measure commonly known as the Apology Resolution that was enacted into law. The Resolution outlined the history prior to- and-following the overthrow of the Kingdom of Hawaii, including involvement in the overthrow by agents of the United States. Further, in the Resolution the United States apologized for its involvement in the overthrow and committed itself to acknowledge the ramifications of the overthrow and support reconciliation efforts between the United States and the Native Hawaiian people. This was a historic declaration that has initiated a healing process. However, additional Congressional action is needed to continue this process.

The legislation allows us to take the necessary next step in the reconciliation process. The bill does three things. First, it authorizes an office in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States. Second, it forms an interagency task force chaired by the Departments of Justice and Interior, as well as composed of officials from federal agencies who currently administer programs and services impacting Native Hawaiians. Third, it authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally recognized government-to-government relationship. Once the Native Hawaiian government is recognized, the bill establishes an inclusive democratic negotiations process representing both Native Hawaiians and non-Native Hawaiians. There are many checks and balances in this process and any agreements reached will require implementing legislation at the State and Federal levels.

This legislation is needed to address issues present in my home state. It is a reality that there are longstanding and unresolved issues resulting from the overthrow. Despite good faith efforts to address these issues, the lack of a government-to-government relationship has limited progress. Building on the constitutionally sound and deliberate efforts of Congress and the State of Hawaii, it is necessary that Native Hawaiians be able to reorganize a government and enter into discussions with the Federal and State governments. My bill would ensure there is a structured process by which Native Hawaiians and the people of Hawaii can come together, resolve such complicated issues, and move forward together as a State.

The legislation I introduce today is identical to language passed by the House of Representatives in the 106th Congress. This bill is the product of five working groups the Hawaii Congressional Delegation created to assist with the drafting of this legislation. The working groups were composed of individuals from the Native Hawaiian community, elected officials from the State of Hawaii, representatives from federal agencies, Members of Congress, as well as leaders from Indian Country and experts in constitutional law. This ensured that all parties that had expertise and would work to implement the legislation had an opportunity to collectively and collaboratively participate in the drafting process.

The Hawaii Congressional delegation has carefully considered the significant public input and Congressional oversight on this bill over the last 9 years.

To date, there have been a total of 9 Congressional hearings, including 6 joint hearings held by the Senate Indian Affairs Committee and House Natural Resources Committee, 5 of which were held in Hawaii. From the beginning, the National Congress of American Indians and Alaska Federation of Natives have joined Native Hawaiians in their pursuit for federal recognition. In the 110th Congress, the Senate Committee on Indian Affairs explored the legal aspects of the bill where Hawaii's State Attorney General expressed his support and spoke to the constitutionality of this measure. In addition to the bipartisan support at the Federal and State level for the bill, national organizations such as the American Bar Association, Japanese American Citizens League, and National Indian Education Association have also urged Congress to pass legislation establishing a process to provide federal recognition to Native Hawaiians.

It is clear this legislation is constitutional and provides a framework respectful of the needs of Native Hawaiians and non-Native Hawaiians. Their combined efforts will be needed as each will play an active role in reaching agreements and enacting implementing legislation at the state and federal levels. I ask my colleagues to join Senator INOUYE and I, in enacting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.

(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

(19) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that—

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4) by—

(i) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(ii) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

(22) The United States continually has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.

SEC. 2. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.

(2) ADULT MEMBERS.—The term ''adult members'' means those Native Hawaiians who have attained the age of 18 at the time the Secretary publishes the final roll, as provided in section 7(a)(3) of this Act.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a joint resolution offering an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) CEDED LANDS.—The term ''ceded lands'' means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 4).

(5) COMMISSION.—The term ''Commission'' means the commission established in section 7 of this Act to certify that the adult members of the Native Hawaiian community contained on the roll developed under that section meet the definition of Native Hawaiian, as defined in paragraph (7)(A).

(6) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) NATIVE HAWAIIAN.—

(A) Prior to the recognition by the United States of a Native Hawaiian government under the authority of section 7(d)(2) of this Act, the term ''Native Hawaiian'' means the indigenous, native people of Hawaii who are the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(B) Following the recognition by the United States of the Native Hawaiian government under section 7(d)(2) of this Act, the term ''Native Hawaiian'' shall have the meaning given to such term in the organic governing documents of the Native Hawaiian government.

(8) NATIVE HAWAIIAN GOVERNMENT.—The term ''Native Hawaiian government'' means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(d)(2) of this Act.

(9) NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—The term ''Native Hawaiian Interim Governing Council'' means the interim governing council that is organized under section 7(c) of this Act.

(10) ROLL.—The term ''roll'' means the roll that is developed under the authority of section 7(a) of this Act.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(12) TASK FORCE.—The term ''Task Force'' means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) IN GENERAL.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) DUTIES OF THE OFFICE.—The United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by providing timely notice to, and consulting with the Native Hawaiian people prior to taking any actions that may affect traditional or current Native Hawaiian practices and matters that may have the potential to significantly or uniquely affect Native Hawaiian resources, rights, or lands, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian government by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian people and the Native Hawaiian government and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) assist the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance in the development of the roll under section 7(a) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the ''Native Hawaiian Interagency Task Force''.

(b) COMPOSITION.—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs established under the authority of section 4 of this Act and the Attorney General's designee under the authority of section 5 of this Act shall serve as co-chairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the—

(A) adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—

(i) the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago; or

(ii) Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or their lineal descendants; and

(B) the children of the adult members listed on the roll prepared under this subsection.

(2) CERTIFICATION AND SUBMISSION.—

(A) COMMISSION.—

(i) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purpose of certifying that the adult members of the Native Hawaiian community on the roll meet the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act.

(ii) MEMBERSHIP.—

(I) APPOINTMENT.—The Secretary shall appoint the members of the Commission in accordance with subclause (II). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(II) REQUIREMENTS.—The members of the Commission shall be Native Hawaiian, as defined in section 2(7)(A) of this Act, and shall have expertise in the certification of Native Hawaiian ancestry.

(III) CONGRESSIONAL SUBMISSION OF SUGGESTED CANDIDATES.—In appointing members of the Commission, the Secretary may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) CERTIFICATION.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(3) SECRETARY.—

(A) CERTIFICATION.—The Secretary shall review the Commission's certification of the membership roll and determine whether it is consistent with applicable Federal law, including the special trust relationship between the United States and the indigenous, native people of the United States.

(B) PUBLICATION.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(C) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission's determination as it concerns—

(I) the exclusion of the name of a person who meets the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act, from the roll; or

(II) a challenge to the inclusion of the name of a person on the roll on the grounds that the person does not meet the definition of Native Hawaiian, as so defined.

(ii) PUBLICATION; UPDATE.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) FAILURE TO ACT.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Commission submits the membership roll to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) EFFECT OF PUBLICATION.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections associated with the organization of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) RECOGNITION OF RIGHTS.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(1) ORGANIZATION.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to—

(A) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(B) determine the structure of the Native Hawaiian Interim Governing Council; and

(C) elect members to the Native Hawaiian Interim Governing Council.

(2) ELECTION.—Upon the request of the adult members listed on the roll developed under the authority of subsection (a), the United States Office for Native Hawaiian Affairs may assist the Native Hawaiian community in holding an election by secret ballot (absentee and mail balloting permitted), to elect the membership of the Native Hawaiian Interim Governing Council.

(3) POWERS.—

(A) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to represent those on the roll in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(B) FUNDING.—The Native Hawaiian Interim Governing Council is authorized to enter into a contract or grant with any Federal agency, including but not limited to, the United States Office for Native Hawaiian Affairs within the Department of the Interior and the Administration for Native Americans within the Department of Health and Human Services, to carry out the activities set forth in subparagraph (C).

(C) ACTIVITIES.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to conduct a referendum of the adult members listed on the roll developed under the authority of subsection (a) for the purpose of determining (but not limited to) the following:

(I) The proposed elements of the organic governing documents of a Native Hawaiian government.

(II) The proposed powers and authorities to be exercised by a Native Hawaiian government, as well as the proposed privileges and immunities of a Native Hawaiian government.

(III) The proposed civil rights and protection of such rights of the citizens of a Native Hawaiian government and all persons subject to the authority of a Native Hawaiian government.

(ii) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based upon the referendum, the Native Hawaiian Interim Governing Council is authorized to develop proposed organic governing documents for a Native Hawaiian government.

(iii) DISTRIBUTION.—The Native Hawaiian Interim Governing Council is authorized to distribute to all adult members of those listed on the roll, a copy of the proposed organic governing documents, as drafted by the Native Hawaiian Interim Governing Council, along with a brief impartial description of the proposed organic governing documents.

(iv) CONSULTATION.—The Native Hawaiian Interim Governing Council is authorized to freely consult with those members listed on the roll concerning the text and description of the proposed organic governing documents.

(D) ELECTIONS.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) ASSISTANCE.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) TERMINATION.—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.—

(1) PROCESS FOR RECOGNITION.—

(A) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—The duly elected officers of the Native Hawaiian government shall submit the

organic governing documents of the Native Hawaiian government to the Secretary.

(B) CERTIFICATIONS.—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a);

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States;

(iii) provide for the exercise of those governmental authorities that are recognized by the United States as the powers and authorities that are exercised by other governments representing the indigenous, native people of the United States;

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government, and to assure that the Native Hawaiian government exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302);

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian government without the consent of the Native Hawaiian government;

(vi) establish the criteria for citizenship in the Native Hawaiian government; and

(vii) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) FAILURE TO ACT.—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government to the Secretary, the certifications authorized in subparagraph (B) shall be deemed to have been made.

(D) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH FEDERAL LAW.—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part thereof, are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) AMENDMENT AND RESUBMISSION BY THE NATIVE HAWAIIAN GOVERNMENT.—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government by the Secretary under clause (i), the duly elected officers of the Native Hawaiian government shall—

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law; and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with subparagraphs (B) and (C).

(2) FEDERAL RECOGNITION.—

(A) RECOGNITION.—Notwithstanding any other provision of law, upon the election of the officers of the Native Hawaiian government and the certifications (or deemed certifications) by the Secretary authorized in paragraph (1), Federal recognition is hereby extended to the Native Hawaiian government as the representative governing body of the Native Hawaiian people.

(B) NO DIMINISHMENT OF RIGHTS OR PRIVILEGES.—Nothing contained in this Act shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people which are not inconsistent with the provisions of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of Native Hawaiians contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 5) is hereby reaffirmed.

(b) NEGOTIATIONS.—Upon the Federal recognition of the Native Hawaiian government pursuant to section 7(d)(2) of this Act, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian government regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use under existing law as in effect on the date of enactment of this Act to the Native Hawaiian government.

SEC. 10. DISCLAIMER.

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

SEC. 11. REGULATIONS.

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

SEC. 12. SEVERABILITY.

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the amendments made by this Act, shall continue in full force and effect.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 27—CONGRATULATING THE PITTSBURGH STEELERS ON WINNING SUPER BOWL XLIII

Mr. CASEY (for himself and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 27

Whereas on February 1, 2009, the Pittsburgh Steelers defeated the Arizona Cardinals to win Super Bowl XLIII;

Whereas the Steelers' 27–23 victory over the Cardinals was the Steelers' sixth Super Bowl win, the most Super Bowl wins in National Football League (NFL) history;

Whereas the Rooney family has exhibited a strong commitment to the Steelers organization, has led the Steelers to win 6 Super Bowl titles, and has created a legacy of dedication to, and integrity in, the NFL;

Whereas Coach Mike Tomlin is to be congratulated for being the youngest coach in the NFL to win a Super Bowl, in only his second season as the head coach of the Steelers;

Whereas ''Steeler Nation'', which encompasses fans from all over the world, is to be honored for proudly waving ''Terrible Towels'' in support of the Pittsburgh Steelers;

Whereas the Pittsburgh Steelers are an iconic symbol for hardworking Pittsburghers, exhibiting the same strong work ethic and ability to fight to the bitter end to achieve success as Pittsburghers;

Whereas the leadership of Steelers quarterback Ben Roethlisberger led the team to wins in the final plays of games throughout the season, and especially during the last 2 minutes and 30 seconds of Super Bowl XLIII;

Whereas Steelers wide receiver Santonio Holmes was named the Most Valuable Player in Super Bowl XLIII for his 6-yard touchdown reception with 35 seconds remaining, which is being called one of the most historic plays in Super Bowl history;

Whereas Steelers linebacker James Harrison, NFL Defensive Player of the Year, intercepted Kurt Warner at the goal line and returned the ball for a 100-yard touchdown, which has been recorded as the longest play in Super Bowl history;

Whereas the Steelers defense, under the leadership of 50-year NFL veteran and Steelers defensive coordinator Dick LeBeau, ranked number 1 in defense in the NFL throughout the 2008 season and carried the Pittsburgh Steelers to a winning season and a Super Bowl victory;

Whereas the Pittsburgh Steelers faced one of the toughest schedules during the 2008 NFL season and persevered to a winning season and a Super Bowl victory; and

Whereas approximately 400,000 Steelers fans packed the streets of Pittsburgh on February 3, 2009 to honor the Steelers in a parade along Grant Street and the Boulevard of the Allies: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Pittsburgh Steelers for winning Super Bowl XLIII;

(B) the Rooney family and the Steelers coaching and support staff, whose commitment to the Steelers organization has sustained this proud organization and allowed the team to reach its sixth Super Bowl victory;

(C) all Steelers fans, from around the world, whose enthusiasm for the team earns them recognition as one of the most loyal fan-bases in all sports; and

(D) the Arizona Cardinals on an outstanding season; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Steelers Chairman, Dan Rooney;

(B) Steelers President, Art Rooney II; and

(C) Steelers Head Coach Mike Tomlin.

AMENDMENTS SUBMITTED AND PROPOSED

SA 207. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 208. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 209. Mr. GRASSLEY (for himself, Mr. SCHUMER, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 210. Mr. CORNYN (for himself, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ)

submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 211. Mr. CORNYN (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 212. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 213. Mr. REID (for Mr. KENNEDY (for himself, Mr. KERRY, Mrs. SHAHEEN, and Mr. VOINOVICH)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 214. Mr. KOHL (for himself, Ms. SNOWE, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mr. LEVIN, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 215. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 216. Mr. SANDERS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 217. Mr. BROWN (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 218. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. BROWN, Ms. STABENOW, Mr. SANDERS, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 220. Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. DODD, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 221. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 222. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 224. Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. CARDIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 225. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 226. Mr. ENSIGN (for himself, Mr. SCHUMER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 227. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 228. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 229. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 230. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 232. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 233. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 234. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 235. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 236. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 237. Mr. CARDIN (for himself, Ms. LANDRIEU, and Ms. SNOWE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 238. Mr. GRASSLEY (for Mr. THUNE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 239. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 240. Mr. CRAPO (for himself, Ms. LANDRIEU, Mr. GRAHAM, Mr. RISCH, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 241. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 242. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 243. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 244. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 89 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 245. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 246. Mrs. SHAHEEN (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 247. Mr. UDALL, of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 248. Mr. UDALL, of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 249. Mrs. LINCOLN (for herself, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 250. Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. WYDEN, Mr. ROBERTS, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 251. Mrs. LINCOLN (for herself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 252. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an

amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 253. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 254. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 255. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 256. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 257. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 258. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 259. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 261. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 262. Mr. INHOFE (for himself, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. ROBERTS, Mr. BROWNBACK, and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 263. Ms. STABENOW (for herself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 264. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, Mr. BROWN, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 265. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 266. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 267. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 268. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 269. Mrs. HUTCHISON (for herself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 270. Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 271. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 272. Mr. ROCKEFELLER (for Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 273. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 274. Ms. CANTWELL (for herself, Mr. HATCH, Ms. STABENOW, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 275. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. KERRY, Mr. MENENDEZ, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 276. Ms. CANTWELL (for herself, Mr. KERRY, Ms. SNOWE, Mr. SCHUMER, Ms. STABENOW, Mr. BINGAMAN, Mr. ENSIGN, Mr. CARPER, Mr. HATCH, Mr. WYDEN, Mr. CARDIN, Mr. NELSON, of Florida, Mr. REED, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 277. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 278. Mr. MCCAIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 279. Mr. MCCAIN (for himself and Mr. SHELBY) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 280. Mr. BAYH (for himself, Mr. BINGAMAN, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 281. Mr. BAYH (for himself, Ms. STABENOW, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 282. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 283. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 284. Mr. VITTER (for himself, Mr. COCHRAN, Mr. SHELBY, Mrs. HUTCHISON, Mr. WICKER, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 285. Mr. BAUCUS (for himself, Mr. LEAHY, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 286. Ms. LANDRIEU (for herself, Mr. KOHL, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 287. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 289. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 290. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 291. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 292. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 293. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 294. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 295. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 296. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R.

1, supra; which was ordered to lie on the table.

SA 297. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 298. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 299. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 300. Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BROWN, Mr. INOUYE, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 301. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 302. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 303. Mrs. LINCOLN (for herself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 304. Mr. WYDEN (for himself, Mr. REED, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 305. Mr. COBURN (for himself, Mr. BURR, Mr. DEMINT, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 306. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 307. Mr. BURR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 308. Mr. BOND (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 309. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 310. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 311. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 312. Mr. UDALL, of Colorado (for himself, Mr. BENNET, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 313. Mr. LEAHY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 314. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 315. Mr. LEAHY (for himself, Mr. CARPER, Mr. SANDERS, Mrs. LINCOLN, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 316. Mr. LEAHY (for himself, Mr. KERRY, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 317. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 318. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 319. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 320. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 321. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 322. Mr. MENENDEZ (for himself and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 323. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 324. Mr. KOHL (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 325. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 326. Mr. BARRASSO (for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 327. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table .

SA 328. Mr. VITTER (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 329. Mr. REED (for himself, Mr. BROWN, Mr. LEAHY, Mr. KERRY, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. MERKLEY, Mr. ROCKEFELLER, Mr. SANDERS, Ms. STABENOW, Mr. WYDEN, Mr. KENNEDY, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 330. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 331. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 332. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 333. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 334. Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HARKIN, Mr. WYDEN, Ms. STABENOW, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 335. Mr. SCHUMER (for himself, Mrs. LINCOLN, Ms. STABENOW, Mr. KERRY, Mr. BINGAMAN, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 336. Mr. CARDIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 337. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 338. Mr. HARKIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 339. Mr. HARKIN (for himself, Mr. THUNE, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 340. Mr. ROCKEFELLER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr.

BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 341. Mr. ROCKEFELLER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 342. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 343. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 344. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 345. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 346. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 347. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 348. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 349. Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 350. Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 351. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 352. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 353. Mr. ENSIGN (for himself, Mr. MCCONNELL, and Mr. ALEXANDER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 354. Mr. DODD proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 355. Ms. CANTWELL (for herself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 356. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 357. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 358. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 359. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 360. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 361. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 362. Mr. REID (for Mr. KENNEDY (for himself and Mr. SANDERS)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 363. Mrs. BOXER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

TEXT OF AMENDMENTS

SA 207. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 450, after line 22, add the following:

SEC. _____. CREDIT FOR DONATIONS FOR SCHOLARSHIPS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. DONATIONS FOR SCHOLARSHIPS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS.

''(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary school student scholarship donations made by the taxpayer during such taxable year.

''(b) LIMITATION.—The amount of the credit allowed under this section for any taxable year shall not exceed $500.

''(c) QUALIFIED ELEMENTARY AND SECONDARY SCHOOL STUDENT SCHOLARSHIP DONATIONS.—For purposes of this section, the term 'qualified elementary and secondary school student scholarship donation' means any donation to a an organization which—

''(1) is described in section 170(b)(1)(A)(ii) or 170(c)(2), and

''(2) provides scholarships to elementary or secondary school students for tuition incurred in connection with the enrollment or attendance of such student at public, private or religious school (within the meaning of section 530(b)(3)).

''(d) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 170 or any other provision of this chapter with respect to any expense which is taken into account under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of contents for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item related to section 25D the following new item:

''Sec. 25E. Donations for scholarships for elementary and secondary school students.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 208. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, strike lines 2 through 15 and insert the following:

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK ACQUIRED IN 2009 AND 2010.

(a) IN GENERAL.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SPECIAL RULES FOR STOCK ACQUIRED IN 2009 AND 2010.—In the case of qualified small business stock acquired after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009 and before January 1, 2011, the following rules shall apply:

''(1) INCREASE EXCLUSION.—Subsection (a)(1) shall be applied by substituting '100 percent' for '50 percent'.

''(2) INCREASE AGGREGATE ASSET LIMITATION FOR QUALIFIED SMALL BUSINESSES.—Subsection (d) shall be applied by substituting '$75,000,000' for '$50,000,000' each place it appears.

''(3) EXCLUSION NOT TREATED AS A TAX PREFERENCE.—Paragraph (7) of section 57(a) shall not apply and section 53(d)(1)(B)(ii)(II) shall be applied by disregarding any item of tax preference described in paragraph (7) of section 57(a).

''(4) INCOME NOT SUBJECT TO 28 PERCENT CAPITAL GAINS RATE.—Section 1(h)(4) shall be applied without regard to subparagraph (A)(ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

SA 209. Mr. GRASSLEY (for himself, Mr. SCHUMER, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment,

energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (a) of section 1004 of division B and insert the following:

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) INCREASE IN CREDIT.—The Hope Scholarship Credit shall be an amount equal to the sum of—

''(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $1,500,

''(B) 50 percent of such expenses so paid as exceeds $1,500 but does not exceed $3,000, plus

''(C) 25 percent of such expenses so paid as exceeds $3,000 but does not exceed $6,000.

''(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION.—Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'.

''(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS.—Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

''(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT.—In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

''(ii) $80,000 ($160,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

''(6) PORTION OF CREDIT MADE REFUNDABLE.—25 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

''(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS.—In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.''.

SA 210. Mr. CORNYN (for himself, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) ANTI-FRAUD IMPLEMENTATION PLAN; GAO REPORTS.—

(A) REQUIREMENT TO SUBMIT PLAN FOR APPROVAL.—

(i) IN GENERAL.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, unless, not later than 6 months after the first date on which the State receives additional Federal funds under this section, the State submits a report to the Secretary that contains a plan for implementation of at least 4 of the anti-fraud measures described in subparagraph (B) with respect to the State Medicaid program under title XIX of the Social Security Act.

(ii) APPROVAL AND IMPLEMENTATION.—The Secretary shall approve or disapprove a plan submitted by a State under clause (i) not later than 30 days after the date on which the Secretary receives the plan. A State shall implement an approved plan not later than 180 days after the date on which the plan is approved.

(B) ANTI-FRAUD MEASURES DESCRIBED.—The anti-fraud measures described in this subparagraph are the following:

(i) Implementation, in consultation with the Secretary and in coordination and consistent with activities carried out under contracts entered into under section 1893(h) of the Social Security Act (42 U.S.C. 1395ddd), of a recovery audit program under Medicaid.

(ii) Implementation of a Medicare-Medicaid data match program under section 1893(g) of the Social Security Act (42 U.S.C. 1395ddd).

(iii) Implementation of enhanced third party liability identification programs under section 1902(a)(25) of the Social Security Act to carry out the amendments made by section 6035 of the Deficit Reduction Act of 2005.

(iv) An increase in the amount of State expenditures attributable to the operation of the State medicaid fraud control unit described in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q)) by at least 50 percent more than the amount of such expenditures for the most recent fiscal year.

(v) Operation, beginning on October 1, 2009, of an eligibility determination system which provides for data matching through the Public Assistance Reporting Information System (PARIS), in accordance with the requirements of section 1903(r)(3) of the Social Security Act (42 U.S.C. 1396b(r)(3)).

(vi) Full implementation of the requirements of section 1923(j) of the Social Security Act (42 U.S.C. 1396r–4(j)), including the requirement for an annual, independent certified audit of DSH payment adjustments made to hospitals.

(vii) Full implementation, beginning on October 1, 2009, of an asset verification program that satisfies the requirements of section 1940 of the Social Security Act (42 U.S.C. 1396w).

(viii) Online, public access, posting of all Medicaid claims and patient encounter data (with such data patient de-identified and otherwise made available in a manner that protects the privacy of patients).

(ix) Electronic eligibility verification of Medicaid beneficiaries to confirm client identification, eligibility, and to reduce administrative costs.

(x) Any other policy proposed by a State that the Secretary certifies is likely to reduce fraud in the State's Medicaid program.

(C) GAO REPORTS.—The Comptroller General of the United States shall submit the following reports to Congress on the plans submitted by States under subparagraph (A)(i):

(i) INITIAL REPORT.—Not later than March 31, 2010, a report specifying the details of the plans submitted by States under subparagraph (A).

(ii) UPDATE AND IMPLEMENTATION.—Not later than December 31, 2010, a report specifying the details of any updates made to such plans and of the implementation of such plans.

SA 211. Mr. CORNYN (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) LONG-TERM MEDICAID FISCAL OUTLOOK AND SUSTAINABILITY PLAN; ANNUAL GAO REPORT.—

(A) IN GENERAL.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date on which the State submits a report to the Secretary detailing the State's fiscal situation with respect to the State Medicaid program and the State's plan to ensure the long-term sustainability of its State Medicaid program that contains the information described in subparagraph (B). The Secretary shall make the reports submitted under this subparagraph publicly available.

(B) REQUIRED INFORMATION.—

(i) FISCAL OUTLOOK REQUIREMENTS.—The report required under subparagraph (A), shall include the following with respect to the fiscal outlook for the State:

(I) A 10 year and 25 year expenditure forecast.

(II) A 10 year and 25 year forecast as a percentage of the State's budget.

(III) Recommendations for State actions in the next 5 years to ensure adequate State funding over the 10 and 25 year periods.

(ii) LONG-TERM SUSTAINABILITY PLAN.—The report required under subparagraph (A), shall include plans for reforms specified by the State with respect to each of the following:

(I) Program integrity.

(II) Payment reform.

(III) Capacity reform.

(IV) Market reform.

(C) GAO REPORT.—Beginning with fiscal year 2012, and every third fiscal year thereafter, the Comptroller General of the United States shall submit a report to Congress regarding the fiscal situation with respect to each State Medicaid program relative to the fiscal situation of such each such program on October 1, 2009. Subsection (i) of this section shall not apply to this subparagraph.

SA 212. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 399, between lines 6 and 7, insert the following:

SEC. 1405A. SPECIAL RULES FOR STATES WITH HIGH 2006 EDUCATION SUPPORT LEVELS.

(a) DEFINITIONS.—In this section:

(1) HIGH 2006 EDUCATION SUPPORT LEVEL.—The term ''high 2006 education support level'', when used with respect to a State, means a State for which the level of State support for elementary and secondary education or State support for higher education in fiscal year 2008 is less than the level of State support for elementary and secondary education, or State support for higher education, respectively, in fiscal year 2006.

(2) STATE SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION.—The term ''State support for elementary and secondary education'' means the support provided by the State for elementary and secondary education, but not including capital projects.

(3) STATE SUPPORT FOR HIGHER EDUCATION.—The term ''State support for higher education'' means the support provided by a State for public institutions of higher education in the State, but not including support provided for capital projects or for research and development.

(b) MAINTENANCE OF EFFORT.—Notwithstanding section 1405, a State with a high 2006 education support level that meets all requirements for a grant under this title except for section 1405(d)(1) shall receive such grant if, for each of fiscal years 2009 and 2010, such State does not reduce the percentage of State general funds that are to be used for State support for elementary and secondary education, and the percentage of State general funds that are to be used for State support for higher education, by more than one percent, as compared to the percentage of State general funds that are to be used for State support for elementary and secondary education, and the percentage of State general funds that are to be used for State support for higher education, respectively, for the fiscal year preceding the fiscal year for which the determination is being made.

(c) USE OF FUNDS.—

(1) RESTORING STATE SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION.—Notwithstanding section 1402, the Governor of a State with a high 2006 education support level shall, for each of fiscal years 2009 and 2010, use at least 61 percent of the State's allocation under section 1401(d) for the support of elementary, secondary, and postsecondary education by—

(A)(i) providing the amount of funds, through such State's principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the level of such State support in fiscal year 2006 or fiscal year 2008, whichever level is greater; and

(ii) providing the amount of funds that is needed to restore State support for higher education to the level of such State support in fiscal year 2006 or fiscal year 2008, whichever level is greater; and

(B) using any remaining funds to provide subgrants described in section 1402(a)(3).

(2) SHORTFALL.—Notwithstanding section 1402, if the Governor of a State with a high 2006 education support level determines that the amount of funds available under paragraph (1) for a fiscal year is insufficient to restore State support for education to the levels described in clauses (i) and (ii) of paragraph (1)(A), the Governor shall—

(A) allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in such clauses; and

(B) after making the allocation under subparagraph (A), use the amounts remaining from the State's allocation under section 1401(d) to restore State support for each such education sector that has a high 2006 education support level, to the fiscal year 2006 level.

(3) OTHER GOVERNMENT SERVICES.—Notwithstanding section 1402, for each of fiscal years 2009 and 2010, the Governor of a State with a high 2006 education support level shall use the amount of the State's allocation under section 1401(d) that remains after the application of paragraphs (1) and (2) for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

(d) WAIVERS.—The Secretary of Education may waive, on a case-by-case basis, any requirement of this section for a State on the basis of financial hardship.

SA 213. Mr. REID (for Mr. KENNEDY (for himself, Mr. KERRY, Mrs. SHAHEEN, and Mr. VOINOVICH)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 404, add the following:

(c) SENSE OF CONGRESS.—It is the sense of Congress that to fulfill the goal of expedited issuance of loan guarantees to maximize the rapid stimulus effect of provided funds, the Secretary of Energy should immediately issue loan guarantees under section 1705 of the Energy Policy Act of 2005 (as added by subsection (a)) using funds provided to carry out that section for the subsidy cost for existing final round applicants under the loan guarantee program under section 1703 of that Act (42 U.S.C. 16513) that fall within the categories described in section 1705(b) of that Act (as added by subsection (a)).

SA 214. Mr. KOHL (for himself, Ms. SNOWE, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mr. LEVIN, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 203. HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.

(a) APPROPRIATION OF ADDITIONAL AMOUNT.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, for an additional amount for ''Industrial Technology Services'', $30,000,000, to remain available until September 30, 2010.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available by subsection (a), $30,000,000 shall be available for the necessary expenses of the Hollings Manufacturing Partnership Program. Such amount shall be in addition to any other amounts made available for the Hollings Manufacturing Partnership Program under title II of this division.

(c) OFFSET.—The amount appropriated or otherwise made available by this title under the heading ''SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES'' is hereby decreased by $30,000,000.

(d) EXEMPTION FROM COST SHARING REQUIREMENTS.—The cost sharing requirements contained in the second sentence of paragraph (1), subparagraphs (B) and (C) of paragraph (3), and paragraph (4)(D) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)) shall not apply to a Hollings Manufacturing Extension Center with respect to receipt of financial support from funds made available under subsection (b).

SA 215. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 2 and 3, insert the following:

SEC. 12___. Amounts made available under this title for distribution by the Federal Highway Administration for surface transportation projects shall not be subject to section 133(c) of title 23, United States Code, or any other provision of law that restricts the use of those funds for projects relating to local or rural roads or bridges.

SA 216. Mr. SANDERS (for himself, Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations

for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 228, line 19, strike ''$20,000,000'' and insert ''$1,000,000''.

SA 217. Mr. BROWN (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, after line 24, add the following:

(d) EFFECTIVE USE OF FUNDS.—In providing funds made available by this Act and the amendments made by this Act for the weatherization assistance program, the Secretary of Energy may encourage States to give priority to using the funds for the most cost-effective efficiency activities, which may include insulation of attics, if the Secretary determines that the use of the funds would increase the effectiveness of the program.

SA 218. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. BROWN, Ms. STABENOW, Mr. SANDERS, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 9, insert ''(and an additional amount of $1,675,000,000)'' before '', which''.

On page 123, line 12, insert ''(and an additional amount of $300,000,000)'' before ''for adult''.

On page 123, line 19, insert ''and year-round'' after ''summer''.

On page 124, line 10, insert ''(and an additional amount of $500,000,000)'' before ''for grants''.

On page 124, line 13, insert ''(and an additional amount of $300,000,000)'' before ''for national''.

On page 124, line 15, insert ''(and an additional amount of $375,000,000)'' before ''under''.

On page 125, line 1, insert ''(and an additional amount of $200,000,000)'' before ''for YouthBuild''.

On page 126, line 8, insert ''(and an additional amount of $300,000,000)'' before '', which''.

On page 126, line 13, insert ''(and an additional amount of $150,000,000)'' before ''of such''.

On page 126, line 26, insert ''(and an additional amount of $340,000,000)'' before '', which''.

On page 127, line 2, strike ''may transfer up to 15 percent'' and insert ''may transfer up to 20 percent''.

On page 127, line 4, strike ''training for careers'' and insert ''training, and work experience to improve such Centers, to prepare participants for careers''.

SA 219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 589, after line 14, insert the following:

(c) INCREASED FUNDING.—

(1) IN GENERAL.—Section 903(f) of the Social Security Act, as added by subsection (a), is amended—

(A) in paragraph (1)(B), by striking ''$7,000,000,000'' and inserting ''$14,000,000,000''; and

(B) in paragraph (6), by striking ''$7,000,000,000'' and inserting ''$14,000,000,000''.

(2) EMERGENCY DESIGNATION.—Each amount provided as a result of the amendments made by paragraph (1) is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 220. Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. DODD, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, line 14, before the period, insert the following:

'', and for an additional amount for the fire grant program under section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), $500,000,000, to remain available until expended: *Provided*, That this amount is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.''

SA 221. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 2 and 3, insert the following:

SEC. 12___. NON-FEDERAL SHARE OF TRANSPORTATION PROGRAMS AND ACTIVITIES.

(a) DEFINITION OF COVERED TRANSPORTATION PROGRAM OR ACTIVITY.—In this section, the term ''covered transportation program or activity'' means a program or activity for which funds are authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) or an amendment made by that Act.

(b) NON-FEDERAL SHARE.—Amounts made available by this Act may be used by States and municipalities to pay the non-Federal share of the cost of any covered transportation program or activity.

(c) EFFECT OF SECTION.—Nothing in this section prohibits a State or local government from contributing non-Federal funds toward the cost of a covered transportation program or activity.

SA 222. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, after line 10, insert the following:

SEC. 1124. CREDIT FOR BATTERY POWERED LAWN MOWERS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR BATTERY POWERED LAWN MOWERS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to so much of the qualified battery powered lawn mower expenses for the taxable year as does not exceed $100.

''(b) QUALIFIED BATTERY POWERED LAWN MOWER EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified battery powered lawn mower expenses' means the cost of any battery powered lawn mower the original use of which commences with the taxpayer and which is placed in service by the taxpayer during the taxable year.

''(2) BATTERY POWERED LAWN MOWER.—The term 'battery powered lawn mower' means a machine primarily for cutting grass which is powered by a motor drawing current only from rechargeable or replaceable batteries.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 904(i) is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 25E''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for battery powered lawn mowers.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases made after the date of the enactment of this Act.

SA 223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 583, line 14, insert '', without regard to State restrictions on such compensation to individuals receiving stipends or other training allowances that can be used for non-training costs'' after ''1998''.

SA 224. Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. CARDIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SMALL BUSINESS PROCUREMENT.

(a) EXISTING LAW.—Part 19 of the Federal Acquisition Regulation, section 15 of the Small Business Act (15 U.S.C. 644), and any other applicable procurement laws and regulations may not be waived with respect to contracts awarded with funds made available under this Act.

(b) CONTRACTS FOR SMALL BUSINESS CONCERNS.—To the maximum extent practicable, Federal agencies and State and local governments that receive funds under this Act shall award prime contracts to small business concerns.

SEC. 506. REPORT ON SMALL BUSINESS CONTRACTING.

(a) IN GENERAL.—The Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and the President, a report on the prime contracts and subcontracts made with funds appropriated to any Federal agency under this Act and awarded to small business concerns.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) the number of prime contracts and subcontracts awarded to small business concerns by such Federal agency; and

(2) the percentage of the total number of prime contracts and subcontracts awarded by such Federal agency that are awarded to small business concerns.

(c) TIMING.—The report under subsection (a) shall be submitted not later than 180 days after the date of enactment of this Act, and once every 180 days thereafter during the 3 years following the date of enactment of this Act.

SA 225. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. EXTENSION OF WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FROM CERTAIN RETIREMENT PLANS AND ACCOUNTS.

(a) IN GENERAL.—Subparagraph (H) of section 401(a)(9), as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended—

(1) by striking ''for calendar year 2009'' in clause (i) and inserting ''in calendar years 2009 or 2010'',

(2) by striking ''2009'' in clause (ii)(I) and inserting ''2010'', and

(3) by striking ''to calendar year 2009'' in clause (ii)(II) and inserting ''to calendar years 2009 or 2010''.

(b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—The last sentence of section 402(c)(4), as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended by inserting ''or 2010'' after ''2009''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 2009.

(2) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any pension plan or contract amendment, such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii)(I).

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any pension plan or annuity contract which—

(I) is made by pursuant to the amendments made by this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2011.

In the case of a governmental plan, subclause (II) shall be applied by substituting ''2012'' for ''2011''.

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless during the period beginning on January 1, 2009, and ending on December 31, 2010 (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect.

SA 226. Mr. ENSIGN (for himself, Mr. SCHUMER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REPEAL OF EXCISE TAX ON TELEPHONE AND OTHER COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Chapter 33 (relating to facilities and services) is amended by striking subchapter B.

(b) CONFORMING AMENDMENTS.—

(1) Section 4293 is amended by striking ''chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33,'' and inserting ''and chapter 32 (other than the taxes imposed by sections 4064 and 4121),''.

(2)(A) Paragraph (1) of section 6302(e) is amended by striking ''section 4251 or''.

(B) Paragraph (2) of section 6302(e) is amended—

(i) by striking ''imposed by—'' and all that follows through ''with respect to'' and inserting ''imposed by section 4261 or 4271 with respect to'', and

(ii) by striking ''bills rendered or''.

(C) The heading for subsection (e) of section 6302 is amended by striking ''COMMUNICATIONS SERVICES AND''.

(3) Section 6415 is amended by striking ''4251, 4261, or 4271'' each place it appears and inserting ''4261 or 4271''.

(4) Paragraph (2) of section 7871(a) is amended by inserting ''or'' at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(5) The table of subchapters for chapter 33 is amended by striking the item relating to subchapter B.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid pursuant to bills first rendered more than 90 days after the date of the enactment of this Act.

SA 227. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I of division B, insert the following:

PART IX—REDUCTION IN CORPORATE INCOME TAX RATES

SEC. ___. PERMANENT REDUCTION IN CORPORATE INCOME TAX RATES.

(a) GENERAL RULE.—Section 11(b) (relating to amount of tax) is amended to read as follows:

''(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be equal to 15 percent of taxable income.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1201 is amended—

(A) in subsection (a)—

(i) by striking ''35 percent'' each place it appears and inserting ''15 percent'', and

(ii) by striking ''(determined without regard to the last 2 sentences of section 11(b)(1))'', and

(B) by striking subsection (b) and redesignating subsection (c) as subsection (b).

(2) Section 1445(e) is amended by striking ''35 percent'' each place it appears and inserting ''15 percent''.

(c) CLERICAL AMENDMENTS.—

(1) Sections 280(c)(3)(B)(ii)(II), 860E(2)(B), and 860E(6)(A)(ii) are each amended by striking ''11(b)(1)'' and inserting ''11(b)''.

(2) Section 904(b)(3)(D)(ii) is amended by striking ''(determined without regard to the last sentence of section 11(b)(1))''.

(3) Section 962 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 228. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 252, line 7, after ''activities:'', insert the following: ''*Provided further*, That in the case of any foreclosure on any dwelling or residential real property acquired with any amounts made available under this heading, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to: (1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure: (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: *Provided further*, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if: (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property: *Provided further*, That the recipient of any grant or loan from amounts made available under this heading may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: *Provided further*, That in the case of any qualified foreclosed housing for which funds made available under this heading are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of acquisition or financing, the owner and any successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: *Provided further*, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: *Provided further*, That this paragraph shall not preempt any State or local law that provides more protection for tenants: *Provided further*, That amounts made available under this heading may be used for the costs of demolishing foreclosed housing that is deteriorated or unsafe: *Provided further*, That no amounts from a grant made under this paragraph may be used to demolish any public housing (as such term is defined in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a)): *Provided further*, That section 2301(d)(4) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is repealed:''

SA 229. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. _____. MODIFICATION OF THE TAX RATE FOR THE EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (a) of section 4940 is amended by striking ''2 percent'' and inserting ''1.33 percent''.

(b) ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Section 4940 is amended by striking subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 230. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. _____. TEMPORARY MINIMUM CREDIT RATE FOR CERTAIN FEDERALLY SUBSIDIZED NEW BUILDINGS.

(a) IN GENERAL.—Section 42(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) TEMPORARY MINIMUM CREDIT RATE FOR CERTAIN FEDERALLY SUBSIDIZED NEW BUILDINGS.—In the case of any new building—

''(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

''(B) which is federally subsidized for the taxable year,

the applicable percentage shall not be less than 4 percent.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to buildings placed in service after the date of the enactment of this Act.

SA 231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY INCREASE IN TIME PERIOD FOR RECYCLING OF TAX-EXEMPT DEBT FOR RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Section 146(i)(6)(A) is amended by inserting ''(12-month period in the case of repayments made before January 1, 2011)'' after ''6-month period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to repayments of loans received before, on, or after the date of the enactment of this Act.

SA 232. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ___. INCREASE IN TIME PERIOD FOR RECYCLING OF TAX-EXEMPT DEBT FOR RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Section 146(i)(6)(A) is amended by striking ''6-month period'' and inserting ''12-month period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to repayments of loans received before, on, or after the date of the enactment of this Act.

SA 233. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. DETERMINATION OF STANDARD MILEAGE RATE FOR CHARITABLE CONTRIBUTIONS DEDUCTION.

(a) IN GENERAL.—Subsection (i) of section 170 is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

''(1) IN GENERAL.—For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 14 cents per mile.

''(2) SPECIAL RULE FOR 2009 AND 2010.—For miles traveled after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009 and before January 1, 2011, the standard mileage rate shall be the rate determined by the Secretary, which rate shall not be less than the standard mileage rate used for purposes of section 213.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to miles traveled after the date of the enactment of this Act.

SEC. —. EXCLUSION FROM GROSS INCOME FOR CHARITABLE MILEAGE REIMBURSEMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 139C. CHARITABLE MILEAGE REIMBURSEMENT.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include amounts received from an organization described in section 170(c)(2) as reimbursement of operating expenses with respect to the use of a passenger automobile for the benefit of such organization.

''(b) LIMITATION.—The amount excluded from gross income under subsection (a) shall not exceed the product of the standard mileage rate used for purposes of section 162 multiplied by the number of miles traveled for which such reimbursement is made.

''(c) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(d) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to reimbursements excluded from income under subsection (a).

''(e) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(f) MAINTENANCE OF RECORDS.—For purposes of this section, no exclusion shall be allowed under subsection (a) for any reimbursement unless with respect to such reimbursement the taxpayer meets substantiation requirements similar to the requirements of section 274(d).

''(g) TERMINATION.—This section shall not apply to any miles traveled after December 31, 2010.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 139C. Charitable mileage reimbursement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to miles traveled after the date of the enactment of this Act.

SA 234. Mr. SCHUMER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. DETERMINATION OF STANDARD MILEAGE RATE FOR CHARITABLE CONTRIBUTIONS DEDUCTION.

(a) IN GENERAL.—Subsection (i) of section 170 is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be the rate determined by the Secretary, which rate shall not be less than the standard mileage rate used for purposes of section 213.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to miles traveled after the date of the enactment of this Act.

SEC. —. EXCLUSION FROM GROSS INCOME FOR CHARITABLE MILEAGE REIMBURSEMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 139C. CHARITABLE MILEAGE REIMBURSEMENT.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include amounts received from an organization described in section 170(c)(2) as reimbursement of operating expenses with respect to the use of a passenger automobile for the benefit of such organization.

''(b) LIMITATION.—The amount excluded from gross income under subsection (a) shall not exceed the product of the standard mileage rate used for purposes of section 162 multiplied by the number of miles traveled for which such reimbursement is made.

''(c) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(d) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to reimbursements excluded from income under subsection (a).

''(e) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(f) MAINTENANCE OF RECORDS.—For purposes of this section, no exclusion shall be allowed under subsection (a) for any reimbursement unless with respect to such reimbursement the taxpayer meets substantiation requirements similar to the requirements of section 274(d).''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 139C. Charitable mileage reimbursement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to miles traveled after the date of the enactment of this Act.

SA 235. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, strike lines 16 through 19, and insert the following:

(C) auditing or reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters the Board considers appropriate for investigation to the inspector general for the agency that disbursed the covered funds;

On page 410, line 3, insert before the period '', including coordinating and collaborating to the extent practicable with the Inspectors General Council on Integrity and Efficiency established by the Inspector General Reform Act of 2008 (Public Law 110–409)''.

On page 411, strike lines 1 through 3, and insert ''subject to disclosure under sections 552 and 552a of title 5, United States Code, (commonly referred to as the Freedom of Information Act and the Privacy Act).''

On page 411, line 20, strike all after ''conduct'' through line 22, and insert ''audits and reviews of spending of covered funds and coordinate on such activities with the inspectors general of the relevant agencies to avoid duplication of work.''.

On page 411, line 23, strike ''INVESTIGATIONS'' and insert ''REVIEWS''.

On page 412, lines 1 and 2, strike ''investigations'' and insert ''reviews''.

On page 412, line 3, strike ''investigations'' and insert ''reviews''.

On page 412, line 7, strike ''INVESTIGATIONS'' and insert ''REVIEWS''.

On page 412, line 10, insert ''Additionally, the Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees and may enforce such subpoenas in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).'' at the end.

On page 412, lines 16 and 17, strike ''investigative depositions'' and insert ''necessary inquiries''.

On page 412, strike lines 21 through 23 and insert ''are not Federal officers or employees at such public hearings. Any such subpoenas may be enforced in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).''.

On page 413, line 8, strike all after ''audits'' through line 11 and insert '', reviews, or other activities relating to oversight by the Board of covered funds to any office of inspector general (including for the purpose of a related investigation of an inspector general), the Office of Management and Budget, the General Services Administration, and the Panel.''.

On page 415, line 20, strike ''a report''.

On page 415, line 23, strike the period through line 25 and insert '', a brief statement or notification. The statement or notification shall state the reasons that the inspector general has rejected the request in whole or in part. The decision of the inspector general to reject the request shall be final.''.

SA 236. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 22, strike ''2010'' and insert ''2011''.

On page 3, line 23, insert before the period ''and an additional $17,500,000 for such purposes, to remain available until September 30, 2011''.

On page 41, line 4, strike ''2010.'' and insert ''2011, and an additional $4,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 41, line 21, strike ''2010'' and insert ''2011''.

On page 47, line 8, strike ''2010'' and insert ''2011''.

On page 47, line 26, strike ''2010'' and insert ''2011''.

On page 60, line 4, strike ''2010.'' and insert ''2011, and an additional $3,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 77, line 19, strike ''expended.'' and insert ''September 30, 2012, and an additional $10,000,000 for such purposes, to remain available until September 30, 2012.''.

On page 95, line 12, insert before the period ''and an additional $13,000,000 for such purposes, to remain available until September 30, 2011''.

On page 105, line 9, strike ''$248,000,000'' and insert ''$142,600,000''.

On page 105, line 24, strike ''2010'' and insert ''2011''.

On page 116, line 21, strike ''2010.'' and insert ''2011, and an additional $7,400,000 for such purposes, to remain available until September 30, 2011.''.

On page 127, line 14, strike ''2010'' and insert ''2011''.

On page 137, line 8, strike ''2011.'' and insert ''2012, and an additional $15,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 146, line 12, insert before the period ''and an additional $10,000,000 for such purposes, to remain available until September 30, 2012''.

On page 149, between lines 5 and 6, insert the following:

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $1,000,000, which shall remain available until September 30, 2011.

On page 214, line 19, strike ''2010'' and insert ''2011''.

On page 225, line 6, strike ''2010'' and insert ''2011''.

On page 226, line 23, strike ''2010'' and insert ''2011''.

On page 243, line 6 insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 263, line 7, insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 733, line 2, strike ''expended'' and insert ''September 30, 2012,''.

SA 237. Mr. CARDIN (for himself, Ms. LANDRIEU, and Ms. SNOWE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by adding at the end the following:

''(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed $10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.''.

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by adding at the end the following:

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

(c) SUNSET.—The amendments made by this section shall remain in effect until September 30, 2010.

SA 238. Mr. GRASSLEY (for Mr. THUNE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

IN GENERAL.—Notwithstanding any other provision of this Act, for each amount in each account as appropriated or otherwise authorized to be made available in this Act, the Office of Management and Budget shall make a determination about whether an authorization for that specific program had been enacted prior to February 1, 2009, and if no such authorization existed by that date, then the Office of Management and Budget shall reduce to zero the amount appropriated or otherwise made available for each program in each account where no authorization existed.

SA 239. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

EXTENSION OF PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 603. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS RELATED TO PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 604. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Appropriations, the Committee on Finance, and the Committee on the Judiciary of the Senate; and

(B) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(2) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program carried out under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) FUNDING UNDER AGREEMENT.—For each fiscal year after fiscal year 2008, the Commissioner and the Secretary shall enter into an agreement that—

(1) provides funds to the Commissioner for the full costs of carrying out the responsibilities of the Commissioner under the pilot program, including the costs of—

(A) acquiring, installing, and maintaining technological equipment and systems to carry out such responsibilities, but only the portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest tentative nonconfirmations provided by the confirmation system established pursuant to the pilot program;

(2) provides such funds to the Commissioner quarterly, in advance of the applicable quarter, based on estimating methodology agreed to by the Commissioner and the Secretary; and

(3) requires an annual accounting and reconciliation of the actual costs incurred by the Commissioner to carry out such responsibilities and the funds provided under the agreement that shall be reviewed by the Office of the Inspector General in the Social Security Administration and in the Department of Homeland Security.

(c) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) CONTINUATION OF PREVIOUS AGREEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the agreement required under subsection (b) for a fiscal year is not reached as of the first day of such fiscal year, the most recent previous agreement between the Commissioner and the Secretary to provide funds to the Commissioner for carrying out the responsibilities of the Commissioner under the pilot program shall be deemed to remain in effect until the date that the agreement required under subsection (b) for such fiscal year becomes effective.

(B) ANNUAL ADJUSTMENT.—If the most recent previous agreement is deemed to remain in effect for a fiscal year under subparagraph (A), the Director of the Office of Management and Budget is authorized to modify the amount provided under such agreement for such fiscal year to account for—

(i) inflation; or

(ii) any increase or decrease in the number of individuals who require services from the Commissioner under the pilot program.

(2) NOTIFICATION OF CONGRESS.—If the most recent previous agreement is deemed to remain in effect under paragraph (1)(A) for a fiscal year, the Commissioner and the Secretary shall—

(A) not later than the first day of such fiscal year, submit to the appropriate committees of Congress a notification of the failure to reach the agreement required under subsection (b) for such fiscal year; and

(B) once during each 90-day period until the date that the agreement required under subsection (b) has been reached for such fiscal year, submit to the appropriate committees of Congress a notification of the status of negotiations between the Commissioner

and the Secretary to reach such an agreement.

STUDY AND REPORT OF ERRONEOUS RESPONSES SENT UNDER THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 605. (a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the erroneous tentative nonconfirmations sent to individuals seeking confirmation of employment eligibility under the pilot program established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(b) MATTERS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of—

(1) the causes of erroneous tentative nonconfirmations sent to individuals under the pilot program referred to in subsection (a);

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and agencies and departments of the United States.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance and the Committee on the Judiciary of the Senate and the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives a report on the results of the study required by this section.

STUDY AND REPORT OF THE EFFECTS OF THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION ON SMALL ENTITIES

SEC. 606. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SMALL ENTITY.—The term ''small entity'' has the meaning given that term in section 601 of title 5, United States Code.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the effects of the pilot on small entities.

(c) MATTERS TO BE STUDIED.—

(1) IN GENERAL.—The study required by subsection (b) shall include an analysis of—

(A) the costs of complying with the pilot program incurred by small entities;

(B)(i) the description and estimated number of small entities enrolled in and participating in the pilot program; or

(ii) why no such estimated number is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of the pilot program that apply to small entities;

(D) the factors that impact enrollment and participation of small entities in the pilot program, including access to appropriate technology, geography, and entity size and class; and

(E) the actions, if any, carried out by the Secretary of Homeland Security to minimize the economic impact of participation in the pilot program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The study required by subsection (b) shall analyze, and treat separately, with respect to small entities—

(A) any direct effects of compliance with the pilot program, including effects on wages and time used and fees spent on such compliance; and

(B) any indirect effects of such compliance, including effects on cash flow, sales, and competitiveness of such compliance.

(3) DISAGGREGATION BY ENTITY SIZE.—The study required by subsection (b) shall analyze separately data with respect to—

(A) small entities with fewer than 50 employees; and

(B) small entities that operate in States that require small entities to participate in the pilot program.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by subsection (b).

RESTRICTION ON USE OF FUNDS

SEC. 607. None of the funds made available in this Act may be used to enter into a contract with a person that does not participate in the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

SA 240. Mr. CRAPO (for himself, Ms. LANDRIEU, Mr. GRAHAM, Mr. RISCH, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 519, beginning on line 12, strike through line 19 and insert the following:

''(IV) designed to capture and sequester carbon dioxide emissions,

''(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies, or

''(VI) designed to manufacture components for the production of nuclear energy, and

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SA 241. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. MEDICAID INTERNET-BASED TRANSPARENCY PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by adding at the end the following new section:

''SEC. 1942. INTERNET-BASED TRANSPARENCY PROGRAM.

''(a) IN GENERAL.—Not later than one year after the date of the enactment of this section, the Secretary shall implement a program under which the Secretary shall make available through the public Internet website of the Department of Health and Human Services non-aggregated information on individuals collected under the Medicaid Statistical Information System described in section 1903(r)(1)(F) insofar as such information has been de-identified in accordance with regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996. In implementing such program, the Secretary shall ensure that—

''(1) the information made so available is in a format that is easily accessible, useable, and understandable to the public, including individuals interested in improving the quality of care provided to individuals eligible for items and services under this title, researchers, health care providers, and individuals interested in reducing the prevalence of waste and fraud under this title;

''(2) the information made so available is as current as deemed practical by the Secretary and shall be updated at least once per calendar quarter;

''(3) to the extent feasible—

''(A) all hospitals, nursing homes, clinics, and large physician practices included in such information that are identifiable by name to individuals who access the information through such program;

''(B) all individual health care providers not described in subparagraph (A), including physicians and dentists, are identifiable by unique identifier numbers that are disclosed only to appropriate officials within the Department of Health and Human Services and the State involved; and

''(C) the information made so available shall include non-aggregated information with respect to the provision of medical assistance under State plans under this title of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa; and

''(4) the Secretary periodically solicits comments from a sampling of individuals who access the information through such program on how to best improve the utility of the program.

''(b) USE OF CONTRACTOR.—For purposes of implementing the program under subsection (a) and ensuring the information made available through such program is periodically updated, the Secretary may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the Secretary determines appropriate.

''(c) ANNUAL REPORTS.—Not later than 2 years after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the progress of the program under subsection (a), including on the extent to which information made available through the program is accessed and the extent to which comments received under subsection (a)(4) were used during the year involved to improve the utility of the program.

''(d) INCENTIVES FOR COMPLIANCE WITH EXISTING STATE REQUIREMENTS.—If the Secretary determines that a State has not fully and properly complied with section 1903(r)(1)(F), including any encounter data requirements, for any period beginning after the date that is 1 year after the date of the enactment of this section, the Secretary shall reduce the amount paid to the State under section 1903(a) by $25,000 for each such day. Such reduction shall be made unless—

''(1) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

''(2) not later than 60 days after the date of a finding that the State has not fully and properly complied with section 1903(r)(1)(F), the State submits to the Secretary (and the Secretary approves) a corrective action plan to implement such a program; and

''(3) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.

The Secretary shall transfer the amount of any reduction under this subsection to the fund established under subsection (e).

''(e) FUNDING.—

''(1) MEDICAID INTERNET-BASED TRANSPARENCY FUND.—The Secretary shall establish a fund to be known as the 'Medicaid Internet-based Transparency Fund', consisting of such amounts as may be transferred to such Fund under subsection (d) and such amounts as may be appropriated to such Fund under paragraph (3).

''(2) EXPENDITURES FROM FUND.—Amounts in the Medicaid Internet-based Transparency Fund shall be available to the Secretary only for purposes of carrying out this section.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Medicaid Internet-based Transparency Fund $10,000,000 for fiscal year 2009, to remain available until expended.''.

(b) FEASIBILITY REPORT ON INCLUDING SCHIP INFORMATION IN INTERNET-BASED TRANSPARENCY PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representative and the Committee on Finance of the Senate a report on the feasibility, potential costs, and potential benefits of making publicly available through an Internet-based program de-identified payment and patient encounter information for items and services furnished under title XXI of the Social Security Act which would not otherwise be included in the information collected under the Medicaid Statistical Information System described in section 1903(r)(1)(F) of such Act and made available under section 1942 of such Act, as added by subsection (a).

SA 242. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes;

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 86(a) (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new flush sentence:

''This paragraph shall not apply to any taxable year beginning in 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the amendment made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(d) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by a percentage necessary to offset the aggregate amount appropriated under subsection (c).

SA 243. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 484, after line 24, add the following:

The preceding sentence shall not apply to any taxpayer with respect to losses attributable to the modification of any personal residence indebtedness. Notwithstanding any other provision of division A, each amount appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by 0.05 percent.

SA 244. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 89 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

Beginning on page 554, line 6, strike all through page 565, line 3.

SA 245. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, line 11, after the period at the end, add the following: ''No State higher education agency in any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico shall receive less than ½ of 1 percent of the amount allocated under this paragraph.''.

SA 246. Mrs. SHAHEEN (for herself, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 168, between lines 12 and 13, insert the following:

SEC. 803A. ADDITIONAL FUNDS FOR HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR.

(a) IN GENERAL.—In addition to amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, $2,500,000,000 for carrying out activities authorized under section 803 of this Act, which funds shall remain available through September 30, 2010.

(b) EMERGENCY DESIGNATION.—The amount provided in subsection (a) is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 247. Mr. UDALL of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, strike lines 3 through 5 and insert the following:

For an additional amount for ''State and Tribal Assistance Grants'', $8,400,000,000, to remain available until September 10, 2010, of which $6,000,000,000 shall

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SA 248. Mr. UDALL of Colorado submitted an amendment intended to be

proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, line 2, strike ''$1,400,000,000'' and insert ''$1,425,000,000''.

On page 70, line 9, before the period, insert the following: '': *Provided further*, That not less than $25,000,000 of the funds provided under this heading shall be used for programs, projects, and activities for and relating to the Armel Unit of the Pick-Sloan Missouri River Basin Program as authorized by section 9 of the Act of December 22, 1944 (commonly known as the 'Flood Control Act of 1944') (58 Stat. 891, chapter 665)), and other law''.

SA 249. Mrs. LINCOLN (for herself, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. APPLYING MEDICARE RURAL HOME HEALTH ADD-ON POLICY FOR REMAINING PORTION OF 2009 AND ALL OF 2010.

Section 421(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2283), as amended by section 5201(b) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 46), is amended—

(1) by striking '', and episodes'' and inserting '', episodes''; and

(2) by inserting ''and episodes and visits ending on or after the date of enactment of the American Recovery and Reinvestment Act of 2009 and before January 1, 2011,'' after ''January 1, 2007,''.

SA 250. Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. WYDEN, Mr. ROBERTS, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. NO APPLICATION OF REVISED AVERAGE HOURLY WAGE COMPARISON RECLASSIFICATION CRITERIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall not apply, during the period described in subsection (b), the changes to the average hourly wage comparison reclassification criteria described in sections 412.230(d)(1)(iv), 412.232(c), and 412.234(b) of title 42, Code of Federal Regulations (as in effect on October 1, 2008), or any similar provision, to a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) seeking reclassification of its wage index for purposes of such section during such period.

(b) SUSPENSION PERIOD.—The period described in this subsection begins on October 1, 2008, and ends on the first day of the first fiscal year that begins 1 year after the Secretary has published in the Federal Register a proposal (or proposals) that considers the matters described in subparagraphs (A) through (I) of section 106(b)(2) of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432).

(c) EFFECT ON RECLASSIFICATION DECISIONS.—Notwithstanding any other provision of law, in the case of a decision made by the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)), during the period described in subsection (b), denying an application by a subsection (d) hospital (as so defined) for reclassification of its wage index for purposes of such section during such period on the basis of the changes to the average hourly wage comparison reclassification criteria described in sections 412.230(d)(1)(iv), 412.232(c) and 412.234(b) of title 42, Code of Federal Regulations (as in effect on October 1, 2008), or any similar provision, the Board shall reissue the decision as if such changes were not in effect.

(d) IMPLEMENTATION.—The Secretary shall make a proportional adjustment in the standardized amounts determined under section 1886(d)(3) of the Social Security Act (42 U.S.C. 1395ww(d)(3)) for a fiscal year to assure that the provisions of this section do not result in aggregate payments under section 1886(d) (42 U.S.C. 1395ww(d)) that are greater or less than those that would otherwise be made during the fiscal year.

SA 251. Mrs. LINCOLN (for herself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. DELAY IN APPLICATION OF NEW PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS UNDER MEDICAID.

Section 203 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1396r–8 note) is amended—

(1) in subsection (a)(1), by striking ''September 30, 2009'' and inserting ''June 30, 2010''; and

(2) in subsections (a)(2) and (b), by striking ''October 1, 2009'' each place it appears and inserting ''July 1, 2010''.

SA 252. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) PLAN TO ESTABLISH A MEDICAL HOME PROGRAM TO COORDINATE CARE FOR ELIGIBLE MEDICAID BENEFICIARIES.—

(A) IN GENERAL.—

(i) SUBMISSION.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date (not later than 6 months after the date of enactment of this Act) on which the State submits to the Secretary a plan to establish a medical home program to coordinate care for eligible Medicaid beneficiaries.

(ii) IMPLEMENTATION.—Each State that is paid additional Federal funds as a result of this section shall, not later than 18 months after such date of enactment, implement such a plan that has been approved by the Secretary.

(B) DETAILS.—Such plan shall include the following:

(i) Subject to clause (ii), provide primary care physicians and other participating providers of services a management fee that reflects the amount of time spent with an eligible Medicaid beneficiary, and the family of such eligible Medicaid beneficiary, providing primary care services, chronic care disease management services, and other services for purposes of coordinating care of the eligible Medicaid beneficiary.

(ii) Such management fee shall not be provided to a primary care physician with respect to an eligible Medicaid beneficiary unless such eligible Medicaid beneficiary has designated the primary care physician (under procedures established by the State) as the health home of the eligible Medicaid beneficiary.

(C) DEFINITION OF ELIGIBLE MEDICAID BENEFICIARY.—In this paragraph, the term ''eligible Medicaid beneficiary'' means an individual who—

(i) is enrolled in the State Medicaid plan under title XIX of the Social Security Act; and

(ii) is determined to have 1 or more chronic diseases.

SA 253. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) PLAN TO ESTABLISH CHRONIC CARE DISEASE MANAGEMENT PROGRAMS.—

(A) IN GENERAL.—

(i) SUBMISSION.—A State is not eligible for an increase in its FMAP under subsection

(a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date (not later than 6 months after the date of enactment of this Act) on which the State submits to the Secretary a plan to establish chronic care disease management programs with respect to at least the 5 most prevalent diseases within the population of Medicaid beneficiaries in the State.

(ii) IMPLEMENTATION.—Each State that is paid additional Federal funds as a result of this section shall, not later than 18 months after such date of enactment, implement such a plan that has been approved by the Secretary.

(B) DETAILS.—Such plan shall include the following:

(i) Provide primary care physicians chronic care disease management payments for assuring that an eligible Medicaid beneficiary receives appropriate and comprehensive care, including referral of the eligible Medicaid beneficiary to specialists, and that the eligible Medicaid beneficiary receives preventive services.

(ii) The amount of such chronic care disease management payment shall reflect the amount of time spent with the eligible Medicaid beneficiary, and the family of the eligible Medicaid beneficiary, providing chronic care disease management services to the eligible Medicaid beneficiary.

(C) DEFINITION OF ELIGIBLE MEDICAID BENEFICIARY.—In this paragraph, the term ''eligible Medicaid beneficiary'' means an individual who—

(i) is enrolled in the State Medicaid plan under title XIX of the Social Security Act; and

(ii) is determined to have 1 or more of the diseases with respect to which such chronic care disease management programs are established in the State.

SA 254. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 263, strike line 11 and all that follows through line 21 on page 390, and insert the following:

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 13001. SHORT TITLE.

This title may be cited as the ''Wired for Health Care Quality Act''.

Subtitle A—Improving the Interoperability of Health Information Technology

SEC. 13101. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3001. DEFINITIONS; REFERENCE.

''(a) IN GENERAL.—In this title:

''(1) ENTITY.—The term 'Entity' means the Health IT Standards Entity established under section 3003.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, nursing facility, licensed assisted-living facility, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as defined in section 1842(b)(18)(CC) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

''(3) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(4) HEALTH INSURANCE PLAN.—

''(A) IN GENERAL.—The term 'health insurance plan' means—

''(i) a health insurance issuer (as defined in section 2791(b)(2));

''(ii) a group health plan (as defined in section 2791(a)(1)); and

''(iii) a health maintenance organization (as defined in section 2791(b)(3)); or

''(iv) a safety net health plan.

''(B) SAFETY NET HEALTH PLAN.—The term 'safety net health plan' means a managed care organization, as defined in section 1932(a)(1)(B)(i) of the Social Security Act—

''(i) that is exempt from or not subject to Federal income tax, or that is owned by an entity or entities exempt from or not subject to Federal income tax; and

''(ii) for which not less than 75 percent of the enrolled population receives benefits under a Federal health care program (as defined in section 1128B(f)(1) of the Social Security Act) or a health care plan or program which is funded, in whole or in part, by a State (other than a program for government employees).

''(C) REFERENCES.—All references in this title to 'health plan' shall be deemed to be references to 'health insurance plan'.

''(5) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171 of the Social Security Act.

''(6) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353.

''(7) NATIONAL COORDINATOR.—The term 'National Coordinator' means the National Coordinator of Health Information Technology appointed pursuant to section 3002.

''(8) POLICY COMMITTEE.—The term 'Policy Committee' means the Health Information Technology Policy Committee established under section 3004.

''(9) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware and software) that—

''(A) protects the privacy and security of health information;

''(B) maintains and provides permitted access to health information in an electronic format;

''(C) with respect to individually identifiable health information maintained in a designated record set, preserves an audit trail of each individual that has gained access to such record set;

''(D) incorporates decision support to reduce medical errors and enhance health care quality;

''(E) complies with the standards and implementation specifications and certification criteria adopted by the Federal Government under section 3003;

''(F) has the ability to transmit and exchange information to other health information technology systems and, to the extent feasible, public health information technology systems; and

''(G) allows for the reporting of quality measures adopted under section 3010.

''(10) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''(b) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to the Social Security Act shall be deemed to be a reference to such Act as in effect on the date of enactment of this title.

''SEC. 3002. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the office of the Secretary, the Office of the National Coordinator for Health Information Technology. The National Coordinator shall be appointed by the Secretary in consultation with the President, and shall report directly to the Secretary.

''(b) PURPOSE.—The Office of the National Coordinator shall be responsible for—

''(1) ensuring that key health information technology initiatives are coordinated across programs of the Department of Health and Human Services;

''(2) ensuring that health information technology policies and programs of the Department of Health and Human Services are coordinated with such policies and programs of other relevant Federal agencies (including Federal commissions and advisory committees) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability;

''(3) reviewing Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published by the Office of the National Coordinator for Health Information Technology to establish a nationwide interoperable health information technology infrastructure;

''(4) providing comments and advice regarding specific Federal health information technology programs, at the request of Office of Management and Budget; and

''(5) enhancing the use of health information technology to improve the quality of health care in the prevention and management of chronic disease and to address population health.

''(c) ROLE WITH POLICY COMMITTEE AND ENTITY.—The Office of the National Coordinator shall—

''(1) serve as an ex officio member of the Policy Committee, and act as a liaison between the Federal Government and the Policy Committee;

''(2) serve as an ex officio member of the Entity and act as a liaison between the Federal Government and the Entity; and

''(3) serve as a liaison between the Entity and the Policy Committee.

''(d) REPORTS AND WEBSITE.—The Office of the National Coordinator shall—

''(1) develop, publish, and update as necessary a strategic plan for implementing a nationwide interoperable health information technology infrastructure;

''(2) maintain and frequently update an Internet website that—

''(A) publishes the schedule for the assessment of standards and implementation specifications;

''(B) publishes the recommendations of the Policy Committee;

''(C) publishes the recommendations of the Entity;

''(D) publishes quality measures adopted pursuant to this title and the Wired for Health Care Quality Act;

''(E) identifies sources of funds that will be made available to facilitate the purchase of, or enhance the utilization of, qualified health information technology systems, either through grants or technical assistance; and

''(F) publishes a plan for a transition of any functions of the Office of the National Coordinator that should be continued after September 30, 2014;

''(3) prepare a report on the lessons learned from major public and private health care systems that have implemented health information technology systems, including an explanation of whether the systems and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers; and

''(4) assess the impact of health information technology in communities with health disparities and identify practices to increase the adoption of such technology by health care providers in such communities.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the duplication of Federal efforts with respect to the establishment of the Office of the National Coordinator for Health Information Technology, regardless of whether such efforts are carried out before or after the date of the enactment of this title.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2009 and 2010.

''(g) SUNSET.—The provisions of this section shall not apply after September 30, 2014.

''SEC. 3003. HEALTH INFORMATION TECHNOLOGY STANDARDS ENTITY.

''(a) ESTABLISHMENT.—The Secretary, through a grant, contract, or cooperative agreement, shall provide for the establishment of a public-private entity to be known as the 'Health IT Standards Entity' (referred to in this title as the 'Entity') to—

''(1) set priorities and support the development, harmonization, and recognition of standards, implementation specifications, and certification criteria for the electronic exchange of health information (including for the reporting of quality data under section 3010); and

''(2) serve as a forum for the participation of a broad range of stakeholders with specific technical expertise in the development of standards, implementation specifications, and certification criteria to provide input on the effective implementation of health information technology systems.

''(b) STRUCTURE.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(1) DIVERSE COMPOSITION.—The Entity is initially composed of members representing the Federal Government, consumers and patient organizations, organizations with expertise in privacy, organizations with expertise in security, health care providers, health plans and other third party payers, information technology vendors, purchasers and employers, health informatics and entities engaged in research and academia, health information exchanges, organizations with expertise in infrastructure and technical standards, organizations with expertise in quality improvement, and other appropriate health entities.

''(2) BROAD PARTICIPATION.—There is broad participation in the Entity by a variety of public and private stakeholders, either through membership in the Entity or through another means.

''(3) PUBLISHED BUSINESS PLAN; GOVERNANCE RULES.—The Entity has a business plan and a published set of governance rules that will enable it to be self-sustaining and to fulfill the purposes stated in this section, and the Entity publishes such plan and such rules on an Internet website that it develops and maintains.

''(4) CHAIRPERSON; VICE CHAIRPERSON.—The Entity may designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Entity.

''(5) DEPARTMENT MEMBERSHIP.—The Secretary shall be a member of the Entity, and the National Coordinator shall act as a liaison among the Entity, the Community, and the Federal Government.

''(6) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the Entity, the Entity shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the Entity.

''(c) STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—

''(1) ACTIVITIES OF THE ENTITY.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(A) PUBLICATION OF SCHEDULE.—Not later than 90 days after the date on which the Entity is established, the Entity shall develop and publish a schedule for the assessment of standards and implementation specifications under this section, and update such schedule annually.

''(B) FIRST YEAR STANDARDS ACTIVITY.—Consistent with the initial schedule published under subparagraph (A) and not later than 1 year after date on which the Entity is established, the Entity shall develop, harmonize, or recognize such standards and implementation specifications.

''(C) SUBSEQUENT STANDARDS ACTIVITY.—The Entity shall review at least annually, and modify as appropriate, standards and implementation specifications that the Entity has previously developed, harmonized, or recognized, and continue to develop, harmonize, or recognize additional standards and implementation specifications, consistent with the updated schedule published pursuant to subparagraph (A).

''(D) RECOGNITION OF ENTITY TO MAKE RECOMMENDATIONS.—The Entity, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing, harmonizing, or updating standards and implementation specifications, consistent with this section, and making recommendations on such subjects to the Entity, in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(E) STANDARD TESTING PILOT PROJECT.—The Entity may conduct, or, in consultation with the Secretary, may recognize a private entity or entities to conduct, a pilot project to test the standards and implementation specifications developed, harmonized, or recognized under this section in order to provide for the efficient implementation of such standards and implementation specifications.

''(2) REVIEW.—The Secretary shall review the standards and implementation specifications described in paragraphs (1)(A) and (1)(B).

''(3) PUBLICATION.—

''(A) SCHEDULE.—The Secretary shall publish the schedules developed under paragraph (1)(A) in the Federal Register and on the Internet website of the Department of Health and Human Services.

''(B) STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—All standards and implementation specifications developed, harmonized, or recognized by the Entity pursuant to this section shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator.

''(4) FEDERAL ACTION.—Not later than 6 months after the issuance of a standard or implementation specification by the Entity under this subsection, the Secretary, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies as determined appropriate by the President, shall jointly review such standard or implementation specification. If appropriate, the President shall provide for the adoption by the Federal Government of any such standard or implementation specification. Such determination shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator within 30 days after the date on which such determination is made.

''(d) OPEN AND PUBLIC PROCESS.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(1) CONSENSUS APPROACH; OPEN PROCESS.—The Entity shall use a consensus approach and a fair and open process to support the development, harmonization, and recognition of standards described in subsection (a)(1).

''(2) PARTICIPATION OF OUTSIDE ADVISERS.—The Entity shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve healthcare quality and patient safety;

''(D) long-term care and aging services; and

''(E) data exchange and developing health information technology standards and new health information technology.

''(3) OPEN MEETINGS.—Plenary and other regularly scheduled formal meetings of the Entity (or established subgroups thereof) shall be open to the public.

''(4) PUBLICATION OF MEETING NOTICES AND MATERIALS PRIOR TO MEETINGS.—The Entity shall develop and maintains an Internet website on which it publishes, prior to each meeting, a meeting notice, a meeting agenda, and meeting materials.

''(5) OPPORTUNITY FOR PUBLIC COMMENT.—The Entity shall develop a process that allows for public comment during the process by which the Entity develops, harmonizes, or recognizes standards and implementation specifications.

''(6) REPORT.—Not later than 12 months after the date of enactment of this title, the Entity publishes a report on progress made in developing, harmonizing, and recognizing standards, implementation specifications, and certification criteria, and in achieving broad participation of stakeholders in its processes.

''(e) CERTIFICATION.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure that—

''(1) the Entity, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing, updating, and recommending to the Entity criteria to certify that appropriate categories of health information technology products that claim to be in compliance with applicable standards and implementation specifications developed, harmonized, or recognized under this title have established such compliance;

''(2) the Entity, in consultation with the Secretary, reviews, and if appropriate, adopts such criteria; and

''(3) the Entity, in consultation with the Secretary, may recognize a private entity or

entities to conduct the certifications described under paragraph (1) using the criteria adopted under this subsection.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the duplication of Federal efforts with respect to activities described in this section that are existing on the date of enactment of this title, including the establishment of an entity to support the development, harmonization, or recognition of standards, implementation specifications, and certification criteria, regardless of whether such efforts are carried out prior to or after such date of the enactment.

''(g) FLEXIBILITY.—The provisions of Public Law 92-463 (as amended) shall not apply to the Entity.

''(h) REQUIREMENT TO CONSIDER RECOMMENDATIONS.—In carrying out the activities described in this section, the Entity shall integrate the recommendations of the Policy Committee that are adopted by the Secretary under section 3004(c).

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for each of the fiscal years 2009 and 2010 to be available until expended.

''SEC. 3004. HEALTH INFORMATION TECHNOLOGY POLICY COMMITTEE.

''(a) ESTABLISHMENT.—There is established a committee to be known as the Health Information Technology Policy Committee to provide advice to the Secretary and the heads of any relevant Federal agencies concerning the policy considerations related to health information technology.

''(b) PURPOSE.—The Policy Committee shall—

''(1) not later than 1 year after the date of enactment of this title, and semiannually thereafter, make recommendations concerning a policy framework for the development and adoption of a nationwide interoperable health information technology infrastructure;

''(2) not later than 1 year after the date of enactment of this title, and annually thereafter, make recommendations concerning national policies for adoption by the Federal Government, and voluntary adoption by private entities, to support the widespread adoption of health information technology, including—

''(A) the protection of individually identifiable health information, including policies concerning the individual's ability to control the acquisition, uses, and disclosures of individually identifiable health information;

''(B) methods to protect individually identifiable health information from improper use and disclosures and methods to notify patients if their individually identifiable health information is wrongfully disclosed;

''(C) methods to facilitate secure access to such individual's individually identifiable health information;

''(D) methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia that prevents a patient from accessing the patient's individually identifiable health information;

''(E) the appropriate uses of a nationwide health information network including—

''(i) the collection of quality data and public reporting;

''(ii) biosurveillance and public health;

''(iii) medical and clinical research; and

''(iv) drug safety;

''(F) fostering the public understanding of health information technology;

''(G) strategies to enhance the use of health information technology in preventing and managing chronic disease;

''(H) policies to take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of health information technology systems;

''(I) other policies determined to be necessary by the Policy Committee; and

''(J) best practices in the communication of privacy protections and procedures to ensure comprehension by individuals with limited English proficiency and limited health literacy; and

''(3) serve as a forum for the participation of a broad range of stakeholders to provide input on improving the effective implementation of health information technology systems.

''(c) PUBLICATION.—All recommendations made by the Policy Committee pursuant to this section shall be published in the Federal Register and on the Internet website of the National Coordinator. The Secretary shall review all recommendations and determine which recommendations shall be adopted by the Federal Government and such determination shall be published on the Internet website of the Office of the National Coordinator within 30 days after the date of such adoption.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Policy Committee shall be composed of members to be appointed as follows:

''(A) 1 member shall be appointed by the Secretary.

''(B) 1 member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

''(C) 1 member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

''(D) 1 member shall be appointed by the majority leader of the Senate.

''(E) 1 member shall be appointed by the minority leader of the Senate.

''(F) 1 member shall be appointed by the Speaker of the House of Representatives.

''(G) 1 member shall be appointed by the minority leader of the House of Representatives.

''(H) Eleven members shall be appointed by the Comptroller General of whom—

''(i) three members shall represent patients or consumers;

''(ii) one member shall represent health care providers;

''(iii) one member shall be from a labor organization representing health care workers;

''(iv) one member shall have expertise in privacy and security;

''(v) one member shall have expertise in improving the health of vulnerable populations;

''(vi) one member shall represent health plans or other third party payers;

''(vii) one member shall represent information technology vendors;

''(viii) one member shall represent purchasers or employers; and

''(ix) one member shall have expertise in health care quality measurement and reporting.

''(2) CHAIRPERSON AND VICE CHAIRPERSON.—The Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

''(3) NATIONAL COORDINATOR.—The National Coordinator shall be a member of the Policy Committee and act as a liaison among the Policy Committee, the Entity, and the Federal Government.

''(4) PARTICIPATION.—The members of the Policy Committee appointed under paragraph (1) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(5) TERMS.—

''(A) IN GENERAL.—The terms of members of the Policy Committee shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the Policy Committee shall be filled in the manner in which the original appointment was made.

''(6) OUTSIDE INVOLVEMENT.—The Policy Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy and security;

''(B) improving the health of vulnerable populations;

''(C) health care quality and patient safety, including individuals with expertise in measurement and the use of health information technology to capture data to improve health care quality and patient safety;

''(D) long-term care and aging services;

''(E) medical and clinical research; and

''(F) data exchange and developing health information technology standards and new health information technology.

''(7) QUORUM.—Ten members of the Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(8) FAILURE OF INITIAL APPOINTMENT.—

''(A) FORFEITURE OF AUTHORITY TO APPOINT.—If, on the date that is 120 days after the date of enactment of this title, an official authorized under paragraph (1) to appoint one or more members of the Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint—

''(i) the number of members that such official is authorized to appoint shall be reduced to the number that such official has appointed as of that date; and

''(ii) the number prescribed in paragraph (7) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

''(B) TRANSITION RULE.—With respect to an official authorized under paragraph (1) to appoint one or more members of the Policy Committee and who has not appointed the full number of members that such paragraph authorizes such official to appoint within the 120-day period described in subparagraph (A), upon a change in such official (resulting from the convening of a new Congress or the swearing in of a new President), a new 120-day period shall begin to run under such subparagraph with respect to the remaining members to be appointed by such official.

''(e) FEDERAL AGENCIES.—

''(1) STAFF OF OTHER FEDERAL AGENCIES.—Upon the request of the Policy Committee, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Policy Committee to assist in carrying out the duties of the Policy Committee. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee involved.

''(2) TECHNICAL ASSISTANCE.—Upon the request of the Policy Committee, the head of a Federal agency shall provide such technical assistance to the Policy Committee as the

Policy Committee determines to be necessary to carry out its duties.

''(3) OTHER RESOURCES.—The Policy Committee shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The chairperson or vice chairperson of the Policy Committee shall make requests for such access in writing when necessary.

''(f) ADMINISTRATIVE PROVISIONS.—

''(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Policy Committee, except that the term provided for under section 14(a)(2) of such Act shall be not longer than 7 years.

''(2) CHARTER.—

''(A) IN GENERAL.—The Secretary shall file the Policy Committee charter prescribed by section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.) not later than 120 days after the date of enactment of this title.

''(B) FAILURE TO FILE.—If the charter described in subparagraph (A) has not been filed by the date specified in such subparagraph, then the requirement under section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.) shall be deemed to have been met as of the day following the date specified in such subparagraph.

''(g) SUNSET.—The provisions of this section shall not apply after September 30, 2014.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $2,000,000 for each of fiscal years 2009 and 2010.

''SEC. 3005. FEDERAL PURCHASING AND DATA COLLECTION.

''(a) COORDINATION OF FEDERAL SPENDING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 2 years after the adoption by the President of a recommendation under section 3003(c)(8), a Federal agency shall not expend Federal funds for the purchase of any new health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information if such technology or system is not consistent with applicable standards and implementation specifications adopted by the Federal Government under section 3003.

''(2) EXCEPTIONS.—The President may authorize an exception to the requirement in paragraph (1) as determined necessary by the Secretary for the efficient administration of the Federal agency involved or for economic reasons, including a case in which—

''(A) the purchasing cycles involved preclude modifying specifications without significant costs; and

''(B) a new technology or system must interact with a separate older technology or system whose replacement or modification would impose significant costs.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to restrict the purchase of minor (as determined by the Secretary) hardware or software components in order to modify, correct a deficiency in, or extend the life of existing hardware or software.

''(b) VOLUNTARY ADOPTION.—Any standards and implementation specifications adopted by the Federal Government under section 3003(c)(8) shall be voluntary with respect to private entities.

''(c) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in section 3003(c)(8), all Federal agencies collecting health data in an electronic format for the purposes of quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary, shall comply with applicable standards and implementation specifications adopted under such subsection. The requirements of this subsection shall apply to the collection of health data pursuant to programs authorized or required by the Social Security Act only as authorized or required by such Act.

''(d) ELECTRONIC SUBMISSION.—The Secretary shall implement procedures to enable the Department of Health and Human Services to accept the electronic submission of data for activities described in this title and the Federal Food, Drug, and Cosmetic Act.

''SEC. 3006. QUALITY AND EFFICIENCY REPORTS.

''(a) PURPOSE.—The purpose of this section is to provide for the development of reports based on Federal health care data and private data that is publicly available or is provided by the entity making the request for the report in order to—

''(1) improve the quality and efficiency of health care and advance health care research;

''(2) enhance the education and awareness of consumers for evaluating health care services; and

''(3) provide the public with reports on national, regional, and provider- and supplier-specific performance, which may be in a provider- or supplier-identifiable format.

''(b) PROCEDURES FOR THE DEVELOPMENT OF REPORTS.—

''(1) IN GENERAL.—Notwithstanding section 552(b)(6) or 552a(b) of title 5, United States Code, subject to paragraph (2)(A)(ii), not later than 12 months after the date of enactment of this section, the Secretary, in accordance with the purpose described in subsection (a), shall establish and implement procedures under which an entity may submit a request to a Quality Reporting Organization for the Organization to develop a report based on—

''(A) Federal health care data disclosed to the Organization under subsection (c);

''(B) private data that is publicly available or is provided to the Organization by the entity making the request for the report; and

''(C) clinical data, when available, used to improve the quality of care, monitor chronic diseases and medical procedures, and includes the following characteristics:

''(i) Has multi-institutional data sources.

''(ii) Is national in scope.

''(iii) Has publicly available protocols that encompass common definitions, data collection, sampling size, methodology, and standardized reporting format.

''(iv) Has an external audit process to ensure adequacy and quality of data.

''(v) Is risk-adjusted to ensure appropriate data comparison.

''(2) DEFINITIONS.—In this section:

''(A) FEDERAL HEALTH CARE DATA.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'Federal health care data' means—

''(I) deidentified enrollment data and deidentified claims data maintained by the Secretary or entities under programs, contracts, grants, or memoranda of understanding administered by the Secretary; and

''(II) where feasible, other deidentified enrollment data and deidentified claims data maintained by the Federal Government or entities under contract with the Federal Government.

''(ii) EXCEPTION.—The term 'Federal health care data' includes data relating to programs administered by the Secretary under the Social Security Act only to the extent that the disclosure of such data is authorized or required under such Act.

''(B) QUALITY REPORTING ORGANIZATION.—The term 'Quality Reporting Organization' means an entity with a contract under subsection (d).

''(c) ACCESS TO FEDERAL HEALTH CARE DATA.—

''(1) IN GENERAL.—The procedures established under subsection (b)(1) shall provide for the secure disclosure of Federal health care data to each Quality Reporting Organization.

''(2) UPDATE OF INFORMATION.—Not less than every 6 months, the Secretary shall update the information disclosed under paragraph (1) to Quality Reporting Organizations.

''(d) QUALITY REPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—

''(A) CONTRACTS.—Subject to subparagraph (B), the Secretary shall enter into a contract with up to 3 private entities to serve as Quality Reporting Organizations under which an entity shall—

''(i) store the Federal health care data that is to be disclosed under subsection (c); and

''(ii) develop and release reports pursuant to subsection (e).

''(B) ADDITIONAL CONTRACTS.—If the Secretary determines that reports are not being developed and released within 6 months of the receipt of the request for the report, the Secretary shall enter into contracts with additional private entities in order to ensure that such reports are developed and released in a timely manner.

''(2) QUALIFICATIONS.—The Secretary shall enter into a contract with an entity under paragraph (1) only if the Secretary determines that the entity—

''(A) has the research capability to conduct and complete reports under this section;

''(B) has in place—

''(i) an information technology infrastructure to support the database of Federal health care data that is to be disclosed to the entity; and

''(ii) operational standards to provide security for such database;

''(C) has experience with, and expertise on, the development of reports on health care quality and efficiency; and

''(D) has a significant business presence in the United States.

''(3) CONTRACT REQUIREMENTS.—Each contract with an entity under paragraph (1) shall contain the following requirements:

''(A) ENSURING BENEFICIARY PRIVACY.—

''(i) HIPAA.—The entity shall meet the requirements imposed on a covered entity for purposes of applying part C of title XI and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

''(ii) OTHER STATUTORY PROTECTIONS.—The entity shall be required to refrain from disclosing data that could be withheld by the Secretary under section 552 of title 5, United States Code, or whose disclosure by the Secretary would violate section 552a of such title.

''(B) PROPRIETARY INFORMATION.—The entity shall provide assurances that the entity will not disclose any negotiated price concessions, such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations, obtained by health care providers or suppliers or health care plans, or any other proprietary cost information.

''(C) DISCLOSURE.—The entity shall disclose—

''(i) any financial, reporting, or contractual relationship between the entity and any health care provider or supplier or health care plan; and

''(ii) if applicable, the fact that the entity is managed, controlled, or operated by any

health care provider or supplier or health care plan.

''(D) COMPONENT OF ANOTHER ORGANIZATION.—If the entity is a component of another organization—

''(i) the entity shall maintain Federal health care data and reports separately from the rest of the organization and establish appropriate security measures to maintain the confidentiality and privacy of the Federal health care data and reports; and

''(ii) the entity shall not make an unauthorized disclosure to the rest of the organization of Federal health care data or reports in breach of such confidentiality and privacy requirement.

''(E) TERMINATION OR NONRENEWAL.—If a contract under this section is terminated or not renewed, the following requirements shall apply:

''(i) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this section with respect to all Federal health care data disclosed to the entity and each report developed by the entity.

''(ii) DISPOSITION OF DATA AND REPORTS.—The entity shall—

''(I) return to the Secretary all Federal health care data disclosed to the entity and each report developed by the entity; or

''(II) if returning the Federal health care data and reports is not practicable, destroy the reports and Federal health care data.

''(4) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) shall be used to enter into contracts under paragraph (1).

''(5) REVIEW OF CONTRACT IN THE EVENT OF A MERGER OR ACQUISITION.—The Secretary shall review the contract with a Quality Reporting Organization under this section in the event of a merger or acquisition of the Organization in order to ensure that the requirements under this section will continue to be met.

''(e) DEVELOPMENT AND RELEASE OF REPORTS BASED ON REQUESTS.—

''(1) REQUEST FOR A REPORT.—

''(A) REQUEST.—

''(i) IN GENERAL.—The procedures established under subsection (b)(1) shall include a process for an entity to submit a request to a Quality Reporting Organization for a report based on Federal health care data and private data that is publicly available or is provided by the entity making the request for the report. Such request shall comply with the purpose described in subsection (a).

''(ii) REQUEST FOR SPECIFIC METHODOLOGY.—The process described in clause (i) shall permit an entity making a request for a report to request that a specific methodology, including appropriate risk adjustment, be used by the Quality Reporting Organization in developing the report. The Organization shall work with the entity making the request to finalize the methodology to be used.

''(iii) REQUEST FOR A SPECIFIC QRO.—The process described in clause (i) shall permit an entity to submit the request for a report to any Quality Reporting Organization.

''(B) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide that at the time a request for a report is finalized under subparagraph (A) by a Quality Reporting Organization, the Organization shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, a brief description of both the requested report and the methodology to be used to develop such report.

''(2) DEVELOPMENT AND RELEASE OF REPORT.—

''(A) DEVELOPMENT.—

''(i) IN GENERAL.—If the request for a report complies with the purpose described in subsection (a), the Quality Reporting Organization may develop the report based on the request.

''(ii) REQUIREMENT.—A report developed under clause (i) shall include a detailed description of the standards, methodologies, and measures of quality used in developing the report.

''(iii) RISK ADJUSTMENT.—A Quality Reporting Organization shall ensure that the methodology used to develop a report under clause (i) shall include acceptable risk adjustment and case-mix adjustment developed in consultation with providers as described in clause (iv).

''(iv) PROVIDER CONSULTATION.—During the development of the report under clause (i), the Quality Reporting Organization shall consult with a group of not more than 5 providers of the relevant specialty who are appointed by the providers' respective national associations, as to compliance with clauses (ii) and (iii). The comments of the consulted providers shall be included in the public release of the report.

''(B) REVIEW OF REPORT BY SECRETARY.—Prior to a Quality Reporting Organization releasing a report under subparagraph (C), and within 30 days of receiving a request for such a release, the Secretary shall review the report to ensure that the report was delivered using a scientifically valid methodology including appropriate risk adjustment and case-mix adjustment, and determine that the report does not disclose—

''(i) information whose disclosure by a covered entity, as such term is defined for purposes of the regulations issued under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, would violate such regulations; or

''(ii) information that could be withheld by the Department of Health and Human Services under section 552 of title 5, United States Code, or whose disclosure by the Department would violate section 552(a) of such title.

''(C) RELEASE OF REPORT.—

''(i) RELEASE TO ENTITY MAKING REQUEST.—If the Secretary finds that the report complies with the provisions described in subparagraph (B), the Quality Reporting Organization shall release the report to the entity that made the request for the report.

''(ii) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide for the following:

''(I) UPDATED DESCRIPTION.—At the time of the release of a report by a Quality Reporting Organization under clause (i), the entity shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, an updated brief description of both the requested report and the methodology used to develop such report.

''(II) COMPLETE REPORT.—Not later than 1 year after the date of the release of a report under clause (i), the report shall be made available to the public through the Internet website of the Department of Health and Human Services and other appropriate means.

''(f) ANNUAL REVIEW OF REPORTS AND TERMINATION OF CONTRACTS.—

''(1) ANNUAL REVIEW OF REPORTS.—The Comptroller General of the United States shall review reports released under subsection (e)(2)(C) to ensure that such reports comply with the purpose described in subsection (a) and annually submit a report to the Secretary on such review.

''(2) TERMINATION OF CONTRACTS.—The Secretary may terminate a contract with a Quality Reporting Organization if the Secretary determines that there is a pattern of reports being released by the Organization that do not comply with the purpose described in subsection (a).

''(g) FEES.—

''(1) FEES FOR SECRETARY.—The Secretary shall charge a Quality Reporting Organization a fee for—

''(A) disclosing the data under subsection (c); and

''(B) conducting the review under subsection (e)(2)(B).

The Secretary shall ensure that such fees are sufficient to cover the costs of the activities described in subparagraph (A) and (B).

''(2) FEES FOR QRO.—

''(A) IN GENERAL.—Subject to subparagraphs (A) and (B), a Quality Reporting Organization may charge an entity making a request for a report a reasonable fee for the development and release of the report.

''(B) DISCOUNT FOR SMALL ENTITIES.—In the case of an entity making a request for a report (including a not-for-profit) that has annual revenue that does not exceed $10,000,000, the Quality Reporting Organization shall reduce the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

''(C) INCREASE FOR LARGE ENTITIES THAT DO NOT AGREE TO RELEASE REPORTS WITHIN 6 MONTHS.—In the case of an entity making a request for a report that is not described in subparagraph (B) and that does not agree to the report being released to the public under clause (ii)(II) of subsection (e)(2)(C) within 6 months of the date of the release of the report to the entity under clause (i) of such subsection, the Quality Reporting Organization shall increase the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to effect the requirement that a report be released to the public under clause (ii)(II) of subsection (e)(2)(C)(ii)(II) by not later than 1 year after the date of the release of the report to the requesting entity under clause (i) of such subsection.

''(h) REGULATIONS.—Not later than 6 months after the date of enactment of this section, the Secretary shall prescribe regulations to carry out this section.

''SEC. 3007. RESEARCH ACCESS TO HEALTH CARE DATA AND REPORTING ON PERFORMANCE.

''The Secretary shall permit researchers that meet criteria used to evaluate the appropriateness of the release data for research purpose (as established by the Secretary) to—

''(1) have access to Federal health care data (as defined in section 3006(b)(2)(A)); and

''(2) report on the performance of health care providers and suppliers, including reporting in a provider- or supplier-identifiable format.''.

(b) COORDINATION.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report (including recommendations) to the appropriate committees of Congress concerning the coordination of existing Federal health care quality initiatives.

Subtitle B—Facilitating the Widespread Adoption of Interoperable Health Information Technology

SEC. 13201. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following:

"SEC. 3008. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

''(a) COMPETITIVE GRANTS FOR ADOPTION OF TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability standards and implementation specifications;

''(C) adopt the standards and implementation specifications adopted by the Federal Government under section 3003;

''(D) implement the measures adopted under section 3010 and report to the Secretary on such measures;

''(E) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

''(F) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of qualified health information technology systems;

''(G) demonstrate significant financial need;

''(H) provide matching funds in accordance with paragraph (4); and

''(I) be a—

''(i) public or not for profit hospital;

''(ii) federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act);

''(iii) individual or group practice (or a consortium thereof); or

''(iv) another health care provider not described in clause (i) or (ii);

that serves medically underserved communities.

''(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to—

''(A) facilitate the purchase of qualified health information technology systems;

''(B) train personnel in the use of such systems;

''(C) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness among consumers of health care privacy protections); or

''(D) improve the prevention and management of chronic disease.

''(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

''(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

''(A) eligible entities that will improve the degree to which such entity will link the qualified health information system to local or regional health information plan or plans; and

''(B) with respect to awards made for the purpose of providing care in an outpatient medical setting, entities that organize their practices as a patient-centered medical home.

''(b) COMPETITIVE GRANTS FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

''(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this subsection. Amounts received under a grant under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any such State loan fund.

''(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) a State shall—

''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

''(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

''(D) require that health care providers receiving loans under the grant—

''(i) link, to the extent practicable, the qualified health information system to a local or regional health information network;

''(ii) consult, as needed, with the Health Information Technology Resource Center established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology;

''(iii) agree to notify individuals if their individually identifiable health information is wrongfully disclosed; and

''(iv) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design and implementation and use of qualified health information technology systems;

''(E) require that health care providers receiving loans under the grant adopt the standards adopted by the Federal Government under section 3003;

''(F) require that health care providers receiving loans under the grant implement the measures adopted under section 3010 and report to the Secretary on such measures; and

''(G) provide matching funds in accordance with paragraph (8).

''(4) STRATEGIC PLAN.—

''(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

''(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

''(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

''(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund;

''(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund; and

''(iv) a description of the strategies the State will use to address challenges in the adoption of health information technology due to limited broadband access.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to—

''(i) facilitate the purchase of qualified health information technology systems;

''(ii) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness among consumers of health care of privacy protections and privacy rights); or

''(iii) train personnel in the use of such systems.

''(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

''(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

''(ii) to conduct activities for which Federal funds are expended under this title, or the amendments made by the Wired for Health Care Quality Act; or

''(iii) for any purpose other than making loans to eligible entities under this section.

''(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

''(A) To award loans that comply with the following:

''(i) The interest rate for each loan shall be less than or equal to the market interest rate.

''(ii) The principal and interest payments on each loan shall commence not later than 1 year after the date on which the loan was awarded, and each loan shall be fully amortized not later than 10 years after such date.

''(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

''(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

''(D) To earn interest on the amounts deposited into the State loan fund.

''(7) ADMINISTRATION OF STATE LOAN FUNDS.—

''(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if not otherwise prohibited by the law under which the State loan fund was established.

''(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this title.

''(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this subsection, including—

''(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

''(ii) guidance to prevent waste, fraud, and abuse.

''(D) PRIVATE SECTOR CONTRIBUTIONS.—

''(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

''(ii) AVAILABILITY OF INFORMATION.—A State shall make publicly available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(8) MATCHING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

''(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give a preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

''(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

''(c) COMPETITIVE GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, implementation specifications and certification criteria, and other requirements adopted by the Secretary under section 3010.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

''(A) demonstrate financial need to the Secretary;

''(B) demonstrate that one of its principal missions or purposes is to use information technology to improve health care quality and efficiency;

''(C) adopt bylaws, memoranda of understanding, or other charter documents that demonstrate that the governance structure and decisionmaking processes of such entity allow for participation on an ongoing basis by multiple stakeholders within a community, including—

''(i) health care providers (including health care providers that provide services to low income and underserved populations);

''(ii) pharmacists or pharmacies;

''(iii) health plans;

''(iv) health centers (as defined in section 330(b)) and federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) and rural health clinics (as defined in section 1861(aa) of the Social Security Act), if such centers or clinics are present in the community served by the entity;

''(v) patient or consumer organizations;

''(vi) organizations dedicated to improving the health of vulnerable populations;

''(vii) employers;

''(viii) State or local health departments; and

''(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

''(D) demonstrate the participation, to the extent practicable, of stakeholders in the electronic exchange of health information within the local or regional plan pursuant to subparagraph (C);

''(E) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation in the health information plan by all stakeholders;

''(F) adopt the standards and implementation specifications adopted by the Secretary under section 3003;

''(G) require that health care providers receiving such grants—

''(i) implement the measures adopted under section 3010 and report to the Secretary on such measures; and

''(ii) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of health information technology systems;

''(H) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

''(I) facilitate the electronic exchange of health information within the local or regional area and among local and regional areas;

''(J) prepare and submit to the Secretary an application in accordance with paragraph (3);

''(K) agree to provide matching funds in accordance with paragraph (5); and

''(L) reduce barriers to the implementation of health information technology by providers.

''(3) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive a grant under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(B) REQUIRED INFORMATION.—At a minimum, an application submitted under this paragraph shall include—

''(i) clearly identified short-term and long-term objectives of the regional or local health information plan;

''(ii) a technology plan that complies with the standards, implementation specifications, and certification criteria adopted under section 3003(c)(8) and that includes a descriptive and reasoned estimate of costs of the hardware, software, training, and consulting services necessary to implement the regional or local health information plan;

''(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 3010;

''(iv) a plan that describes provisions to encourage the implementation of the electronic exchange of health information by all health care providers participating in the health information plan;

''(v) a plan to ensure the privacy and security of individually identifiable health information that is consistent with Federal and State law;

''(vi) a governance plan that defines the manner in which the stakeholders shall jointly make policy and operational decisions on an ongoing basis;

''(vii) a financial or business plan that describes—

''(I) the sustainability of the plan;

''(II) the financial costs and benefits of the plan; and

''(III) the entities to which such costs and benefits will accrue;

''(viii) a description of whether the State in which the entity resides has received a grant under section 319D, alone or as a part of a consortium, and if the State has received such a grant, how the entity will coordinate the activities funded under such section 319D with the system under this section; and

''(ix) in the case of an applicant entity that is unable to demonstrate the participation of all stakeholders pursuant to paragraph (2)(C), the justification from the entity for any such nonparticipation.

''(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

''(5) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $2 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment, technology, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(d) REPORTS.—Not later than 1 year after the date on which the first grant is awarded under this section, and annually thereafter during the grant period, an entity that receives a grant under this section shall submit to the Secretary a report on the activities carried out under the grant involved. Each such report shall include—

''(1) a description of the financial costs and benefits of the project involved and of the entities to which such costs and benefits accrue;

''(2) an analysis of the impact of the project on health care quality and safety;

''(3) a description of any reduction in duplicative or unnecessary care as a result of the project involved; and

''(4) other information as required by the Secretary.

''(e) REQUIREMENT TO ACHIEVE QUALITY IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants, implement the lessons learned from such evaluations in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will result in the greatest improvement in quality measures under section

3010. The Secretary shall ensure that such evaluation take into account differences in patient health status, patient characteristics, and geographic location, as appropriate.

''(f) LIMITATIONS.—

''(1) ELIGIBLE ENTITIES.—An eligible entity may only receive 1 non-renewable grant under subsection (a) and one non-renewable grant under subsection (c).

''(2) LOAN RECIPIENTS.—A health care provider may only receive 1 non-renewable loan awarded or guaranteed with funds provided under subsection (b),

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $139,000,000 for fiscal year 2009 and $139,000,000 for fiscal year 2010.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available through fiscal year 2012.

''SEC. 3009. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants to eligible entities or consortia under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals or analyze clinical data sets from electronic health records to discover quality measures. Such awards shall be made on a competitive basis and pursuant to peer review.

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity or consortium shall—

''(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(2) be or include—

''(A) a health professions school;

''(B) a school of public health;

''(C) a school of nursing; or

''(D) an institution with a graduate medical education program;

''(3) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients and the efficiency of health care delivery; and

''(4) provide matching funds in accordance with subsection (d).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity or consortium shall use amounts received under the grant in collaboration with 2 or more disciplines.

''(2) LIMITATION.—An eligible entity or consortium shall not award a grant under subsection (a) to purchase hardware, software, or services.

''(d) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may award a grant to an entity or consortium under this section only if the entity or consortium agrees to make available non-Federal contributions toward the costs of the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including equipment or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions.

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $2,000,000 for each of fiscal years 2009 and 2010.

''(h) SUNSET.—This provisions of this section shall not apply after September 30, 2012.''.

Subtitle C—Improving the Quality of Health Care

SEC. 13301. CONSENSUS PROCESS FOR THE ADOPTION OF QUALITY MEASURES FOR USE IN THE NATIONWIDE INTEROPERABLE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

Title XXX of the Public Health Service Act, as amended by section 13201, is further amended by adding at the end the following:

''SEC. 3010. FOSTERING DEVELOPMENT AND USE OF HEALTH CARE QUALITY MEASURES.

''(a) IN GENERAL.—Only for purposes of activities conducted under this title, and excluding all programs authorized under the Social Security Act, the Secretary shall provide for the endorsement and use of health care quality measures (referred to in this title as 'quality measures') for the purpose of measuring the quality and efficiency of health care that patients receive pursuant to programs authorized under this title.

''(b) DESIGNATION OF, AND ARRANGEMENT WITH, ORGANIZATION.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Secretary shall designate, and have in effect an arrangement with, a single organization that meets the requirements of subsection (c) under which such organization shall promote the development of quality measures by a variety of quality measurement development organizations, including the Physician Consortium for Performance Improvement, the National Committee for Quality Assurance, and others, only for purposes of activities conducted under this title and provide the Secretary with advice and recommendations on the key elements and priorities of a national system for health care quality measurement for purposes of activities conducted under this title.

''(2) RESPONSIBILITIES.—The responsibilities to be performed by the organization designated under paragraph (1) (in this title referred to as the 'designated organization') shall include—

''(A) establishing and managing an integrated strategy and process for setting priorities and goals in establishing quality measures only for purposes of activities conducted under this title;

''(B) coordinating and harmonizing the development and testing of such measures;

''(C) establishing standards for the development and testing of such measures;

''(D) endorsing national consensus quality measures;

''(E) recommending, in collaboration with multi-stakeholder groups, quality measures to the Secretary for adoption and use only for purposes of activities conducted under this title;

''(F) promoting the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information; and

''(G) providing recommendations and advice to the Entity regarding the integration of quality measures into the standards, implementation specification, and certification criteria adoption process outlined under section 3003 and the Policy Committee regarding national policies outlined under section 3004.

''(c) REQUIREMENTS DESCRIBED.—The requirements described in this subsection are the following:

''(1) PRIVATE ENTITY.—The organization shall be a private nonprofit entity that is governed by a board of directors and an individual who is designated as president and chief executive officer.

''(2) BOARD MEMBERSHIP.—The members of the board of directors of the entity shall include representatives of—

''(A) health care providers or groups representing providers;

''(B) health plans or groups representing health plans;

''(C) patients or consumers enrolled in such plans or groups representing individuals enrolled in such plans;

''(D) health care purchasers and employers or groups representing purchasers or employers; and

''(E) organizations that develop health information technology standards and new health information technology.

''(3) OTHER MEMBERSHIP REQUIREMENTS.—The membership of the board of directors of the entity shall be representative of individuals with experience with—

''(A) urban health care issues;

''(B) safety net health care issues;

''(C) rural or frontier health care issues;

''(D) quality and safety issues;

''(E) State or local health programs;

''(F) individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

''(G) individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(4) OPEN AND TRANSPARENT.—With respect to matters related to the arrangement with the Secretary under subsection (a)(1), the organization shall conduct its business in an open and transparent manner, and provide the opportunity for public comment and ensure a balance among disparate stakeholders, so that no member organization unduly influences the work of the organization.

''(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATIONS.—The organization shall operate as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) and Office of Management and Budget Revised Circular A-119 (published in the Federal Register on February 10, 1998).

''(6) PARTICIPATION.—If the organization requires a fee for membership, the organization shall ensure that such fee is not a substantial barrier to participation in the entity's activities related to the arrangement with the Secretary.

''(d) REQUIREMENTS FOR MEASURES.—The quality measures developed under this title only for purposes of activities conducted under this title shall comply with the following:

''(1) MEASURES.—The designated organization, in promoting the development of quality measures under this title, shall ensure that such measures—

''(A) are evidence-based, reliable, and valid;

''(B) include—

''(i) measures of clinical processes and outcomes, patient experience, efficiency, and equity; and

''(ii) measures to assess effectiveness, timeliness, patient self-management, patient centeredness, and safety; and

''(C) include measures of underuse and overuse.

''(2) PRIORITIES.—In carrying out its responsibilities under this section, the designated organization shall ensure that priority is given to—

''(A) measures with the greatest potential impact for improving the performance and efficiency of care;

''(B) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers;

''(C) measures which may inform health care decisions made by consumers and patients;

''(D) measures that apply to multiple services furnished by different providers during an episode of care;

''(E) measures that can be integrated into the standards, implementation specifications, and the certification criteria adoption process described in section 3003; and

''(F) measures that may be integrated into the decision support function of qualified health information technology as defined by this title.

''(3) RISK ADJUSTMENT.—The designated organization, in consultation with performance measure developers and other stakeholders, shall establish procedures to ensure that quality measures take into account differences in patient health status, patient characteristics, and geographic location, as appropriate.

''(4) MAINTENANCE.—The designated organization, in consultation with owners and developers of quality measures, shall have in place protocols designed to ensure that such measures are current and reflect the most recent available evidence and clinical guidelines.

''(e) GRANTS FOR PERFORMANCE MEASURE DEVELOPMENT.—The Secretary, acting through the Agency for Healthcare Research and Quality, may award grants, in amounts not to exceed $50,000 each, to organizations to support the development and testing of quality measures that meet the standards established by the designated organization.

''(f) ADOPTION AND USE OF QUALITY MEASURES.—For purposes of carrying out activities authorized or required under this title to ensure the use of quality measures and to foster uniformity between health care quality measures utilized by private entities, the Secretary shall—

''(1) select quality measures for adoption and use, from quality measures recommended by multi-stakeholder groups and endorsed by the designated organization; and

''(2) ensure that the standards and implementation specifications adopted under section 3003 integrate the quality measures endorsed, adopted, and utilized under this section.

''SEC. 3011. RELATIONSHIP WITH PROGRAMS UNDER THE SOCIAL SECURITY ACT.

''(a) IN GENERAL.—For purposes of carrying out activities authorized or required under this title, the Secretary shall ensure that the quality measures not described in subsection (b) and adopted under this title—

''(1) complement quality measures developed by the Secretary under programs administered by the Secretary under the Social Security Act, including programs under titles XVIII, XIX, and XXI of such Act; and

''(2) do not conflict with the needs, priorities, and activities of programs authorized or required under titles XVIII, XIX, and XXI of such Act, as set forth by the Administrator of the Centers for Medicare & Medicaid Services.

''(b) ADOPTION OF MEDICARE, MEDICAID, AND SCHIP MEASURES.—Where quality measures developed and endorsed through a multi-stakeholder consensus process under title XVIII, XIX, or XXI of the Social Security Act are available and appropriate, the Secretary shall adopt such measures for activities under this title.

''(c) NONDUPLICATION OF SOCIAL SECURITY ACT REPORTING REQUIREMENTS.—If a grantee under section 3008 reports on quality measures to the Secretary under title XVII, XIX, or XXI of the Social Security Act, such grantee is deemed to have met the quality reporting requirement under such section 3008, provided that such reporting is conducted utilizing a qualified health information technology system.''.

Subtitle D—Privacy and Security

SEC. 13401. PRIVACY AND SECURITY.

Title XXX of the Public Health Service Act, as amended by section 13301, is further amended by adding at the end the following:

''SEC. 3012. PRIVACY AND SECURITY.

''(a) PRIVACY AND SECURITY OF PERSONAL HEALTH RECORDS.—Not later than 180 days after the date of enactment of this title, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report containing recommendations for privacy and security protections for personal health records, including whether it is appropriate to apply any provisions of subpart E of part 164 of title 45, Code of Federal Regulations, to such records and the extent to which the implementation of separate privacy and security measures is necessary. In making such recommendations, the Secretary shall to the maximum extent practicable avoid the application of new regulations that would be inconsistent, or conflict, with privacy regulations that are in effect on the date of enactment of this title.

''(b) DEFINITION.—In this section, the term 'personal health record' means an electronic, cumulative record of health-related information concerning an individual that is often drawn from multiple sources, that is offered by an entity that is not a covered entity or a business associate acting pursuant to a business associate agreement under the Health Insurance Portability and Accountability Act of 1996 (and the regulations promulgated under such Act) and that is primarily intended to be used and managed by the individual.

''(c) MARKETING.—For purposes of the regulations promulgated pursuant to part C of title XI of the Social Security Act and section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), referred to in this title as the 'HIPAA Privacy Rule', the term 'marketing' means, in addition to the activities described in section 164.501 of the HIPAA Privacy Rule (45 C.F.R. 164.501) and any comparable provision in any amended or superseding rule, an arrangement whereby a covered entity, in exchange for remuneration, makes a communication described in clause (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of the HIPAA Privacy Rule (45 C.F.R. 164.501) as in effect on the date of enactment of this title, except that the Secretary shall promulgate regulations establishing the terms and conditions under which covered entities may charge an appropriate fee for making such communications. This subsection shall become effective on the date that is 90 days after the date on which the Secretary has promulgated such regulations.

''(d) RIGHT OF INDIVIDUALS TO ELECTRONIC ACCESS.—With respect to the right of access to inspect and obtain a copy of health information under the HIPAA Privacy Rule, effective not later than 180 days after the later of the date of enactment of this title or the issuance of guidance by the Secretary, any entity that maintains health information in an electronic form shall, to the extent readily producible, provide an individual access to that information in the form or format requested, and upon request, an electronic copy of such records. The Secretary shall issue such guidance as is necessary to implement this subsection.

''(e) RIGHTS OF INDIVIDUALS WHO ARE VICTIMS OF MEDICAL FRAUD.—To the extent provided for under the HIPAA privacy regulations and under the conditions specified in such regulations, with respect to protected health information, an individual who is a victim of medical fraud or who believes that there is an error in their protected health information stored in an electronic format shall have the right—

''(1) to have access to inspect and obtain a copy of protected health information about the individual, including the information fraudulently entered, in a designated record set; and

''(2) to have a covered entity amend protected health information or a record about the individual, including information fraudulently entered, in a designated electronic record set for as long as the protected health information is maintained in the designated electronic record set to ensure that fraudulent and inaccurate health information is not shared or re-reported.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supercede or otherwise limit the provisions of any contract that provides for the application of privacy protections that are greater than the privacy protections provided for under the regulations promulgated under section 264 of the Health Insurance Portability and Accountability Act of 1996.

''SEC. 3013. NOTICE OF PRIVACY PRACTICES.

''Not later than 1 year after the date of enactment of this title, and after notice and comment, the Secretary shall develop and disseminate a model summary notice of privacy practices for use with the privacy notice required under the HIPAA Privacy Rule. Such summary notice shall be suitable for printing on one page and shall include separate statements on any marketing uses for which authorization is sought, shall describe the right to object to such uses in an way that is easily understood, and shall otherwise describe the elements of the right to privacy and security in a clear and concise manner. Such summary notice shall be provided in a form separate from any other notice or consent requests.

''SEC. 3014. REPORTING.

''Not later than 180 days after the date of enactment of this title, and every year thereafter for the next 5 years, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report on compliance and enforcement under the HIPAA Privacy Rule. Such report shall include—

''(1) the number of complaints filed;

''(2) the resolution or disposition of each complaint;

''(3) the amount of civil money penalties imposed;

''(4) the number of compliance reviews conducted and the outcome of each such review;

''(5) the number of subpoenas or closed cases; and

''(6) the Secretary's plan for improving compliance and enforcement in the coming year.

''SEC. 3015. NOTIFICATION OF PRIVACY BREACH.

''Not later than 1 year after the date of enactment of this title, and after notice and comment, the Secretary shall provide for the development of standards and protections and determine appropriate protocols regarding the notification trigger, methods, and contents of the notification by the entity responsible for the protected health information to an individual whose protected health information has been lost, stolen, or otherwise disclosed for an unauthorized purpose. Such notification shall be made within 60 days of the discovery that such information has been lost, stolen, or otherwise disclosed. The Secretary shall include exemptions to such standards and protection for law enforcement and national security purposes. The Secretary shall determine penalties to be imposed on entities that fail to comply with this section in accordance with sections 1176 and 1177 of the Social Security Act.

''SEC. 3016. ACCOUNTABILITY.

''(a) SUBCONTRACTING AND OUTSOURCING OVERSEAS.—In the event an entity subject to this title contracts with service providers that are not subject to this title, including service providers operating in a foreign country, such entity shall—

''(1) take reasonable steps to select and retain third party service providers capable of maintaining appropriate safeguards for the security, privacy, and integrity of protected health information; and

''(2) require by contract that such service providers implement and maintain appropriate measures designed to meet the requirements of entities subject to this title.

''(b) COMPLIANCE ASSISTANCE.—The Secretary shall ensure there is a capacity to assist covered entities to determine the appropriate elements to be considered in arranging contracts with service providers who are not subject to this title.

''(c) EFFECTIVE DATE.—This section shall take effect on the date that is 30 days after the date on which the Secretary transmits to the Committee on Health, Education, Labor, and Pension of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement that the Secretary has complied with the requirements of subsection (b).''.

Subtitle E—Miscellaneous Provisions

SEC. 13501. GAO STUDY.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report on the overall effectiveness and compliance of the efforts of the Secretary of Health and Human Services to implement health privacy safeguards provided for in this title, and any recommendations on how to improve effectiveness and compliance, if any.

SEC. 13502. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

''(d) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

''(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Health Information Technology Resource Center (referred to in this subsection as the 'Center') to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with sections 3003 and 3010.

''(2) PURPOSES.—The purposes of the Center are to—

''(A) provide a forum for the exchange of knowledge and experience;

''(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

''(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of interoperable health information technology;

''(D) provide for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

''(E) provide for the development of solutions to barriers to the exchange of electronic health information; and

''(F) conduct other activities identified by the States, local, or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

''(3) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the duplication of Federal efforts with respect to the establishment of the Center, regardless of whether such efforts were carried out prior to or after the enactment of this subsection.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary for each of fiscal years 2009 and 2010 to carry out this section.''.

SEC. 13503. FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

Section 330L of the Public Health Service Act (42 U.S.C. 254c–18) is amended to read as follows:

''SEC. 330L. TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.

''(a) FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.—The Secretary may make grants to States that have adopted regional State reciprocity agreements for practitioner licensure, in order to expedite the provision of telehealth services across State lines.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 and 2010.''.

Beginning on page 648, strike line 1 and all that follows through line 9 on page 713.

SA 255. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 604, between lines 10 and 11, insert the following:

(D) EXEMPTION FOR CERTAIN EMPLOYERS.—

(i) IN GENERAL.—The provisions of this subsection shall not apply with respect to an otherwise assistance eligible individual if the employer that involuntarily terminated the individual (as described in paragraph (3)(C)) is an employer described in clause (ii).

(ii) EMPLOYER DESCRIBED.—An employer is described in this clause if—

(I) the employer's liability for payroll taxes (as defined in section 6432(b) of the Internal Revenue Code of 1986) for any quarter does not exceed the amount of the credit that the employer would be entitled to receive under section 6432 of such Code to compensate the employer for the costs of providing the subsidy under this subsection for such quarter; or

(II) the cost of the employer's group health insurance premiums would increase by more than 5 percent (as certified under clause (iii)) as a result of the receipt by the unemployed employees of the employer of the subsidy under this subsection.

(iii) CERTIFICATION.—To qualify for the exemption described in clause (ii)(II), an employer shall obtain a certification from an independent actuary that, based on the employer's historical group health insurance enrollment patterns and actuarial assumptions about the likely characteristics of new assistance eligible individuals, the average annual premium for all employees of the employer would increase by more than 5 percent above the growth rate in premiums that would occur except for the application of this subparagraph.

(iv) CRITERIA.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish appropriate criteria for the application of this subparagraph, including the appropriate standards for the conduct of the actuarial analyses described in clause (iii).

SA 256. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 160__. NONAPPLICABILITY OF CERTAIN LABOR REQUIREMENTS TO SMALL BUSINESS GRANTS AND CONTRACTS.

(a) ROLE OF AGENCY ISSUING GRANT OR CONTRACT.—Notwithstanding any other provision of law, the head of any entity that awards a grant or contract described in subsection (c) shall ensure that the entity, and any construction manager acting on behalf of the entity with respect to such grant or contract, does not—

(1) require a bidder, offeror, recipient, contractor, or subcontractor for a grant or contract described in subsection (c) that is for less than $1,000,000 to comply with the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) or other Federal

or State law that similarly requires the payment of a prevailing wage to various classes of employees with respect to such grant or contract or other related construction project (not including any minimum wage requirements under applicable Federal or State law); or

(2) require such bidder, offeror, recipient, contractor, or subcontractor to enter into, or adhere to, any agreement with 1 or more labor organizations, with respect to such grant or contract or another related construction project.

(b) NONAPPLICABILITY OF LABOR REQUIREMENTS.—Notwithstanding any other provision of law, a recipient of a grant or contract described in subsection (c) that is for less than $1,000,000 shall not be subject to—

(1) the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act), or any other Federal or State law that similarly requires the payment of a prevailing wage to various classes of employees (not including any minimum wage requirements under applicable Federal or State law) with respect to such grant or contract or other related construction project; and

(2) any requirement under Federal or State law that the recipient enter into or adhere to any agreement with 1 or more labor organizations with respect to such grant or contract or other related construction project.

(c) APPLICABLE GRANT OR CONTRACT.—A grant or contract described in this subsection is a grant, subgrant, contract, or subcontract that is funded from amounts appropriated under this Act, or is for a project financed with the proceeds of a bond described in section 1901.

SA 257. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—HOME OWNERSHIP PRESERVATION

SEC. 6001. DEFINITIONS.

As used in this title—

(1) the term ''Secretary'' means the Secretary of the Treasury;

(2) the term ''qualifying homeowner'' means any homeowner with an existing mortgage on their principal residence;

(3) the term ''Office'' means the Office of Home Ownership Preservation and Foreclosure Prevention established under this title; and

(4) the term ''Program'' means the Home Ownership Preservation and Foreclosure Prevention Program established under this title.

SEC. 6002. ESTABLISHMENT OF OFFICE.

There is established in the Department of the Treasury the Office of Home Ownership Preservation and Foreclosure Prevention.

SEC. 6003. FUNCTIONS.

(a) IN GENERAL.—The Office shall be responsible for operating and supervising the Home Ownership Preservation and Foreclosure Prevention Program for the purpose of making loans, subject to sections 6004 and 6005, with respect to any qualifying homeowner.

(b) FUNDING.—The Secretary may issue $100,000,000,000 in public debt for the purposes of funding the Program, including administrative costs associated with the Program.

(c) LOAN TERMS.—With respect to loans made under the Program—

(1) the interest rate applicable to such loans shall be fixed to the interest rate of the debt issued by the Secretary to finance the Program; and

(2) the duration of such loans shall be subject to a 30-year amortization schedule.

SEC. 6004. LIMITATIONS.

(a) IN GENERAL.—Loans originated under the Program—

(1) may not be extended to homeowners who would have a monthly debt-to-income ratio of greater than 35 percent for all mortgage-related after such loan is made;

(2) shall be applied to the primary residence of the borrower only;

(3) may not exceed the lesser of 20 percent of the principal amount of the mortgage or $80,000;

(4) may only be applied to mortgages below the conforming loan limit used by the Federal Housing Administration; and

(5) may be used only for loans originated between January 1, 2003 and January 1, 2008.

(b) NO PREPAYMENT PENALTIES.—There shall be no prepayment penalty for the early payment of a loan originated under this title.

SEC. 6005. PROTECTIONS AGAINST TAXPAYER LIABILITY.

(a) FULL RECOURSE.—All loans made under the Program shall provide full recourse against the borrower for repayment on behalf of the Department of the Treasury and the taxpayer.

(b) PRIORITY OF OBLIGATION.—The Department of the Treasury shall have priority repayment over all liens or interests in the assets of the borrower during any bankruptcy or foreclosure proceeding.

(c) NO ONGOING LIABILITY.—The United States shall have no additional obligations to the borrower or mortgage investor after a loan under the Program has been repaid.

SA 258. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF NO STATE TUITION INCREASES.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State will not take any action to increase tuition at State two and four-year colleges and universities during the quarter. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to have taken an action that results in an increase in tuition at State two and four-year colleges and universities during the quarter shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

SA 259. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF TIMELY PAYMENTS TO CERTAIN NONPROFIT ORGANIZATIONS.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State is current on its contractual obligations with nonprofit organizations that deliver human services on behalf of the State. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to not be in compliance with the certification shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

SA 260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 732, strike line 15 and all that follows through page 733, line 4, and insert the following:

SEC. 5004. INCREASED RESOURCES TO COMBAT MEDICAID FRAUD.

(a) FUNDING FOR THE HHS INSPECTOR GENERAL.—For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $100,000,000 for each of fiscal years 2009 through 2013. Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

(b) STATE MEDICAID FRAUD CONTROL UNITS.—

(1) IN GENERAL.—No State may elect to provide medical assistance under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (or under any waiver of such plan) to individuals described

in paragraph (2) unless the Secretary determines that the State has increased the amount of State expenditures attributable to the operation of the State medicaid fraud control unit described in section 1903(q) of the such Act (42 U.S.C. 1396b(q)) by at least 50 percent more than the amount of such expenditures for the most recent fiscal year.

(2) INDIVIDUALS DESCRIBED.—

(A) IN GENERAL.—The individuals described in this paragraph are—

(i) individuals who—

(I) are within one or more of the categories described in subparagraph (B); and

(II) meet the applicable requirements of subparagraph (C); and

(ii) individuals who—

(I) are the spouse, or dependent child under 19 years of age, of an individual described in clause (i); and

(II) meet the requirement of subparagraph (C)(ii).

(B) CATEGORIES DESCRIBED.—The categories of individuals described in this paragraph are each of the following:

(i)(I) Individuals who are receiving unemployment compensation benefits; and

(II) individuals who were receiving, but have exhausted, unemployment compensation benefits on or after July 1, 2008.

(ii) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, whose family gross income does not exceed a percentage specified by the State (not to exceed 200 percent) of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who, but for such an election by the State, are not eligible for medical assistance under the State plan under title XIX of the Social Security Act or health assistance under a State plan under title XXI of such Act.

(iii) Such categories of individuals do not include individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, who are members of households participating in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

(C) REQUIREMENTS.—The requirements of this subparagraph with respect to an individual are the following:

(i) In the case of individuals within a category described in clause (i)(I) of subparagraph (B), the individual was involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, or meets such comparable requirement as the Secretary specifies through rule, guidance, or otherwise in the case of an individual who was an independent contractor.

(ii) The individual is not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)), but applied without regard to paragraph (1)(F) of such section and without regard to coverage provided by reason of such an election by the State.

SA 261. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) DEDICATION OF ENHANCED FUNDS FOR COVERAGE OF LOW-INCOME AMERICANS.—The increases in the FMAP for a State under this section shall not apply with respect to any expenditures for a fiscal year quarter occurring during the recession adjustment period for medical assistance provided to individuals under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315) and including such expenditures that would be paid from a State allotment under title XXI of such Act) whose family income exceeds the State median income, as determined by the American Community Survey and as updated as necessary by the Secretary for the fiscal year. The limitation under the preceding sentence shall not apply with respect to any expenditures for such a fiscal year quarter for providing medical assistance under such a State plan for individuals described in section 1937(a)(2)(B) of such Act (42 U.S.C. 1396u–7(a)(2)(B)).

SA 262. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR US FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

SA 263. Ms. STABENOW (for herself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure

investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. FORMERLY HOMELESS YOUTH WHO ARE STUDENTS QUALIFIED FOR PURPOSES OF LOW INCOME HOUSING TAX CREDIT.

(a) IN GENERAL.—Clause (i) of section 42(i)(3)(D) is amended by redesignating subclauses (II) and (III) as subclauses (III) and (IV), respectively, and by inserting after subclause (I) the following new subclause:

''(II) a student who previously was a homeless child or youth (as defined by section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)),''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made before, on, or after the date of the enactment of this Act.

SA 264. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, Mr. BROWN, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.—Section 136(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(b)) is amended by striking ''30 percent'' and inserting ''90 percent''.

SA 265. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 422, between lines 4 and 5, insert the following:

(4) The website shall provide—

(A) information, organized by the location of the job opportunities involved, consisting of links to and information on how to access descriptions of and related information for job opportunities created by or with entities receiving funding under this Act;

(B) Internet links to the job banks operated by State workforce agencies and to the Department of Labor's CareerOneStop website that connects jobseekers to the one-stop career centers established under section 134(c) of the Workforce Investment Act of 1998; and

(C) to the extent practicable, links to other information about—

(i) other State, local, and public agencies receiving funding under this Act; and

(ii) nonprofit and other private organizations that enter into contracts to perform work funded by this Act for the purpose of increasing employment opportunities under this Act for individuals in the United States.

On page 422, line 5, strike ''(4)'' and insert ''(5)''.

On page 422, line 12, strike ''(5)'' and insert ''(6)''.

On page 422, line 15, strike ''(6)'' and insert ''(7)''.

On page 422, line 18, strike ''(7)'' and insert ''(8)''.

SA 266. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, strike line 21 and all that follows through page 56, line 23, and insert the following:

(C) provide wireless voice service to unserved or underserved areas;

(D) provide broadband education, awareness, training, access, equipment, and support to—

(i) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(ii) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(iii) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture.

(E) improve access to, and use of, broadband service by public safety agencies; and

(F) stimulate the demand for broadband, economic growth, and job creation.

(2) The Assistant Secretary may consult with the chief executive officer of any State with respect to—

(A) the identification of areas described in subsection (1)(A) or (B) located in that State; and

(B) the allocation of grant funds within that State for projects in or affecting the State.

(3) The Assistant Secretary shall—

(A) establish and implement the grant program as expeditiously as practicable;

(B) ensure that all awards are made before the end of fiscal year 2010;

(C) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and

(D) report on the status of the program to the Committees on Appropriations of the House and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.

(4) To be eligible for a grant under the program an applicant shall—

(A) be a State or political subdivision thereof, a nonprofit foundation, corporation, institution or association, Indian tribe, Native Hawaiian organization, or other nongovernmental entity in partnership with a State or political subdivision thereof, Indian tribe, or Native Hawaiian organization if the Assistant Secretary determines the partnership consistent with the purposes this section;

(B) submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require;

(C) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a demonstration that the project would not have been implemented during the grant period without Federal grant assistance;

(D) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws;

(E) demonstrate, to the satisfaction of the Assistant Secretary, that it will appropriate (if the applicant is a State or local government agency) or otherwise unconditionally obligate, from non-Federal sources, funds required to meet the requirements of paragraph (5);

(F) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and

(G) provide such assurances and procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(5) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if—

(A) the applicant petitions the Assistant Secretary for a waiver; and

(B) the Assistant Secretary determines that the petition demonstrates financial need.

(6) The Assistant Secretary may make competitive grants under the program to—

(A) acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;

(B) construct and deploy broadband service related infrastructure;

(C) deploy necessary infrastructure for the provision of wireless voice service;

(D) ensure access to broadband service by community anchor institutions;

(E) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;

(F) construct and deploy broadband facilities that improve public safety broadband communications services; and

(G) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

(7) The Assistant Secretary—

(A) shall require any entity receiving a grant pursuant to this section to report quarterly, in a format specified by the Assistant Secretary, on such entity's use of the assistance and progress fulfilling the objectives for which such funds were granted, and

the Assistant Secretary shall make these reports available to the public;

(B) may establish additional reporting and information requirements for any recipient of any assistance made available pursuant to this section;

(C) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available pursuant to this section;

(D) may, in addition to other authority under applicable law, deobligate awards to grantees that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary, and award these funds competitively to new or existing applicants consistent with this section; and

(E) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.

(8) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Federal Communications Commission, publish the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section.

(9) Within 1 year after the date of enactment of this Act, the Commission shall complete a rulemaking to develop a national broadband plan. In developing the plan, the Commission shall—

(A) consider the most effective and efficient national strategy for ensuring that all Americans have access to, and take advantage of, advanced broadband services;

(B) have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note);

(C) evaluate the status of deployments of broadband service, including the progress of projects supported by the grants made pursuant to this section; and

(D) develop recommendations for achieving the goal of nationally available broadband service for the United States and for promoting broadband adoption nationwide.

(10) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that entities and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State: *Provided*, That not later than 2 years after the date of the enactment of the Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible to the public.

(11) For purposes of this section, the term ''wireless voice service'' means the provision of two-way, real-time, voice communications using a mobile service.

SA 267. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR US FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

SA 268. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, strike lines 1 through 5.

On page 59, between lines 9 and 10, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the date of the enactment of this Act, individually submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives the modernization priority assessment for their respective Reserve and National Guard components.

On page 95, strike lines 1 through 8.

On page 137, line 17, strike ''$5,800,000,000'' and insert ''$5,400,000,000''.

SA 269. Mrs. HUTCHISON (for herself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and

local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

FEDERAL AVIATION ADMINISTRATION

NEXTGEN ACCELERATION

For grants or other agreements to accelerate the transition to the Next Generation Air Transportation System by accelerating deployment of ground infrastructure for Automatic Dependent Surveillance–Broadcast, by accelerating development of procedures and routes that support performance-based air navigation, to incentivize aircraft equipage to use such infrastructure and procedures and routes, and for additional agency administrative costs associated with the certification and oversight of the deployment of these systems, $550,000,000, to remain available until September 30, 2010: *Provided*, That the Administrator of the Federal Aviation Administration shall use the authority under section 106(l)(6) of title 49, United States Code, to make such grants or agreements: *Provided further*, That, with respect to any incentives for equipage, the Federal share of the costs shall be no more than 50 percent: and *Provided further*, That each amount otherwise appropriated by this division for administrative costs or programmatic overhead shall be reduced by a percentage that will reduce the aggregate amount otherwise appropriated for such purposes by $550,000,000.

SA 270. Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —REGULATORY RELIEF FOR SMALL AND FAMILY-OWNED BUSINESSES UNDER CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008.

SEC. —001. CERTAIN REQUIREMENTS INAPPLICABLE TO SECOND-HAND SELLERS.

Section 19 of the Consumer Product Safety Act (15 U.S.C. 2068) is amended by adding at the end thereof the following:

''(c) EXCEPTIONS FOR SECOND-HAND SELLERS.—

''(1) IN GENERAL.—It is not a violation of subsection (a)(1) or (a)(2) of this section for a second-hand seller to sell, offer for sale, or distribute in commerce—

''(A) a consumer product for resale that is treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) because of the application of section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a); or

''(B) a children's product without the label required by section 14(c) of this Act.

''(2) SECOND-HAND SELLER DEFINED.—In this subsection, the term 'second-hand seller' means—

''(A) a consignment shop, thrift shop, or similar enterprise that sells, offers for sale, or distributes in commerce a product after the first retail sale of that product;

''(B) an individual who utilizes the Internet, a yard sale, or other casual means of selling, or offering for sale, such a product; or

''(C) a person who sells, or offers for sale, such a product at an auction for the benefit of a nonprofit organization.''.

SEC. —002. PROSPECTIVE APPLICATION OF LEAD CONTENT AND THIRD PARTY TESTING RULES.

(a) LEAD CONTENT.—Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended—

(1) by striking ''(b) beginning on the dates provided in paragraph (2),'' in paragraph (1) and inserting ''(b),'';

(2) by striking ''(15 U.S.C. 1261 et seq.).'' in paragraph (1) and inserting ''(15 U.S.C. 1261 et seq.) if it is manufactured after the date on which such limit takes effect.'';

(3) by striking ''180 days'' in paragraph (2)(A) and inserting ''360 days'';

(4) by striking ''1 year'' in paragraph (2)(B) and inserting ''18 months'';

(5) by striking ''3 years'' in paragraph (2)(C) and inserting ''3½ years''; and

(6) by striking ''3 years'' in paragraph (2)(D) and inserting ''3½ years''.

(b) THIRD PARTY TESTING.—Section 14(a)(3)(A) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(3)(A)) is amended by inserting ''after August 9, 2009, and'' after ''manufactured''.

(c) APPLICATION.—The amendments made by subsections (a) and (b) shall be treated as having taken effect on August 15, 2008.

SEC. —003. LEAD CONTENT CERTIFICATION; WAIVER OF THIRD PARTY TESTING REQUIREMENT.

Section 14(g) of the Consumer Product Safety Act (15 U.S.C. 2063(g)) is amended by adding at the end thereof the following:

''(5) SPECIAL RULE FOR LEAD CONTENT TESTING AND CERTIFICATION.—Subsection (a) shall not require the manufacturer or private labeler of a product to test a product for, or certify it with respect to, lead content if—

''(A) each component of the product has been tested for lead content by the manufacturer or private labeler of the component; and

''(B) the manufacturer or private labeler of each such component certifies that the component (including paint, electroplating, and other coatings) does not contain more lead than the limit established by section 101(a)(2) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)(2)).''.

SEC. —004. SUSPENSION OF ENFORCEMENT PENDING FINAL REGULATIONS.

Notwithstanding any provision of law to the contrary, neither the Consumer Product Safety Commission nor the Attorney General of any State may initiate an enforcement proceeding under the Consumer Product Safety Act or the Federal Hazardous Substances Act for failure to comply with the requirements of, or for violation of, the following provisions of law until 30 days after the date on which the Commission issues the referenced rule, regulation, or guidance:

(1) Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a) with respect to materials, products, or parts described in subsection (b)(1), until the date on which the Commission promulgates a final rule providing the guidance required by section 101(b)(2)(B) of that Act.

(2) Section 101(a) of that Act with respect to certain electronic devices described in section 101(b)(4) of that Act, until the date on which the Commission, by final regulation, issues the requirements described in subparagraph (A) of section 101(b)(4) and establishes the schedule described in subparagraph (A) of section 101(b)(4).

(3) Section 14(a)(1) or (2) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(1) or (2)), until the date on which—

(A) the Commission has established and published final notice of the requirements for accreditation of third party conformity assessment bodies under section 14(a)(3)(B)(vi) of that Act for products to which children's product safety rules established or revised before August 14, 2008, apply,

(B) the Commission has established by final regulation requirements for the periodic audit of third party conformity assessment bodies under section 14(d)(1) of that Act (15 U.S.C. 2063(d)(1)), or

(C) the Commission has by final regulation initiated the program required by section 14(d)(2)(A) of that Act (15 U.S.C. 2063(d)(2)(A)) and established protocols and standards under section 14(d)(2)(B) of that Act (15 U.S.C. 2063(d)(2)(B)),

whichever is last.

SEC. —005. WAIVER OF CIVIL PENALTY FOR INITIAL GOOD FAITH VIOLATION.

Section 20(c) of the Consumer Product Safety Act (15 U.S.C. 2069(c)) is amended by adding at the end thereof the following: ''The Commission shall waive any civil penalty under this section if the Commission determines that—

''(1) the violation is the first violation of section 19(a) by that person; and

''(2) the person was acting in good faith with respect to the act or omission that constitutes the violation.''.

SEC. —006. SMALL ENTERPRISE COMPLIANCE ASSISTANCE.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, or as soon thereafter as is practicable, the Consumer Product Safety Commission, in consultation with the Small Business Administration and State small business agencies, shall develop a compliance guide for small enterprises to assist them in complying with the requirements of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and other Acts enforced by the Commission.

(b) CONTENTS.—The guide—

(1) shall be designed to assist small enterprises to determine—

(A) whether the Consumer Product Safety Act (or any other Act enforced by the Commission) applies to their business activities;

(B) whether they are considered distributors, manufacturers, private labelers, or retailers under the Act; and

(C) which rules, standards, regulations, or statutory requirements apply to their business activities;

(2) shall provide guidance on how to comply with any such applicable rule, standard, regulation, or requirement, including—

(A) what actions they should take to ensure that they meet the requirements; and

(B) how to determine whether they have met the requirements; and

(3) may contain such additional information as the Commission deems appropriate, including telephone, e-mail, and Internet contacts for compliance support and information.

(c) PUBLICATION AND DISTRIBUTION.—The Commission shall—

(1) publish a sufficient number of copies of the guide to satisfy both individual requests for copies and mass requests to accommodate distribution by chambers of commerce, trade associations and other organizations the membership of which includes small enterprises whose business activities are affected by the requirements of the Consumer Product Safety Act and other Acts enforced by the Commission;

(2) make the guide available, without charge, by mail; and

(3) provide easy access to the guide on the Commission's public website.

SA 271. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. COMMUNITY ASSISTANCE.

For an additional amount for the Office of Refugee Resettlement of the Department of Health and Human Services, $112,000,000, and for the Bureau of Population Refugees and Migration of the Department of State, $48,000,000, to assist communities resettling individuals who have been granted status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), or who have been provided status as refugees under Federal law.

SA 272. Mr. ROCKEFELLER (for Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, between lines 11 and 12, insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

For an additional amount for Industrial Technology Services, $70,000,000 shall be available for the necessary expenses of the Technology Innovation Program, to remain available until September 30, 2010.

SA 273. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 26, before the period at the end insert ", including all Federally provided commodities".

SA 274. Ms. CANTWELL (for herself, Mr. HATCH, Ms. STABENOW, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, strike lines 8 to 10 and insert the following:

(b) ENSURING CONSUMER ACCESSIBILITY TO ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY IN THE CASE OF ELECTRICITY.—Section 179(d)(3) is amended by striking subparagraph (B) and inserting the following:

"(B) for the recharging of motor vehicles propelled by electricity, but only if—

"(i) the property complies with the Society of Automotive Engineers' connection standards,

"(ii) the property provides for non-restrictive access for charging and for payment interoperability with other systems, and

"(iii) the property—

"(I) is located on property owned by the taxpayer, or

"(II) is located on property owned by another person, is placed in service with the permission of such other person, and is fully maintained by the taxpayer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1124. RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) 5-YEAR RECOVERY PERIOD.—

(1) IN GENERAL.—Subparagraph (B) of section 168(e)(3) is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clauses:

"(viii) any qualified smart electric meter, and

"(ix) any qualified smart electric grid system.".

(2) CONFORMING AMENDMENTS.—Subparagraph (D) of section 168(e)(3) is amended by inserting "and" at the end of clause (i), by striking the comma at the end of clause (ii) and inserting a period, and by striking clauses (iii) and (iv).

(b) TECHNICAL AMENDMENTS.—Paragraphs (18)(A)(ii) and (19)(A)(ii) of section 168(i) are each amended by striking "16 years" and inserting "10 years".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (b) shall take effect as if included in section 306 of the Energy Improvement and Extension Act of 2008.

Beginning on page 467, strike line 21 and all that follows through page 470, line 23, and insert the following:

SEC. 1161. MODIFICATION OF CREDIT FOR QUALIFIED PLUG-IN ELECTRIC MOTOR VEHICLES.

(a) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT.—Section 30D(b)(2)(B) is amended by striking "250,000" and inserting "500,000".

(b) EXCLUSION OF NEIGHBORHOOD ELECTRIC VEHICLES FROM EXISTING CREDIT.—Section 30D(e)(1) is amended to read as follows:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a motor vehicle (as defined in section 30(c)(2)), which is treated as a motor vehicle for purposes of title II of the Clean Air Act.".

(c) CREDIT FOR CERTAIN OTHER VEHICLES.—Section 30D is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and

(2) by inserting after subsection (e) the following new subsection:

"(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For purposes of this section—

"(1) IN GENERAL.—In the case of a specified vehicle, this section shall be applied with the following modifications:

"(A) For purposes of subsection (a)(1), in lieu of the applicable amount determined under subsection (a)(2), the applicable amount shall be 10 percent of so much of the cost of the specified vehicle as does not exceed $40,000.

"(B) Subsection (b) shall not apply and no specified vehicle shall be taken into account under subsection (b)(2).

"(C) In the case of a specified vehicle which is a 2-or 3-wheeled motor vehicle, subsection (c)(1) shall be applied by substituting '2.5 kilowatt hours' for '4 kilowatt hours'.

"(D) In the case of a specified vehicle which is a low-speed motor vehicle, subsection (c)(3) shall not apply.

"(2) SPECIFIED VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'specified vehicle' means—

"(i) any 2- or 3- wheeled motor vehicle, or

"(ii) any low-speed motor vehicle,

which is placed in service after December 31, 2009, and before January 1, 2012.

"(B) 2- OR 3-WHEELED MOTOR VEHICLE.—The term '2- or 3-wheeled motor vehicle' means any vehicle—

"(i) which would be described in section 30(c)(2) except that it has 2 or 3 wheels,

"(ii) with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground,

"(iii) which has an electric motor that produces in excess of 5-brake horsepower,

"(iv) which draws propulsion from 1 or more traction batteries, and

"(v) which has been certified to the Department of Transportation pursuant to section 567 of title 49, Code of Federal Regulations, as conforming to all applicable Federal motor vehicle safety standards in effect on the date of the manufacture of the vehicle.

"(C) LOW-SPEED MOTOR VEHICLE.—The term 'low-speed motor vehicle' means a motor vehicle (as defined in section 30(c)(2)) which—

"(i) is placed in service after December 31, 2009, and

"(ii) meets the requirements of section 571.500 of title 49, Code of Federal Regulations.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) OTHER MODIFICATIONS.—The amendments made by subsection (b) shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

SEC. 1162. CONVERSION KITS.

(a) IN GENERAL.—Section 30B (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) PLUG-IN CONVERSION CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is 10 percent of so much of the cost of the converting such vehicle as does not exceed $40,000.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in

electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(c), determined without regard to paragraphs (4) and (6) thereof).

''(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

''(i) which has a traction battery capacity of not less than 2.5 kilowatt hours,

''(ii) which is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

''(iii) which consists of a standardized configuration and is mass produced,

''(iv) which has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program,

''(v) which complies with the requirements of section 32918 of title 49, United States Code, and

''(vi) which is certified by a battery manufacturer as meeting the requirements of clauses (i) through (v).

''(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

''(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(3) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2012.''.

(b) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(c) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years beginning after such date.

On page 524, after line 3, insert the following:

SEC. _____. INCENTIVES FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

(a) DEDUCTION FOR MANUFACTURING FACILITIES.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

''SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the applicable percentage of the cost of any qualified plug-in electric drive motor vehicle manufacturing facility property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified manufacturing facility property is placed in service.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 100 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

''(2) 50 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' means any qualified property—

''(A) the original use of which commences with the taxpayer,

''(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2015, and

''(C) no written binding contract for the construction of which was in effect on or before the date of the enactment of this section.

''(2) QUALIFIED PROPERTY.—

''(A) IN GENERAL.—The term 'qualified property' means any property which is a facility or a portion of a facility used for the production of—

''(i) any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), or

''(ii) any eligible component.

''(B) ELIGIBLE COMPONENT.—The term 'eligible component' means any battery, any electric motor or generator, or any power control unit which is designed specifically for use with a new qualified plug-in electric drive motor vehicle (as so defined).

''(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subsection (a) shall be reduced by an amount equal to—

''(1) the total amount of such costs (determined before the application of this subsection), multiplied by

''(2) the percentage of property expected to be produced which is not qualified property.

''(f) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDIT IN LIEU OF DEDUCTION.—

''(1) IN GENERAL.—If a taxpayer elects to have this subsection apply for any taxable year—

''(A) subsection (a) shall not apply to any qualified plug-in electric drive motor vehicle manufacturing facility property placed in service by the taxpayer, and

''(B) each of the limitations described in paragraph (2) for any such taxable year shall be increased by the qualified plug-in electric drive motor vehicle manufacturing facility amount which is—

''(i) determined for such taxable year under paragraph (3), and

''(ii) allocated to such limitation under paragraph (4).

''(2) LIMITATIONS TO BE INCREASED.—The limitations described in this paragraph are—

''(A) the limitation imposed by section 38(c), and

''(B) the limitation imposed by section 53(c).

''(3) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—For purposes of this paragraph—

''(A) IN GENERAL.—The qualified plug-in electric drive motor vehicle manufacturing facility amount is an amount equal to the applicable percentage of any qualified plug-in electric drive motor vehicle manufacturing facility which is placed in service during the taxable year.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 35 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

''(ii) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

''(C) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subparagraph (A) shall be reduced by an amount equal to—

''(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

''(ii) the percentage of property expected to be produced which is not qualified property.

''(4) ALLOCATION OF QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—The taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the qualified plug-in electric drive motor vehicle manufacturing facility amount for the taxable year which is to be allocated to each of the limitations described in paragraph (2) for such taxable year.

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(B) ELECTION IRREVOCABLE.—Any election made under this subsection may not be revoked except with the consent of the Secretary.

''(6) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not any other subpart).''.

(b) TECHNICAL AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''179F(f),'' after ''168(k)(4)(F),''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 179F. Election to expense manufacturing facilities producing plug-in electric drive motor vehicle and components.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 275. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. KERRY, Mr. MENENDEZ, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, line 7, insert before the semicolon the following: '', including the use of electronic technology to collect and report patient demographic data, including, at a minimum, race, ethnicity, and gender data''.

On page 282, between lines 3 and 4, insert the following:

''(vi) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, and gender information.''.

On page 283, between lines 21 and 22, insert the following:

''(4) CONSISTENCY WITH EVALUATION CONDUCTED UNDER MIPPA.—

''(A) REQUIREMENT FOR CONSISTENCY.—The HIT Policy Committee shall ensure that recommendations made under paragraph (2)(B)(vi) are consistent with the evaluation conducted under section 1809(a) of the Social Security Act.

''(B) SCOPE.—Nothing in subparagraph (A) shall be construed to limit the recommendations under paragraph (2)(B)(vi) to the elements described in section 1809(a)(3) of the Social Security Act.

''(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.''.

SA 276. Ms. CANTWELL (for herself, Mr. KERRY, Ms. SNOWE, Mr. SCHUMER, Ms. STABENOW, Mr. BINGAMAN, Mr. ENSIGN, Mr. CARPER, Mr. HATCH, Mr. WYDEN, Mr. CARDIN, Mr. NELSON of Florida, Mr. REED, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle J of title I of division B, add the following:

SEC. ____. ELECTION TO ACCELERATE THE LOW-INCOME HOUSING TAX CREDIT.

(a) IN GENERAL.—At the election of the taxpayer, the credit determined under section 42 of the Internal Revenue Code of 1986 for the taxpayer's first three taxable years beginning after December 31, 2008, in which credits are allowable for any low-income housing project with respect to initial investments made pursuant to a binding agreement by such taxpayer after December 31, 2008, and before January 1, 2011, shall be 200 percent of the amount which would (but for this subsection) be so allowable.

(b) ELIGIBILITY FOR ELECTION.—The election under subsection (a) shall take effect with respect to the first taxable year referred to in such subsection only when all rental requirements pursuant to section 42(g)(1) of the Internal Revenue Code of 1986 have been met with respect to the low-income housing project.

(c) REDUCTION IN AGGREGATE CREDIT TO REFLECT ACCELERATED CREDIT.—The aggregate credit allowable to any taxpayer under section 42 of the Internal Revenue Code of 1986 with respect to any investment for taxable years after the first three taxable years referred to in subsection (a) shall be reduced on a pro rata basis by the amount of the increased credit allowable by reason of subsection (a) with respect to such first three taxable years. The preceding sentence shall not be construed to affect whether any taxable year is part of the credit, compliance, or extended use periods under such section 42.

(d) ELECTION.—The election under subsection (a) shall be made at the time and in the manner prescribed by the Secretary of the Treasury or the Secretary's delegate, and, once made, shall be irrevocable. In the case of a partnership, such election shall be made by the partnership.

SA 277. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

SA 278. Mr. MCCAIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 431, after line 8, insert the following:

SEC. ___. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

''(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

''(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

''(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

''(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

''(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

''(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

''(2) MAXIMUM DEFICIT AMOUNTS.—

''(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

''(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105–33.

''(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99–177.''.

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 252 of this Act and any procedure with respect to such sections in this Act shall be effective beginning on the date of enactment of this subsection.''.

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

SA 279. Mr. MCCAIN (for himself and Mr. SHELBY) proposed an amendment to amendment SA 98 proposed by Mr.

INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 429, strike line 6 and all that follows through page 430, line 12, and insert the following:

SEC. 1604. (a) INAPPLICABILITY OF BUY AMERICAN REQUIREMENTS.—Notwithstanding any other provision of this Act, the utilization of funds appropriated or otherwise made available by this Act shall not be subject to any Buy American requirement in a provision of this Act.

(b) BUY AMERICAN REQUIREMENT DEFINED.—In this section, the term ''Buy American requirement'' means a requirement in a provision of this Act that an item may be procured only if the item is grown, processed, reused, or produced in the United States.

SA 280. Mr. BAYH (for himself, Mr. BINGAMAN, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 72, line 22, before the period, insert the following: '': *Provided further*, That $200,000,000 shall be available for waste energy recovery grants to owners or operators of waste energy recovery projects and utilities as authorized under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343)''.

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. WASTE ENERGY RECOVERY INCENTIVE GRANT PROGRAM.

Section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''and'' after the semicolon at the end;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3);

(2) in subsection (b)—

(A) in paragraph (3)(A)—

(i) by inserting ''not more than'' after ''rate of''; and

(ii) by striking ''Energy Independence and Security Act of 2007'' and inserting ''American Recovery and Reinvestment Act of 2009''; and

(B) in paragraph (4), by inserting ''not more than'' after ''rate of'';

(3) by striking subsection (c);

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(5) by striking subsection (e) (as so redesignated) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 for each of fiscal years 2009 and 2010.''.

SA 281. Mr. BAYH (for himself, Ms. STABENOW, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 16, after ''That'' insert the following: ''$200,000,000 shall be available for grants under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011) to plan, develop, and demonstrate electrical infrastructure projects that encourage the use of electric drive vehicles, including plug-in electric drive vehicles, and for near-term, large-scale electrification projects aimed at the transportation section: *Provided further*, That $590,000,000 shall be available under section 641 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231) to carry out a research, development, and demonstration program to support the ability of the United States to remain globally competitive in energy storage systems for electric drive vehicles, stationary application, and electricity transmission and distribution: *Provided further*, That''.

SA 282. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. PROGRAM OF STATE GRANTS TO ATTRACT AND RETAIN JOBS IN INFORMATION TECHNOLOGY AND MANUFACTURING SECTORS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity that—

(A) employs not fewer than 20 full-time equivalent employees in eligible jobs; and

(B) such jobs are located—

(i) in a foreign country; or

(ii) in the United States but would be relocated by such entity to a foreign country without the assistance of a grant awarded under the Program.

(2) ELIGIBLE JOB.—The term ''eligible job'' means, with respect to an entity, a job in the information technology sector or manufacturing sector in which the entity employs a full-time equivalent employee.

(3) ELIGIBLE STATE.—The term ''eligible State'' means a State that—

(A) submits an application in accordance with subsection (d)(1);

(B) includes in such application a certification as required by subsection (d)(2);

(C) agrees to make contributions pursuant to subsection (d)(3); and

(D) any part of which is located within a labor surplus area.

(4) LABOR SURPLUS AREA.—The term ''labor surplus area'' means an area in the United States included in the most recent classification of labor surplus areas by the Secretary of Labor.

(5) PROGRAM.—The term ''Program'' means the program established under subsection (b).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Commerce.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall, acting through the Assistant Secretary of Commerce for Economic Development, establish a program to provide funds to States to award grants to eligible entities for the purposes described in paragraph (2).

(2) PURPOSES.—A grant awarded under the Program shall be used by an eligible entity—

(A) to relocate an eligible job located in a foreign country to a labor surplus area; or

(B) to retain an eligible job located in a labor surplus area that the eligible entity would otherwise relocate to a foreign country without the assistance of such grant.

(c) ALLOTMENT TO STATES.—

(1) IN GENERAL.—During the 2-year period beginning on the date that is 90 days after the date of the enactment of this Act, the Secretary shall provide $2,000,000,000 to eligible States to enable such States to award grants under the Program.

(2) ALLOTMENT AMONG STATES.—From the amount provided pursuant to paragraph (1), the Secretary shall allot to each eligible State an amount which bears the same relationship to the amount provided under paragraph (1) as the total number of individuals in the State bears to the total number of individuals in all eligible States.

(d) REQUIREMENTS OF STATES.—

(1) APPLICATION.—A State seeking funds under the Program shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CERTIFICATION.—An application submitted under paragraph (1) shall include a certification made by the appropriate official of an eligible State that the State will use any amount provided to the State under the Program in accordance with the requirements of subsection (e).

(3) STATE MATCHING REQUIREMENT.—A State seeking funds under the Program shall agree to make available non-Federal funds to carry out the purposes of the Program in an amount equal to not less than 30 percent of the amount allotted to such State under subsection (c)(2).

(e) GRANTS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (g), not later than 1 year after the date that a State receives an amount under subsection (c), the State shall use such amount to award grants to eligible entities in that State to enable such entities to relocate or retain eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2). A State may not award a grant to any entity under the Program for the purpose of relocating a job from one State to another State.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking a grant from a State under the program shall submit an application to the Governor of that State at such time, in such manner, and containing such information as the Governor may require.

(B) CERTIFICATION.—An application submitted under subparagraph (A) by an eligible entity shall include a certification made by the entity that the entity will relocate or retain eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2).

(3) AMOUNTS.—A grant awarded by a State to an eligible entity under the Program shall be disbursed by the State to the entity in 2 installments as follows:

(A) INITIAL INSTALLMENT.—The initial installment of the grant shall be disbursed to the entity as soon as practicable after the grant is awarded in an amount equal to $5,000 per eligible job that the entity—

(i) relocates from a foreign country to a labor surplus area; or

(ii) retains in a labor surplus area that the entity would otherwise relocate to a foreign country without the assistance of such grant.

(B) SECOND INSTALLMENT.—Subject to paragraph (4), the second installment of the grant shall be disbursed to the entity as soon as practicable after the 366th day after the grant is awarded in an amount equal to $4,000 per eligible job that the entity—

(i) relocates as described in subparagraph (A)(i); or

(ii) retains as described in subparagraph (A)(ii).

(4) CERTIFICATION OF INCREASE IN EMPLOYMENT.—

(A) IN GENERAL.—To be eligible for the second installment of a grant under paragraph (3)(B), an eligible entity awarded a grant under the Program shall certify to the satisfaction of the Governor of the State that awarded the grant that the entity increased during the first year of the grant the number of full-time equivalent employees employed by the entity in an eligible job in a labor surplus area.

(B) FAILURE TO CERTIFY.—If an eligible entity awarded a grant under the Program fails to make the certification required by subparagraph (A)—

(i) the entity shall not receive the second installment of the grant under paragraph (3)(B); and

(ii) the grant awarded to such recipient shall be terminated.

(f) PUBLICATION OF GRANT AWARDS.—

(1) NOTICE TO SECRETARY.—Not later than 30 days after the date on which a State awards a grant under the Program, the State shall submit to the Secretary such information regarding the grant as the Secretary may require, including the following:

(A) The name of the grant recipient.

(B) The number of eligible jobs to be relocated or retained, as described in clause (i) or (ii) of subsection (e)(3)(A), by the grant recipient.

(C) The labor surplus area concerned.

(2) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives information under paragraph (1), the Secretary shall publish such information on the Internet web site of the Department of Commerce.

(g) STATE ADMINISTRATIVE COSTS.—Of the amount provided to a State by the Secretary under the Program, an amount not to exceed 5 percent may be used by such State for the costs of administering the Program.

(h) AUDITS.—A State shall audit each eligible entity awarded a grant under the Program to ensure that the entity relocates or retains eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2).

(i) REPORT.—Not later than 410 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the Program.

(j) DIRECT SPENDING AUTHORITY AND OFFSET.—

(1) DIRECT SPENDING AUTHORITY.—There is authorized to be appropriated and is appropriated to the Secretary $2,000,000,000 to carry out the Program.

(2) AVAILABILITY.—The amounts appropriated under paragraph (1) shall remain available for the purpose described in such paragraph until September 30, 2010.

(3) OFFSET.—The amount appropriated or otherwise made available by title XIV of this division under the heading ''STATE FISCAL STABILIZATION FUND'' and the amount described in section 1401(c) of such title are each reduced by $2,000,000,000.

SA 283. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 451, between lines 13 and 14, insert the following:

SEC. _____. TEMPORARY INCREASE IN PERSONAL CAPITAL LOSS DEDUCTION LIMITATION.

(a) IN GENERAL.—Section 1211 is amended by adding at the end the following new subsection:

''(c) SPECIAL RULE FOR TAXABLE YEARS BEGINNING IN 2009.—In the case of a taxable year beginning after December 31, 2008, and before January 1, 2010, subsection (b)(1) shall be applied—

''(1) by substituting '$15,000' for '$3,000', and

''(2) by substituting '$7,500' for '$1,500'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by a percentage necessary to offset the aggregate reduction in revenues resulting from the enactment of the amendment made by subsection (a).

SA 284. Mr. VITTER (for himself, Mr. COCHRAN, Mr. SHELBY, Mrs. HUTCHISON, Mr. WICKER, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. ____. COASTAL RESTORATION AND GULF STATE RECOVERY.

(a) SEAWARD BOUNDARIES OF STATES.—

(1) IN GENERAL.—Section 4 of the Submerged Lands Act (43 U.S.C. 1312) is amended by striking ''three geographical miles'' each place it appears and inserting ''12 nautical miles''.

(2) CONFORMING AMENDMENTS.—Section 2 of the Submerged Lands Act (43 U.S.C. 1301) is amended by striking ''three geographical miles'' each place it appears in subsections (a)(2) and (b) and inserting ''12 nautical miles''.

(3) EFFECT OF AMENDMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the amendments made by this subsection shall not effect Federal oil and gas mineral rights.

(B) SUBMERGED LAND.—Submerged land within the seaward boundaries of States shall be—

(i) subject to Federal oil and gas mineral rights to the extent provided by law;

(ii) considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(iii) subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf.

(C) EXISTING LEASES.—The amendments made by this subsection shall not affect any Federal oil and gas lease in effect on the date of enactment of this Act.

(D) TAXATION.—A State may exercise all of the sovereign powers of taxation of the State within the entire extent of the seaward boundaries of the State (as extended by the amendments made by this subsection).

(b) COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.—

(1) IN GENERAL.—Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(A) in subsection (c), by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a plan by the Secretary under this section, the producing State shall—

''(A) not be subject to any additional application or other requirements (other than notifying the Secretary of which projects are being carried out under the plan) to receive the payments; and

''(B) be immediately eligible to receive payments under this section.''; and

(B) by adding at the end the following:

''(e) FUNDING.—

''(1) STREAMLINING.—

''(A) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior (acting through the Director of the Minerals Management Service) (referred to in this subsection as the 'Secretary') shall develop a plan that addresses streamlining the process by which payments are made under this section, including recommendations for—

''(i) decreasing the time required to approve plans submitted under subsection (c)(1);

''(ii) ensuring that allocations to producing States under subsection (b) are adequately funded; and

''(iii) any modifications to the authorized uses for payments under subsection (d).

''(B) CLEAN WATER.—Not later than 180 days after the date of enactment of this subsection, the Secretary and the Administrator of the Environmental Protection Agency shall jointly develop procedures for streamlining the permit process required under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and State laws for restoration projects that are included in an approved plan under subsection (c).

''(C) ENVIRONMENTAL REQUIREMENTS.—In the case of any project covered by this subsection that is not carried out on wetland (as defined in section 1201 of the Food Security Act of 1985 (16 U.S.C. 3801)), there shall be no requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DREDGED MATERIALS.—Not later than 180 days after the date of enactment of this subsection, the Secretary of the Army shall develop and implement guidelines requiring the use of dredged material, at full Federal expense, for ecological restoration, or port or other coastal infrastructure, in producing States.

''(3) COST-SHARING REQUIREMENTS.—Any amounts made available to producing States under this section may be used to meet the cost-sharing requirements of other Federal grant programs, including grant programs

that support coastal protection and restoration.

''(4) EXPEDITED FUNDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop a procedure to provide expedited funding to projects under this section based on estimated revenues to ensure that the projects may—

''(A) secure additional funds from other sources; and

''(B) use the amounts made available under this section on receipt.''.

(2) APPLICATION.—The amendments made by paragraph (1) apply to an application for payments under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) that is pending on, or filed on or after, the date of enactment of this Act.

SA 285. Mr. BAUCUS (for himself, Mr. LEAHY, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, between lines 11 and 12, insert the following:

(2) MINIMUM AMOUNT.—Notwithstanding paragraph (1), no State higher education agency shall receive less than 0.5 percent of the amount allocated under paragraph (1).

SA 286. Ms. LANDRIEU (for herself, Mr. KOHL, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, between lines 3 and 4, insert the following:

(D) CHARTER SCHOOLS.—

(i) IN GENERAL.—An eligible local educational agency receiving funds under this paragraph shall use an equitable portion of the funds, as determined under clause (ii), to carry out school renovation, repair, and construction (consistent with subsection (c)) for charter schools that are served by the eligible local educational agency.

(ii) EQUITABLE PORTION.—An eligible local educational agency receiving funds under this paragraph shall determine the amount of the equitable portion described in clause (i) on the basis of—

(I) the percentage of poor children who are enrolled in the charter schools served by the eligible local educational agency; and

(II) the needs of the charter schools as determined by the eligible local educational agency.

SA 287. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—TAXPAYER PROTECTION PROSECUTION TASK FORCE

SEC. 6001. CREATION OF A TAXPAYER PROTECTION PROSECUTION TASK FORCE.

The Attorney General of the United States shall immediately establish a Taxpayer Protection Prosecution Task Force (referred to in this title as the ''Task Force'') .

SEC. 6002. DUTIES OF THE TASK FORCE.

The Task Force shall—

(1) investigate and prosecute financial fraud cases or any other violation of law that contributed to the collapse of our financial markets; and

(2) seek to claw back any ill-gotten gains, particularly by those who received billions of dollars in compensation creating the real estate and financial bubble.

SEC. 6003. MEMBERSHIP.

The membership of the Task Force shall include—

(1) Department of Justice attorneys acting as a team of Federal prosecutors;

(2) special agents from the Federal Bureau of Investigation, the Internal Revenue Service, and United States Postal Service; and

(3) additional assistance from the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and other Federal banking regulators or investigators.

SEC. 6004. STAFFING.

The Task Force shall be staffed by Department of Justice career attorneys, enforcement attorneys, and other private and public sector legal professionals and experts in the violations of law under investigation.

SEC. 6005. DIRECTOR.

The Director of the Task Force shall be appointed by the President, subject to the advice and consent of the Senate.

SEC. 6006. OUTSIDE EMPLOYMENT.

The Director of the Task Force and all professional members of the staff shall for a period of 2 years after their employment with the Task Force be prohibited from directly or indirectly representing any client in or in connection with any investigation relating to any of the work of the Task Force.

SEC. 6007. REPORTS TO CONGRESS.

The Task Force shall file—

(1) a public report directly with Congress every 6 months on its activities; and

(2) if necessary, a classified annex to protect the confidentiality of ongoing investigations or attorney-client privilege or other non-public information.

SEC. 6008. STATUTE OF LIMITATIONS RECOMMENDATION.

The Task Force shall make recommendations to Congress not later than 60 days after the date of the establishment of the Task Force regarding extension of the statute of limitation for complex financial fraud and other similar cases.

SA 288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 478, between lines 15 and 16, insert the following:

SEC. _____. TEMPORARY REINSTATEMENT OF REGULAR INVESTMENT TAX CREDIT.

The current year business credit under section 38 of Internal Revenue Code of 1986 shall include the amount that would be determined under section 46(a) of such Code (without regard to paragraphs (2) and (3) of such subsection) (as such Code was in effect before the amendments made by the Revenue Reconciliation Act of 1990 (Public Law 101–508)) with respect to property placed in service after 2008 and before July 1, 2010, if the regular percentage were 15 percent.

SA 289. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, between lines 6 and 7, insert the following:

(E) PROHIBITION.—Notwithstanding any other provision of this section, a State higher education agency shall not award a subgrant under this section to an institution of higher education that—

(i) has an endowment exempt from taxation under subtitle A of the Internal Revenue Code of 1986 that is more than $15,000,000,000; or

(ii) has paid more than $1,000,000 for lobbying activities, as such term is defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), in the preceding fiscal year.

SA 290. Mr. BROWNBACK (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 291. Mr. BROWNBACK (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and

creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 292. Mr. BROWNBACK (for himself, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 293. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, strike lines 1 through 11, and insert the following:

''(1) STANDARDS.—The National Coordinator shall—

''(A) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004;

''(B) make such determinations under subparagraph (A), and report to the Secretary such determinations, not later than 45 days after the date the recommendation is received by the Coordinator;

''(C) review Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published under paragraph (3); and

''(D) provide comments and advice regarding specific Federal health information technology programs, at the request of Office of Management and Budget.''.

Beginning on page 273, strike line 21, and all that follows through line 8 on page 274, and insert the following:

''(5) HARMONIZATION.—The Secretary may recognize an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(6) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.''.

On page 277, strike lines 8 through 11, and insert the following:

''(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall implement the recommendations made by the HIT Policy Committee regarding the governance of the nationwide health information network.''.

On page 283, between lines 12 and 13, insert the following:

''(ix) Methods to facilitate secure access by an individual to such individual's protected health information.

''(x) Methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia that prevents a patient from accessing the patient's individually identifiable health information.''.

On page 284, strike lines 1 through 13, and insert the following:

''(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

''(A) One member shall be appointed by the Secretary.

''(B) One member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

''(C) One member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

''(D) One member shall be appointed by the Majority Leader of the Senate.

''(E) One member shall be appointed by the Minority Leader of the Senate.

''(F) One member shall be appointed by the Speaker of the House of Representatives.

''(G) One member shall be appointed by the Minority Leader of the House of Representatives.

''(H) Eleven members shall be appointed by the Comptroller General of the United States, of whom—

''(i) three members shall represent patients or consumers;

''(ii) one member shall represent health care providers;

''(iii) one member shall be from a labor organization representing health care workers;

''(iv) one member shall have expertise in privacy and security;

''(v) one member shall have expertise in improving the health of vulnerable populations;

''(vi) one member shall represent health plans or other third party payers;

''(vii) one member shall represent information technology vendors;

''(viii) one member shall represent purchasers or employers; and

''(ix) one member shall have expertise in health care quality measurement and reporting.

''(3) CHAIRPERSON AND VICE CHAIRPERSON.—The HIT Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

''(4) NATIONAL COORDINATOR.—The National Coordinator shall serve as a member of the HIT Policy Committee and act as a liaison among the HIT Policy Committee, the HIT Standards Committee, and the Federal Government.

''(5) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(6) TERMS.—

''(A) IN GENERAL.—The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

''(7) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy and security;

''(B) improving the health of vulnerable populations;

''(C) health care quality and patient safety, including individuals with expertise in the measurement and use of health information technology to capture data to improve health care quality and patient safety;

''(D) long-term care and aging services;

''(E) medical and clinical research; and

''(F) data exchange and developing health information technology standards and new health information technology.

''(8) QUORUM.—Ten members of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(9) FAILURE OF INITIAL APPOINTMENT.—If, on the date that is 120 days after the date of enactment of this title, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint—

''(A) the number of members that such official is authorized to appoint shall be reduced to the number that such official has appointed as of that date; and

''(B) the number prescribed in paragraph (8) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

''(10) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.''.

On page 287, between lines 16 and 17, insert the following:

''(5) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.''.

On page 288, strike lines 4 through 19 and insert the following:

''(3) BROAD PARTICIPATION.—There is broad participation in the HIT Standards Committee by a variety of public and private stakeholders, either through membership in the Committee or through another means.

''(4) CHAIRPERSON; VICE CHAIRPERSON.—The HIT Standards Committee may designate one member to serve as the chairperson and one member to serve as the vice chairperson.

''(5) DEPARTMENT MEMBERSHIP.—The Secretary shall be a member of the HIT Standards Committee. The National Coordinator shall act as a liaison among the HIT Standards Committee, the HIT Policy Committee, and the Federal Government.

''(6) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

''(7) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) OPEN AND PUBLIC PROCESS.—In providing for the establishment of the HIT Standards Committee pursuant to subsection (a), the Secretary shall ensure the following:

''(1) CONSENSUS APPROACH; OPEN PROCESS.—The HIT Standards Committee shall use a consensus approach and a fair and open process to support the development, harmonization, and recognition of standards described in subsection (a)(1).

''(2) PARTICIPATION OF OUTSIDE ADVISERS.—The HIT Standards Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve healthcare quality and patient safety;

''(D) long-term care and aging services; and

''(E) data exchange and developing health information technology standards and new health information technology.

''(3) OPEN MEETINGS.—Plenary and other regularly scheduled formal meetings of the HIT Standards Committee (or established subgroups thereof) shall be open to the public.

''(4) PUBLICATION OF MEETING NOTICES AND MATERIALS PRIOR TO MEETINGS.—The HIT Standards Committee shall develop and maintain an Internet website on which it publishes, prior to each meeting, a meeting notice, a meeting agenda, and meeting materials.

''(5) OPPORTUNITY FOR PUBLIC COMMENT.—The HIT Standards Committee shall develop a process that allows for public comment during the process by which the Entity develops, harmonizes, or recognizes standards and implementation specifications.

''(e) VOLUNTARY CONSENSUS STANDARD BODY.—The provisions of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget circular 119 shall apply to the HIT Standards Committee.''.

On page 290, line 14, strike ''INITIAL SET OF''.

On page 291, between lines 6 and 7, insert the following:

''(3) SUBSEQUENT STANDARDS ACTIVITY.—The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 3003(b)(2).''.

Beginning on page 293, strike line 7 and all that follows through line 2 on page 295, and insert the following:

SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—Nothing in section 3001 shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with the requirements of a voluntary consensus standards body so as to allow the Secretary to recognize the National eHealth Collaborative as the HIT Standards Committee.

''(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.''.

On page 294, strike lines 10 through 16.

305, line 5, strike ''shall coordinate'' and insert ''may review''.

SA 294. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 678, line 24, strike ''0.'' and insert ''0. In implementing this subparagraph with respect to charity care, the Secretary shall coordinate with the Secretary of the Treasury and the Medicare Payment Advisory Commission to ensure uniform definitions of charity care and uncompensated care.''

SA 295. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC.—. STUDY OF TAX-EXEMPT AND NON-TAX-EXEMPT HOSPITALS.

(a) STUDY.—The Secretary of the Treasury shall undertake a study of the differences in operation between hospitals that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and are exempt from tax under section 501(a) of such Code, and hospitals that are not so exempt. The study conducted under this section shall include, in addition to any other information deemed relevant by the Secretary of the Treasury, a comprehensive review of the amount of uncompensated care, non-patient services and other benefits, and executive compensation provided by each type of hospital.

(b) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the results of the study conducted under this section.

SA 296. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 720, strike line 18 and all that follows through page 723, line 11, and insert the following:

(f) STATE INELIGIBILITY.—

(1) MAINTENANCE OF EFFORT REQUIREMENTS.—No State shall be eligible for an increased FMAP rate under this section for any fiscal year quarter during the recession adjustment period if the Secretary determines, with respect to the State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) and any fiscal year quarter during such period, any of the following:

(A) ELIGIBILITY.—Any reduction in eligibility standards, methodologies, or procedures under such State plan or waiver.

(B) BENEFITS.—Any reduction in the type, amount, duration, or scope of benefits provided under such State plan or waiver.

(C) PROVIDER PAYMENTS.—Any reduction in provider payments under such State plan or waiver, including the aggregate or per service amount paid to any provider and the amount and extent of beneficiary cost-sharing imposed.

(2) EXCEPTION FOR REDUCTION MADE FOR PURPOSES OF PREVENTING FRAUD.—A State shall not be ineligible under paragraph (1) if the Secretary determines, with respect to the State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) and any fiscal year quarter during such period, that any reductions described in paragraph (1) that are made by the State for any such quarter are for purposes of preventing fraud under the State plan or waiver.

SA 297. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 714, strike line 1 and all that follows through page 725, line 14, and insert the following:

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (d), (e), (f), and (g) if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section;

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first, second, and third calendar quarters in fiscal year 2011.

(b) GENERAL 9.5 PERCENTAGE POINT INCREASE.—Subject to subsections (d), (e), (f), and (g), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 9.5 percentage points.

(c) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (e), (f), and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by 9.5 percent.

(d) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.));

(3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

(5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008.

(e) STATE INELIGIBILITY.—

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a) or (b), or an increase in a cap amount under subsection (c), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES.—A State shall not be ineligible under subparagraph (A)—

(i) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to July 1, 2009, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay in the request for, and approval of, a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—No State shall be eligible for an increased FMAP rate as provided under this section for any claim submitted by a provider subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) during any period in which that State has failed to pay claims in accordance with section 1902(a)(37)(A) of such Act. Each State shall report to the Secretary, no later than 30 days following the 1st day of the month, its compliance with the requirements of section 1902(a)(37)(A) of the Social Security Act as they pertain to claims made for covered services during the preceding month.

(3) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection or subsection (f) under section 1115 of the Social Security Act or otherwise.

(f) REQUIREMENTS.—

(1) IN GENERAL.—A State may not deposit or credit the additional Federal funds paid to the State as a result of this section to any reserve or rainy day fund maintained by the State.

(2) STATE REPORTS.—Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2011, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(3) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (b), or an increase in a cap amount under subsection (c), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(g) STATE SELECTION OF RECESSION ADJUSTMENT RELIEF PERIOD.—The increase in a State's FMAP under subsection (a) or (b), or an increase in a State's cap amount under subsection (c), shall only apply to the State for 9 consecutive calendar quarters during the recession adjustment period. Each State shall notify the Secretary of the 9-calendar quarter period for which the State elects to receive such increase.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) POVERTY LINE.—The term ''poverty line'' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(3) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on June 20, 2011.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

SA 298. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF NO NEW TAXES.—

(A) IN GENERAL.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State will not take any action to raise State income, property, or sales taxes during the quarter. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to have taken an action that results in an increase in the State income, property, or sales taxes during

the quarter shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

(B) NONAPPLICATION TO STATE ACTION TAKEN PRIOR TO DATE OF ENACTMENT.—In the case of a State that enacted a law or took other action before the date of enactment of this Act that will result in an increase in State income, property, or sales taxes during any quarter of the recession adjustment period, the State shall not be ineligible for an increased FMAP under this section for any such quarter if the State certifies that it will not enact any new such law or take any new such action after the date of enactment of this Act and for the remainder of the recession adjustment period and the State submits the quarterly certifications required under subparagraph (A).

SA 299. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 540, line 1, strike all through page 541, line 11, and insert the following:

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

''(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include—

''(I) any bond issued after December 31, 2008, and before January 1, 2011, or

''(II) any interim financing refunding bond issued after December 31, 2008, and before January 1, 2011.

For purposes of clause (I), a refunding bond (whether a current or advance refunding), other than an interim financing refunding bond, shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond). For purposes of this clause, the term 'interim financing refunding bond' means any refunding bond which is issued to refund another bond which had a maturity date that was less than 5 years after the date such other bond was issued.''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DURING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on—

''(I) a bond issued after December 31, 2008, and before January 1, 2011, or

''(II) an interim financing refunding bond issued after December 31, 2008, and before January 1, 2011.

For purposes of clause (I), a refunding bond (whether a current or advance refunding), other than an interim financing refunding bond, shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond). For purposes of this clause, the term 'interim financing refunding bond' means any refunding bond which is issued to refund another bond which had a maturity date that was less than 5 years after the date such other bond was issued.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SA 300. Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BROWN, Mr. INOUYE, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 430, strike lines 7 through 12 and insert the following:

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

SA 301. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 15, after ''transition'' insert the following: '', including the potential need for indoor or outdoor, or both, antenna to facilitate the reception and display of signals of channels broadcast in digital television service and the potential for the loss of channels due to the transition to digital television service''.

SA 302. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 8, strike ''2005,'' and all that follows through ''*Provided*, That'' on line 9, and insert the following: ''2005, as well as to assist consumers with the purchase or installation, or both, of an indoor or outdoor antenna to facilitate the reception and display of signals of channels broadcast in digital television service, to remain available until September 30, 2010: *Provided*, That the Assistant Secretary for Communications and Information of the Department of Commerce may only use amounts provided under this heading to assist consumers with the purchase or installation, or both, of an indoor or outdoor antenna, if upon the determination of the Assistant Secretary, in consultation with the Federal Communications Commission and the Secretary of Commerce, such funds are no longer necessary to provide additional coupons under section 3005 of the Digital Television Transition and Public Safety Act of 2005: *Provided further,* That''.

SA 303. Mrs. LINCOLN (for herself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. _____. MODIFICATIONS TO REHABILITATION CREDIT.

(a) RECAPTURE EXEMPTION FOR FORECLOSURE TRANSACTIONS WITH RESPECT TO INVESTMENT CREDIT PROPERTY PLACED IN SERVICE WITHIN 24 MONTHS OF ENACTMENT.—Subsection (a) of section 50 is amended by adding at the end the following new paragraph:

''(6) TEMPORARY SPECIAL RULE FOR CERTAIN FORECLOSURE TRANSACTIONS.—Paragraphs (1) and (2) shall not apply to any transfer or deemed sale of any investment credit property that arises from a foreclosure or instrument in lieu of foreclosure or any similar transaction if—

''(A) such property is placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009, and

''(B) the transferee in such transfer or deemed sale is not a related person (within the meaning of section 267(b)) of the taxpayer.''.

(b) USE FOR LODGING NOT TO DISQUALIFY CERTAIN BUILDINGS FOR REHABILITATION CREDIT.—Paragraph (2) of section 50(b) is amended—

(1) by striking ''and'' at the end of subparagraph (C),

(2) by redesignating subparagraph (D) as subparagraph (E), and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) a building other than a certified historic structure which is—

''(i) located within a qualified census tract (within the meaning of section 42(d)(5)(B)(ii)) or a difficult development area (within the meaning of section 42(d)(5)(B)(iii)); and

''(ii) placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009; and''.

(c) DATE BY WHICH BUILDINGS MUST BE FIRST PLACED IN SERVICE.—Paragraph (1) of section 47(c) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR CERTAIN BUILDINGS PLACED IN SERVICE IN 2009 AND 2010.—In the case of a building other than a certified historic structure which is—

''(i) located within a qualified census tract (within the meaning of section 42(d)(5)(B)(ii)) or a difficult development area (within the meaning of section 42(d)(5)(B)(iii)), and

''(ii) placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009,

subparagraph (B) shall be applied by substituting 'not less than 50 years before the year in which qualified rehabilitation expenditures are first taken into account under subsection (b)(1)' for 'before 1936'.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 304. Mr. WYDEN (for himself, Mr. REED, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, between lines 8 and 9, insert the following:

SEC. 2105. EXTENSION OF TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.

(a) IN GENERAL.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449) is amended by striking ''December 8, 2009'' and inserting ''September 30, 2010''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449).

SA 305. Mr. COBURN (for himself, Mr. BURR, Mr. DEMINT, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, after line 8, insert the following:

SEC. _____. SENATE COMMITTEE OVERSIGHT OF WASTE, FRAUD, AND ABUSE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end the following:

''14. (a)(1) Each standing committee, or a subcommittee thereof, shall hold at least one hearing during each 120-day period following the beginning of a Congress on the topic of waste, fraud, abuse, or mismanagement in Government programs which that committee may authorize.

''(2) A hearing described in clause (1) shall include a focus on the most egregious instances of waste, fraud, abuse, or mismanagement as documented by any report the committee has received from a Federal Office of the Inspector General or the Comptroller General of the United States.

''(b) Each committee, or a subcommittee thereof, shall hold at least one hearing in any session in which the committee has received disclaimers of agency financial statements from auditors of any Federal agency that the committee may authorize to hear testimony on such disclaimers from representatives of any such agency.

''(c) Each standing committee, or a subcommittee thereof, shall hold at least one hearing on issues raised by reports issued by the Comptroller General of the United States indicating that Federal programs or operations that the committee may authorize are at high risk for waste, fraud, and mismanagement, known as the 'high-risk list' or the 'high-risk series'.''.

SA 306. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HIRING AMERICAN WORKERS IN COMPANIES RECEIVING TARP FUNDING.

(a) SHORT TITLE.—This section may be cited as the ''Employ American Workers Act''.

(b) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be unlawful for any recipient of funding under title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343) or section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)).

(2) DEFINED TERM.—In this subsection, the term ''hire'' means to permit a new employee to commence a period of employment.

(c) SUNSET PROVISION.—This section shall be effective during the 1-year period beginning on the date of the enactment of this Act.

SA 307. Mr. BURR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

FIX AMERICA FIRST: PROHIBITION ON FUNDING OF FOREIGN GOVERNMENTS AND PERSONS

SEC. 1607. Notwithstanding any other provision of this Act, none of the amounts authorized or appropriated by this Act may be made available to foreign governments or citizens or nationals of a foreign country residing outside the United States or its territories.

SA 308. Mr. BOND (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

SEC. ___. NUTRITION ENHANCEMENT FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

Not later than 18 months after the date of enactment of this Act, of the funds made available by this Act for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the Secretary of Agriculture shall use not more than $5,000,000 to develop, after notice and opportunity for public comment, guidelines to ensure, to the maximum extent practicable, that Federal expenditures under the program are used to purchase food that is nutritious consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), by establishing an approved list of Universal Product Codes for products that can be purchased under the program.

SA 309. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMIT ON FUNDS.

None of the amounts appropriated or otherwise made available by this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, stadium, community park, museum, theater, art center, and highway beautification project.

SA 310. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, strike lines 1 through 5.

On page 59, between lines 9 and 10, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the date of the enactment of this Act, individually submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives the modernization priority assessment for their respective Reserve and National Guard components.

On page 93, line 7, strike ''$9,048,000,000'' and insert ''$8,648,000,000''.

On page 93, line 12, strike ''$6,000,000,000'' and insert ''$5,600,000,000''.

On page 95, strike lines 1 through 8.

SA 311. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, on lines 10 and 11, strike ''funds provided under the heading 'Small Business Administration' in this Act.'' and insert the following: ''the $84,000,000 amount appropriated under this heading, and for an additional amount, to remain available until expended, $19,500,000, of which $12,000,000 is for the Administrator of the Small Business Administration to make grants under the Small Business Development Center program established by section 21 of the Small Business Act (15 U.S.C. 648), $3,000,000 is for the Administrator of the Small Business Administration to make grants under the Women's Business Center program established by section 29 of the Small Business Act (15 U.S.C. 656), $2,000,000 is for the Administrator of the Small Business Administration to make grants under the Service Corps of Retired Executives program established by section 8(b)(1)(B) of the Small Business Act, $1,000,000 is for PRIME, the program for investment in microentreprenuers, $1,000,000 is for technical and management assistance under section 7(j) of the Small Business Act (15 U.S.C. 636), and $500,000 is for Veteran Business Outreach Centers under section 32 of the Small Business Act (15 U.S.C. 657b): *Provided*, That the $19,500,000 amount appropriated under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*, That, notwithstanding section 21(a)(4) or section 29(c) of the Small Business Act (15 U.S.C. 648(a)(4) and 656(c)), no non-Federal contribution shall be required as a condition of participation in the Small Business Development Center program or the Women's Business Center program using funds provided under this heading: *Provided further*, That the $19,500,000 amount appropriated under this heading shall be used only for programs of the Small Business Administration in existence on the date of enactment of this Act: *Provided further*, That, to the extent practicable, not later than 30 days after the Administrator receives the $19,500,000 amount appropriated under this heading, the Administrator shall expend all such funds, and if such funds are not expended within 30 days, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the proposed use of such funds.''.

SA 312. Mr. UDALL of Colorado (for himself, Mr. BENNET of Colorado, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 121, line 4, before the period, insert the following: '': *Provided further*, That no State matching funds are required: *Provided further*, That funding shall be distributed to areas demonstrating highest priority needs, as determined by the Chief of the Forest Service''.

SA 313. Mr. LEAHY (for himself, Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. WAIVER OF MATCHING REQUIREMENT UNDER COPS PROGRAM.

Section 1701(g) of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3796dd(g)) shall not apply with respect to funds appropriated in this Act for Community Oriented Policing Services authorized under part Q of such Act of 1968.

SA 314. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, line 2, strike ''70'' and insert ''55''.

On page 24, line 20, strike ''may'' and insert ''shall''.

On page 27, line 3, strike ''70'' and insert ''55''.

On page 29, line 22, strike ''may'' and insert ''shall''.

SA 315. Mr. LEAHY (for himself Mr. CARPER, Mr. SANDERS, Mrs. LINCOLN, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 11, strike ''2011: *Provided*, That'' and insert the following: ''2011: *Provided*, That each State shall receive not less than 0.5 percent of funds made available under this heading: *Provided further*, That notwithstanding the previous proviso''.

SA 316. Mr. LEAHY (for himself, Mr. KERRY, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 394, line 17, strike ''education and'' and insert ''education, adult education and literacy, and''.

SA 317. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 437, between lines 10 and 11, insert the following:

''(3) SPECIAL RULE FOR CERTAIN ELIGIBLE INDIVIDUALS.—In the case of any taxable year beginning in 2009, if an eligible individual receives any amount as a pension or annuity for service performed in the employ of the United States or any State, or any instrumentality thereof, which is not considered employment for purposes of chapter 21, the amount of the credit allowed under subsection (a) (determined without regard to subsection (c)) with respect to such eligible individual shall be equal to the greater of—

''(A) the amount of the credit determined without regard to this paragraph or subsection (c), or

''(B) $300 ($600 in the case of a joint return where both spouses are eligible individuals described in this paragraph).

If the amount of the credit is determined under subparagraph (B) with respect to any eligible individual, the modified adjusted gross income limitation under subsection (b) shall not apply to such credit.

SA 318. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 453, beginning on line 12, strike through line 16 and insert the following:

(c) CREDIT ALLOWED FOR ENERGY STORAGE.—

(1) IN GENERAL.—Subparagraph (B) of section 45(a)(1) is amended by inserting '', or delivered by the taxpayer to an unrelated person from a qualified renewable energy bulk storage facility,'' before ''during the taxable year''.

(2) STORAGE FACILITY.—Subsection (e) of section 45 is amended by adding at the end the following new paragraph:

''(12) QUALIFIED RENEWABLE ENERGY BULK STORAGE FACILITY.—For purposes of subsection (a), the term 'qualified renewable energy bulk storage facility' means a facility owned by the taxpayer which is designed to store energy produced from qualified energy resources and to convert such energy to electricity and deliver such electricity for sale.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) ENERGY STORAGE.—The amendment made by subsection (c) shall apply to electricity produced and stored after the date of the enactment of this Act.

(3) TECHNICAL AMENDMENT.—The amendment * * *

SA 319. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. WORKER EMPLOYMENT PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall implement a plan to encourage employers that carry out projects funded under this Act (or an amendment made by this Act) to employ individuals from low-income and high unemployment areas to carry out activities under such projects.

SA 320. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 456, after line 24, add the following:

SEC. _____. QUALIFIED ENERGY EFFICIENCY PROPERTY TREATED AS ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) is amended by striking ''or'' at the end of clause (vi), by inserting ''or'' at the end of clause (vii), and by inserting after clause (vii) the following new clause:

''(viii) qualified energy efficiency property,''.

(b) QUALIFIED ENERGY EFFICIENCY PROPERTY.—Section 48(c) is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ENERGY EFFICIENCY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy efficiency property' means any property which—

''(i) is residential rental property or nonresidential real property,

''(ii) is a qualified building, and

''(iii) achieves a minimum energy savings of 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 (as defined by section 179D(c)(2)), determined under rules similar to the rules of section 179D(d)(2).

''(B) QUALIFIED BUILDING.—The term 'qualified building' means any building—

''(i) which is more than 250,000 square feet,

''(ii) which is located not more than one-half mile from a location in which there is direct access to public bus, rail, light rail, street car, or ferry system,

''(iii) which meets the requirements of subchapter IV of chapter 31 of title 40, United States Code, and

''(iv) for which the site work and construction is commenced not later than 120 days after the date of the enactment of this paragraph.

''(C) SPECIAL RULE FOR RESIDENTIAL RENTAL PROPERTY.—In the case of a qualified building in which the majority of the building is devoted to residential use—

''(i) subparagraph (A)(iii) shall be applied by substituting '25percent' for '50 percent', and

''(ii) any mechanical systems which meet the requirements of Standard 90.1-2001 may be used in lieu of appendix G to such Standard in modeling energy use of a reference building.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 321. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 477, strike line 18 and insert the following:

(d) INCLUSION OF SATELLITE PROPERTY AT 6-YEAR EXTENSION.—Clause (iv) of section 168(k)(2)(A) is amended by inserting '', or, in the case of property described in subparagraph (H) or (L) of subsection (g)(4), before January 1, 2015'' before the period.

(e) EFFECTIVE DATES.—

SA 322. Mr. MENENDEZ (for himself and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, between lines 14 and 15, insert the following:

(D) shall, when making grants under the program, consider whether the entity seeking such grant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637);

On page 54, line 15, strike ''(D)'' and insert ''(E)''.

On page 54, line 23, strike ''(E)'' and insert ''(F)''.

SA 323. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. MINORITY OWNED ENTERPRISES.

(a) IN GENERAL.—In awarding contracts or subcontracts for construction projects funded using amounts made available under this Act (or an amendment made by this Act), additional consideration shall be given to entities that voluntarily include in their bids for such contracts or subcontracts minority business enterprise participation that exceeds the minimum participation required under the Federal guidelines utilized for purposes of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) MONITORING BY DOL.—The Secretary of Labor shall monitor the construction projects carried out with amounts made available under this Act (or an amendment made by this Act) to ensure that the contracting practices with respect to such projects are carried out without entry barriers, and that minority business enterprise and disadvantaged business enterprise participation targets are achieved with integrity and accountability.

SA 324. Mr. KOHL (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 168, strike lines 4 through 7, and insert the following:

(5) STATE HIGHER EDUCATION AGENCY.—The term ''State higher education agency''—

(A) has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003), except that if the application of this subparagraph to a State would result in the State legislature being designated the State higher education agency, then the term shall mean the Governor of the State; or

(B) means a State entity designated by a State higher education agency (as defined in such section 103) to carry out the State higher education agency's functions under this section.

SA 325. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. _____. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 326. Mr. BARRASSO (for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 16___. (a)(1) Notwithstanding any other provision of law, all reviews carried out pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed by the date that is 270 days after the date of enactment of this Act.

(2) If a review described in paragraph (1) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in paragraph (1)—

(A) the action shall be considered to have no significant impact to the human environment for the purpose of that Act; and

(B) that classification shall be considered to be a final agency action.

(b) The lead agency for a review of an action carried out pursuant to this section shall be the Federal agency to which funds are made available for the action.

(c)(1) There shall be a single administrative appeal for all reviews carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court described in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to a review carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court described in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

SA 327. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 380, strike line 22 and insert the following: ''State, provided that an attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section. For purposes of this paragraph, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

SA 328. Mr. VITTER (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. _____. PUBLIC, PRIVATE, AND AGRICULTURAL PROJECTS AND ACTIVITIES.

(a) EXEMPTION FROM REVIEW.—During the 3-year period beginning on the date of enactment of this Act, no public or private development project that is to be carried out during that period (other than such a project for which a permit is required under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or that is to be carried out on wetland (as that term is defined in section 1201 of the Food Security Act of 1985 (16 U.S.C. 3801)) shall be subject to any requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) EMERGENCIES.—Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) EMERGENCIES.—On the declaration of an emergency by the Governor of a State, the Secretary shall, for the duration of the emergency, temporarily exempt from the prohibition against taking, and the prohibition against the adverse modification of critical habitat, under this Act any action that is reasonably necessary to avoid or ameliorate the impact of the emergency, including the operation of any water supply or flood control project by a Federal agency.''.

(c) JURISDICTION OVER COVERED ENERGY PROJECTS.—

(1) DEFINITION OF COVERED ENERGY PROJECT.—In this subsection, the term ''covered energy project'' means any action or decision by a Federal official regarding—

(A) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(B) any action under such a lease.

(2) EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this subsection or any other Act that arise from any covered energy project.

(3) TIME FOR FILING COMPLAINT.—

(A) IN GENERAL.—Each case or claim described in paragraph (2) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned.

(B) PROHIBITION.—Any cause or claim described in paragraph (2) that is not filed within the time period described in subparagraph (A) shall be barred.

(4) DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.—

(A) IN GENERAL.—Each proceeding that is subject to paragraph (2)—

(i) shall be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(ii) shall take precedence over all other pending matters before the district court.

(B) FAILURE TO COMPLY WITH DEADLINE.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this subsection, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(5) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court under this subsection may be reviewed by no other court except the Supreme Court.

(6) DEADLINE FOR APPEAL TO THE SUPREME COURT.—If a writ of certiorari has been granted by the Supreme Court pursuant to paragraph (5)—

(A) the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued; and

(B) all such proceedings shall take precedence over all other matters then before the Supreme Court.

SA 329. Mr. REED (for himself, Mr. BROWN, Mr. LEAHY, Mr. KERRY, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. MERKLEY, Mr. ROCKEFELLER, Mr. SANDERS, Ms. STABENOW, Mr. WYDEN, Mr. KENNEDY, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, lines 14 through 16, strike ''$14,398,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided,*'' and insert ''$20,598,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided,* That $6,200,000,000 shall be available to carry out the Weatherization Assistance Program for Low-Income Persons established under part

A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.): *Provided further,* That $3,400,000,000 shall be for the State Energy Program authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.): *Provided further*,''.

On page 133, between lines 18 and 19, insert the following:

LOW-INCOME HOME ENERGY ASSISTANCE

For an additional amount for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), $1,000,000,000, which shall become available on the date of enactment of this Act, and shall be distributed to States not later than September 30, 2009.

SA 330. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 194, line 22, strike ''$637,875,000'' and all that follows through ''equipment): *Provided*'' on page 195, line 2, and insert: ''$757,875,000, to remain available until September 30, 2013, of which $84,100,000 shall be for child development centers; $481,000,000 shall be for warrior transition complexes; $42,400,000 shall be for health and dental clinics (including acquisition, construction, installation, and equipment); and $120,000,000 shall be for the Secretary of the Army to carry out at least three pilot projects to use the private sector for the acquisition or construction of military unaccompanied housing for all ranks and locations in the United States: *Provided*, That the amount made available under this heading for a pilot program to use the private sector for the acquisition or construction of military unaccompanied housing is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*''.

SA 331. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVII—IMMIGRATION MATTERS

SEC. 1701. EXTENSION OF EB-5 REGIONAL CENTER PILOT PROGRAM.

Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Public Law 102–395; 8 U.S.C. 1153 note) is amended by striking ''annually for 15 years'' and inserting ''for each fiscal year through fiscal year 2016''.

SEC. 1702. DEFINITIONS.

In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(2) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program carried out under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 1703. EXTENSION OF PILOT PROGRAMS.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''at the end of the 11-year period beginning on the first day the pilot program is in effect.'' and inserting ''on September 30, 2016.''.

SEC. 1704. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS RELATED TO THE EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Appropriations, the Committee on Finance, and the Committee on the Judiciary of the Senate; and

(2) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(b) REQUIREMENT FOR AGREEMENT.—For each fiscal year after fiscal year 2008, the Commissioner and the Secretary shall enter into an agreement that—

(1) provides funds to the Commissioner for the full costs of carrying out the responsibilities of the Commissioner under the pilot program, including the costs of—

(A) acquiring, installing, and maintaining technological equipment and systems to carry out such responsibilities, but only the portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest tentative nonconfirmations provided by the confirmation system established pursuant to the pilot program;

(2) provides such funds to the Commissioner quarterly, in advance of the applicable quarter, based on estimating methodology agreed to by the Commissioner and the Secretary, unless the delayed enactment of an annual appropriation Act prevents funds from being available to make such a quarterly payment; and

(3) requires an annual accounting and reconciliation of the actual costs incurred by the Commissioner to carry out such responsibilities and the funds provided under the agreement, that shall be reviewed by the Office of the Inspector General in the Social Security Administration and in the Department of Homeland Security.

(c) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) CONTINUATION OF PREVIOUS AGREEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the agreement required under subsection (b) for a fiscal year is not reached as of the first day of such fiscal year, the most recent previous agreement between the Commissioner and the Secretary to provide funds to the Commissioner for carrying out the responsibilities of the Commissioner under the pilot program shall be deemed to remain in effect until the date that the agreement required under subsection (b) for such fiscal year becomes effective.

(B) ANNUAL ADJUSTMENT.—If the most recent previous agreement is deemed to remain in effect for a fiscal year under subparagraph (A), the Director of the Office of Management and Budget is authorized to modify the amount provided under such agreement for such fiscal year to account for—

(i) inflation; and

(ii) any increase or decrease in the estimated number of individuals who will require services from the Commissioner under the pilot program during such fiscal year.

(2) NOTIFICATION OF CONGRESS.—If the most recent previous agreement is deemed to remain in effect under paragraph (1)(A) for a fiscal year, the Commissioner and the Secretary shall—

(A) not later than the first day of such fiscal year, submit to the appropriate committees of Congress a notification of the failure to reach the agreement required under subsection (b) for such fiscal year; and

(B) once during each 90-day period until the date that the agreement required under subsection (b) has been reached for such fiscal year, submit to the appropriate committees of Congress a notification of the status of negotiations between the Commissioner and the Secretary to reach such an agreement.

SEC. 1705. STUDY AND REPORT OF ERRONEOUS RESPONSES SENT UNDER THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION.

(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Finance and the Committee on the Judiciary of the Senate; and

(2) the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the erroneous tentative nonconfirmations sent to individuals seeking confirmation of employment eligibility under the pilot program.

(c) MATTERS TO BE STUDIED.—The study required by subsection (b) shall include an analysis of—

(1) the causes of erroneous tentative nonconfirmations sent to individuals under the pilot program;

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and agencies and departments of the United States.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the results of the study required by subsection (b).

SEC. 1706. STUDY AND REPORT OF THE EFFECTS OF THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION ON SMALL ENTITIES.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) SMALL ENTITY.—The term ''small entity'' has the meaning given that term in section 601 of title 5, United States Code.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the effects of the pilot on small entities.

(c) MATTERS TO BE STUDIED.—

(1) IN GENERAL.—The study required by subsection (b) shall include an analysis of—

(A) the costs of complying with the pilot program incurred by small entities;

(B)(i) the description and estimated number of small entities enrolled in and participating in the pilot program; or

(ii) why no such estimated number is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of the pilot program that apply to small entities;

(D) the factors that impact enrollment and participation of small entities in the pilot program, including access to appropriate technology, geography, and entity size and class; and

(E) the actions, if any, carried out by the Secretary to minimize the economic impact of participation in the pilot program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The study required by subsection (b) shall analyze, and treat separately, with respect to small entities—

(A) any direct effects of compliance with the pilot program, including effects on wages and time used and fees spent on such compliance; and

(B) any indirect effects of such compliance, including effects on cash flow, sales, and competitiveness of such compliance.

(3) DISAGGREGATION BY ENTITY SIZE.—The study required by subsection (b) shall analyze separately data with respect to—

(A) small entities with fewer than 50 employees; and

(B) small entities that operate in States that require small entities to participate in the pilot program.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by subsection (b).

SA 332. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, line 23, after ''expended:'' insert the following: ''*Provided further*, that not less than $100,000,000 of the funds made available under this heading shall be available to cover the cost of loan guarantees pursuant to section 201(4) of this Act: *Provided further*, That the principal amount of loan guarantees made pursuant to such section 201(4) shall not exceed $2,000,000,000:''.

On page 50, after line 25, insert the following:

(4) The Assistant Secretary—

(A) shall establish and administer a broadband telecommunications loan guarantee program as expeditiously as practicable;

(B) shall provide broadband telecommunications loan guarantees for any project which meets the following criteria:

(i) The total amount financed by the loan guarantee does not exceed $100,000,000.

(ii) The loan guarantee does not exceed 80 percent of the principal losses of the project, provided that the maximum amount of any loan guarantee does not exceed 60 percent of the total amount financed for the project.

(iii) The project raises its financing not later than 120 days after the date that the project receives approval for the loan guarantee from the Assistant Secretary.

(iv) The project design provides broadband connectivity to every business location and every residence within the project territory not later than the date that 2 years after the date that the project received its financing.

(v) The service territory covered by the project—

(I) is, in the discretion of the Assistant Secretary, reasonably coherent; and

(II) does not include unoccupied areas for the sole purpose of artificially adjusting the average density of the covered connectivity area of the project;

(C) shall, not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds reserved for broadband telecommunications loan guarantees under this paragraph are obligated, submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science and Transportation of the Senate, on the planned spending and actual obligations of such reserved funds; and

(D) may use not more than 3 percent of the funds reserved for broadband telecommunications loan guarantees under this paragraph for administrative costs to carry out the broadband telecommunications loan guarantee program established under this paragraph.

On page 51, line 1, strike ''(4)'' and insert ''(5)''.

On page 52, line 8, strike ''(5)'' and insert ''(6)''.

On page 52, line 18, strike ''(5)'' and insert ''(6)''.

On page 53, line 1, strike ''(6)'' and insert ''(7)''.

On page 53, line 23, strike ''(7)'' and insert ''(8)''.

On page 55, line 9, strike ''(8)'' and insert ''(9)''.

On page 55, line 16, strike ''(9)'' and insert ''(10)''.

On page 56, line 12, strike ''(10)'' and insert ''(11)''.

SA 333. Mr. COCHRAN (for himself, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. TENNESSEE VALLEY AUTHORITY BORROWING AUTHORITY.

(a) BORROWING AUTHORITY.—For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Tennessee Valley Authority, an additional $3,250,000,000 in borrowing authority is made available under section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), to remain outstanding at any time.

(b) OFFSET.—The aggregate amount appropriated or otherwise made available to carry out title XXX of the Public Health Service Act (as added by section 13101) is reduced by $3,250,000,000.

SA 334. Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HARKIN, Mr. WYDEN, Ms. STABENOW, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 698, after line 25, insert the following:

SEC. 4204A. DELAY IN THE PHASE OUT OF THE MEDICARE HOSPICE BUDGET NEUTRALITY ADJUSTMENT FACTOR DURING FISCAL YEAR 2009.

Notwithstanding any other provision of law, including the final rule published on August 8, 2008, 73 Federal Register 46464 et seq., relating to Medicare Program; Hospice Wage Index for Fiscal Year 2009, the Secretary of Health and Human Services shall not phase out or eliminate the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009, and the Secretary shall recompute and apply the final Medicare hospice wage index for fiscal year 2009 as if there had been no reduction in the budget neutrality adjustment factor.

SA 335. Mr. SCHUMER (for himself, Mrs. LINCOLN, Ms. STABENOW, Mr. KERRY, Mr. BINGAMAN, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. SENSE OF THE SENATE REGARDING RESCISSION OF CERTAIN MEDICAID REGULATIONS.

It is the sense of the Senate that the following regulations relating to Medicaid should be rescinded:

(1) COST LIMITS FOR PUBLIC PROVIDERS.—The final regulation published on May 29, 2007 (72 Federal Register 29748) and determined by the United States District Court for the District of Columbia to have been ''improperly promulgated'', *Alameda County Medical Center, et al., v. Leavitt, et al.*, Civil Action No. 08-0422, Mem. at 4 (D.D.C. May 23, 2008) .

(2) PAYMENTS FOR GRADUATE MEDICAL EDUCATION.—The proposed regulation published on May 23, 2007 (72 Federal Register 28930).

(3) MEDICAID ALLOWABLE PROVIDER TAXES.—The final regulation published on February 22, 2008 (73 Federal Register 9685).

(4) REHABILITATIVE SERVICES.—The proposed regulation published on August 13, 2007 (72 Federal Register 45201).

(5) PAYMENTS FOR COSTS OF SCHOOL ADMINISTRATION, TRANSPORTATION.—The final regulation published on December 28, 2007 (72 Federal Register 73635).

(6) CASE MANAGEMENT SERVICES.—The interim final regulation published on December 4, 2007 (Federal Register 68077).

(7) OUTPATIENT HOSPITAL SERVICES.—The final regulation published on November 7, 2008 (73 Federal Register 66187).

SA 336. Mr. CARDIN (for himself, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 13, strike ''104(k)(3)'' and insert ''104(k)''.

SA 337. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, line 14, strike ''*Provided*'' and all that follows through ''project:'' on line 25.

SA 338. Mr. HARKIN (for himself, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. AUTOMOBILE TRADE-IN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AUTOMOBILE, FUEL, MANUFACTURER, MODEL YEAR.—The terms ''automobile'', ''fuel'', ''manufacturer'', and ''model year'' have the meaning given such terms in section 32901 of title 49, United States Code.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual—

(A) who does not have more than 3 automobiles registered under his or her name;

(B) who filed a return of Federal income tax for a taxable year beginning in 2007 or in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

(C) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins;

(D) whose adjusted gross income reported in the most recent return described in subparagraph (B) was not more than $50,000 ($75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986));

(E) who has not acquired an automobile under the Program; and

(F) who did not file such return jointly with another individual who has acquired an automobile under the Program.

(3) ELIGIBLE NEW AUTOMOBILE.—The term ''eligible new automobile'', with respect to a trade of an eligible old automobile by an eligible individual under the Program, means an automobile that—

(A) has never been registered in any jurisdiction;

(B) was assembled in the United States; and

(C) has a fuel economy that—

(i) is not less than 25 miles per gallon (20 miles per gallon in the case of a pick up truck), as determined by the Administrator of the Environmental Protection Agency using the 5-cycle fuel economy measurement methodology of such Agency; and

(ii) has a fuel economy that is more than 4.9 miles per gallon greater than the fuel economy of such eligible old automobile, as determined by the Administrator using the 2-cycle fuel economy measurement methodology of such Agency for both automobiles.

(4) ELIGIBLE OLD AUTOMOBILE.—The term ''eligible old automobile'', with respect to a trade for an eligible new automobile by an eligible individual under the Program, means an automobile that—

(A) is operable;

(B) was first registered in any jurisdiction by any person not less than 10 years before the date on which such trade is initiated;

(C) is registered under such eligible individual's name on the date on which such trade is initiated; and

(D) was registered under such eligible individual's name before January 16, 2009.

(5) PICK UP TRUCK.—The term ''pick up truck'' means an automobile with an open bed as determined by the Secretary in consultation with the Secretary of Transportation.

(6) PROGRAM.—The term ''Program'' means the Automobile Trade-In Program established under subsection (b).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Treasury, or the Secretary's designee.

(b) PROGRAM ESTABLISHED.—The Secretary shall establish the Automobile Trade-In Program to provide eligible individuals with subsidies to purchase eligible new automobiles in exchange for eligible old automobiles.

(c) DURATION OF PROGRAM.—The Program shall commence on the date on which the Secretary prescribes regulations under subsection (h) and shall terminate on the earlier of—

(1) September 30, 2010; and

(2) the date on which all of the funds appropriated or otherwise made available under subsection (j) have been expended.

(d) TRADES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an eligible individual and a seller of an eligible new automobile initiate a trade as described in subsection (e) for such new automobile with an eligible old automobile of the eligible individual before the termination of the Program under subsection (c), the Secretary shall provide to the seller of such new automobile $10,000.

(2) LIMITATION ON PURCHASE PRICE OF ELIGIBLE NEW AUTOMOBILES.—The Secretary may not make any payment under this subsection for a trade for an eligible new automobile under the Program if—

(A) the purchase price of such new automobile exceeds the manufacturer's suggested retail price for such new automobile; or

(B) the price of the non-safety related accessories, as determined by the Secretary in consultation with the Administrator of the National Highway Traffic Safety Administration, of such new automobile exceeds—

(i) the average price of the non-safety related accessories for the prior model year of such new automobile; or

(ii) in the case that there is no prior model year for such new automobile, the average price of non-safety related accessories for similar new automobiles (as determined by the Secretary), with consideration of the types of non-safety related accessories that are typically provided with such automobiles.

(3) COMPENSATION FOR DELAYED PAYMENTS.—In the case that a payment under this subsection to a seller for a trade under the Program is delayed, the Secretary shall provide to such seller the amount otherwise determined under this subsection plus interest at the overpayment rate established under section 6621 of the Internal Revenue Code of 1986.

(e) INITIATION OF TRADE.—An eligible individual and the seller of an eligible new automobile initiate a trade under the Program for such eligible new automobile with an eligible old automobile of such individual if—

(1) the eligible individual, or the eligible individual's designee, drives such old automobile to the location of such seller;

(2) the eligible individual provides to the seller—

(A) such old automobile; and

(B) an amount (if any) equal to the difference between—

(i) the purchase price of such new automobile; and

(ii) the amount the Secretary is required to provide to the seller under subsection (d); and

(3) the eligible individual and the seller notify the Secretary of such trade at such time and in such manner as the Secretary considers appropriate.

(f) LIMITATION ON RESALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who purchases an automobile under the Program may not sell or lease the automobile before the date that is 1 year after the date on which the individual purchased the automobile under the Program.

(2) EXCEPTION FOR HARDSHIP.—The limitation in paragraph (1) shall not apply to an individual if compliance with such limitation would constitute a hardship, as determined by the Secretary.

(g) DISPOSAL OF ELIGIBLE OLD AUTOMOBILES.—

(1) IN GENERAL.—A seller who receives an eligible old automobile in exchange for an eligible new automobile under the Program shall deliver such old automobile to an appropriate location for proper destruction and disposal as determined by the Secretary in accordance with paragraph (2).

(2) DISPOSAL AND SALVAGE.—The Secretary may permit a seller under paragraph (1) to salvage portions of an automobile to be destroyed and disposed of under such paragraph, except that the Secretary shall require the destruction of the engine block and the frame of the automobile.

(3) COMPENSATION.—The Secretary shall compensate a seller described in paragraph (1) for costs incurred by such seller under such paragraph in such amounts or at such rates as the Secretary considers appropriate.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act,

the Secretary shall prescribe rules to carry out the Program.

(2) EXPEDITED PROCEDURES FOR RULEMAKING.—The provisions of chapter 5 of title 5, United States Code, shall not apply to regulations prescribed under paragraph (1).

(i) MONITORING.—The Secretary shall establish a mechanism to monitor the expenditure of funds appropriated under subsection (j).

(j) DIRECT SPENDING AUTHORITY.—

(1) IN GENERAL.—There is authorized to be appropriated and is appropriated to the Secretary $16,000,000,000, including administrative expenses, to carry out the Program.

(2) AVAILABILITY.—The amount appropriated under paragraph (1) shall be available for the purpose described in such paragraph until September 30, 2010.

(3) EMERGENCY DESIGNATION.—Amounts appropriated pursuant to paragraph (1) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 339. Mr. HARKIN (for himself, Mr. THUNE, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

SEC. ___. ENERGY PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law and in addition to any other funds made available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture (referred to in this section as the ''Secretary'')—

(1) to carry out section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102), $10,000,000 for the period of fiscal years 2009 and 2010;

(2) for the costs of grants and loan guarantees to carry out section 9003 of that Act (7 U.S.C. 8103), $300,000,000 for the period of fiscal years 2009 and 2010;

(3) to carry out section 9004 of that Act (7 U.S.C. 8104), $200,000,000 for the period of fiscal years 2009 and 2010;

(4) to carry out section 9005 of that Act (7 U.S.C. 8105), $100,000,000 for the period of fiscal years 2009 and 2010;

(5) for the costs of grants and loan guarantees to carry out section 9007 of that Act (7 U.S.C. 8107), $300,000,000 for the period of fiscal years 2009 and 2010;

(6) to carry out section 9008 of that Act (7 U.S.C. 8108), $100,000,000 for the period of fiscal years 2009 and 2010;

(7) to carry out section 9009 of that Act (7 U.S.C. 8109), $40,000,000 for the period of fiscal years 2009 and 2010;

(8) to carry out section 9011 of that Act (7 U.S.C. 8111), $50,000,000 for the period of fiscal years 2009 and 2010; and

(9) to carry out section 9013 of that Act (7 U.S.C. 8113), $40,000,000 for the period of fiscal years 2009 and 2010.

(b) CONDITION ON FUNDS.—Funds made available under subsection (a)(3) may be used to provide assistance under section 9004 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104) to power plants and manufacturing facilities in rural areas.

(c) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to provide those loans the funds transferred under subsection (a), without further appropriation.

(d) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) shall remain available until September 30, 2010.

(e) OFFSET.—Notwithstanding any other provision of this Act, each amount provided to the Secretary of Energy under title IV is reduced by the pro rata percentage required to reduce the total amount provided to the Secretary of Energy under title IV by $1,140,000,000.

SA 340. Mr. ROCKEFELLER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 629, between lines 6 and 7, insert the following:

SEC. 3102. CHIP ALLOTMENT ADJUSTMENTS.

Effective as if included in the enactment of the Children's Health Insurance Program Reauthorization Act of 2009,section 2104(m) of the Social Security Act, as added by section 102 of the Children's Health Insurance Program Reauthorization Act of 2009, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6), the following:

''(7) ADJUSTMENT OF FISCAL YEARS 2009 AND 2010 ALLOTMENTS TO ACCOUNT FOR CHANGES IN PROJECTED SPENDING FOR CERTAIN PREVIOUSLY APPROVED EXPANSION PROGRAMS.—In the case of one of the 50 States or the District of Columbia that has an approved State plan amendment effective January 1, 2006, to provide child health assistance through the provision of benefits under the State plan under title XIX for children from birth through age 5 whose family income does not exceed 200 percent of the poverty line, the Secretary shall increase the allotments otherwise determined for the State for fiscal years 2009 and 2010 under paragraphs (1) and (2)(A)(i) in order to take into account changes in the projected total Federal payments to the State under this title for such fiscal years that are attributable to the provision of such assistance to such children.''.

SA 341. Mr. ROCKEFELLER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 277, between lines 11 and 12, insert the following:

''(9) CHILD-SPECIFIC PROVISIONS.—

''(A) CHILD-SPECIFIC ELECTRONIC HEALTH RECORDS.—Not later than 9 months after the date on which standards are initially adopted under section 3004, the National Coordinator shall coordinate the development of, and make available for use, a child-specific electronic health record. Such child-specific electronic health record shall be interoperable with any qualified electronic health record system for adult records.

''(B) PEDIATRIC CARE AND BEST PRACTICES.—The National Coordinator, the HIT Policy Committee, and the HIT Standard Committee shall each consider pediatric care and best practice for children's health in making recommendations under this title.''.

SA 342. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. AUTOMATIC INCREASE IN THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

(1) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the first sentence—

(i) by striking ''and (4)'' and inserting ''(4)''; and

(ii) by inserting ''and (5) with respect to each fiscal year quarter other than the first quarter of a national economic downturn assistance period described in subsection (y)(1), the Federal medical assistance percentage for any State described in subsection (y)(2) shall be equal to the national economic downturn assistance FMAP determined for the State for the quarter under subsection (y)(3)'' before the period; and

(B) by adding at the end the following:

''(y) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—For purposes of clause (5) of the first sentence of subsection (b):

''(1) NATIONAL ECONOMIC DOWNTURN ASSISTANCE PERIOD.—A national economic downturn assistance period described in this paragraph—

''(A) begins with the first fiscal year quarter for which the Secretary determines that for at least 23 States, the rolling average unemployment rate for that quarter has increased by at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available (in this subsection referred to as the 'trigger quarter'); and

''(B) ends with the first succeeding fiscal year quarter for which the Secretary determines that less than 23 States have a rolling average unemployment rate for that quarter with an increase of at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(2) ELIGIBLE STATE.—A State described in this paragraph is a State for which the Secretary determines that the rolling average unemployment rate for the State for any quarter occurring during a national economic downturn assistance period described

in paragraph (1) has increased over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(3) DETERMINATION OF NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

''(A) IN GENERAL.—The national economic downturn assistance FMAP for a fiscal year quarter determined with respect to a State under this paragraph is equal to the Federal medical assistance percentage for the State for that quarter increased by the number of percentage points determined by—

''(i) dividing—

''(I) the Medicaid additional unemployed increased cost amount determined under subparagraph (B) for the quarter; by

''(II) the State's total Medicaid quarterly spending amount determined under subparagraph (C) for the quarter; and

''(ii) multiplying the quotient determined under clause (i) by 100.

''(B) MEDICAID ADDITIONAL UNEMPLOYED INCREASED COST AMOUNT.—For purposes of subparagraph (A)(i)(I), the Medicaid additional unemployed increased cost amount determined under this subparagraph with respect to a State and a quarter is the product of the following:

''(i) STATE INCREASE IN ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS FROM THE BASE QUARTER OF UNEMPLOYMENT.—

''(I) IN GENERAL.—The amount determined by subtracting the rolling average number of unemployed individuals in the State for the base unemployment quarter for the State determined under subclause (II) from the rolling average number of unemployed individuals in the State for the quarter.

''(II) BASE UNEMPLOYMENT QUARTER DEFINED.—

''(aa) IN GENERAL.—For purposes of subclause (I), except as provided in item (bb), the base quarter for a State is the quarter with the lowest rolling average number of unemployed individuals in the State in the 12-month period preceding the trigger quarter for a national economic downturn assistance period described in paragraph (1).

''(bb) EXCEPTION.—If the rolling average number of unemployed individuals in a State for a quarter occurring during a national economic downturn assistance period described in paragraph (1) is less than the rolling average number of unemployed individuals in the State for the base quarter determined under item (aa), that quarter shall be treated as the base quarter for the State for such national economic downturn assistance period.

''(ii) NATIONAL AVERAGE AMOUNT OF ADDITIONAL FEDERAL MEDICAID SPENDING PER ADDITIONAL UNEMPLOYED INDIVIDUAL.—In the case of—

''(I) a calendar quarter occurring in fiscal year 2012, $350; and

''(II) a calendar quarter occurring in any succeeding fiscal year, the amount applicable under this clause for calendar quarters occurring during the preceding fiscal year, increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average), as rounded up in an appropriate manner.

''(iii) STATE NONDISABLED, NONELDERLY ADULTS AND CHILDREN MEDICAID SPENDING INDEX.—

''(I) IN GENERAL.—With respect to a State, the quotient (not to exceed 1.00) of—

''(aa) the State expenditure per person in poverty amount determined under subclause (II); divided by—

''(bb) the National expenditure per person in poverty amount determined under subclause (III).

''(II) STATE EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(aa), the State expenditure per person in poverty amount is the quotient of—

''(aa) the total amount of annual expenditures by the State for providing medical assistance under the State plan to nondisabled, nonelderly adults and children; divided by

''(bb) the total number of nonelderly adults and children in poverty who reside in the State, as determined under paragraph (4)(A).

''(III) NATIONAL EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(bb), the National expenditure per person in poverty amount is the quotient of—

''(aa) the sum of the total amounts determined under subclause (II)(aa) for all States; divided by

''(bb) the sum of the total amounts determined under subclause (II)(bb) for all States.

''(C) STATE'S TOTAL MEDICAID QUARTERLY SPENDING AMOUNT.—For purposes of subparagraph (A)(i)(II), the State's total Medicaid quarterly spending amount determined under this subparagraph with respect to a State and a quarter is the amount equal to—

''(i) the total amount of expenditures by the State for providing medical assistance under the State plan to all individuals enrolled in the plan for the most recent fiscal year for which data is available; divided by

''(ii) 4.

''(4) DATA.—In making the determinations required under this subsection, the Secretary shall use, in addition to the most recent available data from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State referred to in paragraph (5), the most recently available—

''(A) data from the Bureau of the Census with respect to the number of nonelderly adults and children who reside in a State described in paragraph (2) with family income below the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved, (or, if the Secretary determines it appropriate, a multiyear average of such data);

''(B) data reported to the Secretary by a State described in paragraph (2) with respect to expenditures for medical assistance under the State plan under this title for nondisabled, nonelderly adults and children; and

''(C) econometric studies of the responsiveness of Medicaid enrollments and spending to changes in rolling average unemployment rates and other factors, including State spending on certain Medicaid populations.

''(5) DEFINITION OF 'ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS', 'ROLLING AVERAGE UNEMPLOYMENT RATE'.—In this subsection, the term—

''(A) 'rolling average number of unemployed individuals' means, with respect to a calendar quarter and a State, the average of the 12 most recent months of seasonally adjusted unemployment data for each State;

''(B) 'rolling average unemployment rate' means, with respect to a calendar quarter and a State, the average of the 12 most recent monthly unemployment rates for the State; and

''(C) 'monthly unemployment rate' means, with respect to a State, the quotient of—

''(i) the monthly seasonally adjusted number of unemployed individuals for the State; divided by

''(ii) the monthly seasonally adjusted number of the labor force for the State,

using the most recent data available from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State.

''(6) INCREASE IN CAP ON PAYMENTS TO TERRITORIES.—With respect to any fiscal year quarter for which the national economic downturn assistance Federal medical assistance percentage applies to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa, the amounts otherwise determined for such commonwealth or territory under subsections (f) and (g) of section 1108 shall be increased by such percentage of such amounts as the Secretary determines is equal to twice the average increase in the national economic downturn assistance FMAP determined for all States described in paragraph (2) for the quarter.

''(7) SCOPE OF APPLICATION.—The national economic downturn assistance FMAP shall only apply for purposes of payments under section 1903 for a quarter and shall not apply with respect to—

''(A) disproportionate share hospital payments described in section 1923;

''(B) payments under title IV or XXI; or

''(C) any payments under this title that are based on the enhanced FMAP described in section 2105(b).''.

(2) EFFECTIVE DATE; NO RETROACTIVE APPLICATION.—The amendments made by paragraph (1) take effect on January 1, 2012. In no event may a State receive a payment on the basis of the national economic downturn assistance Federal medical assistance percentage determined for the State under section 1905(y)(3) of the Social Security Act for amounts expended by the State prior to January 1, 2012.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall analyze the previous periods of national economic downturn, including the most recent such period in effect as of the date of enactment of this Act, and the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(2) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to Congress on the results of the analysis conducted under paragraph (1). Such report shall include such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance FMAP established under section 1905(y) of the Social Security Act (as added by subsection (a)) to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that begin and end the application of such percentage;

(B) how the determination of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods, as well as to the effects of any other specific economic indicators that the Comptroller General determines appropriate.

SA 343. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

PART ____—HOUSING PROVISIONS

SEC. _____1. SPECIAL RULES FOR MODIFICATION OR DISPOSITION OF QUALIFIED MORTGAGES OR FORECLOSURE PROPERTY BY REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) IN GENERAL.—If a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) modifies or disposes of a troubled asset under the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section _____2 of this Act—

(1) such modification or disposition shall not be treated as a prohibited transaction under section 860F(a)(2) of such Code, and

(2) for purposes of part IV of subchapter M of chapter 1 of such Code—

(A) an interest in the REMIC shall not fail to be treated as a regular interest (as defined in section 860G(a)(1) of such Code) solely because of such modification or disposition, and

(B) any proceeds resulting from such modification or disposition shall be treated as amounts received under qualified mortgages.

(b) TERMINATION OF REMIC.—For purposes of the Internal Revenue Code of 1986, an entity which is a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) shall cease to be a REMIC if the instruments governing the conduct of servicers or trustees with respect to qualified mortgages (as defined in section 860G(a)(3) of such Code) or foreclosure property (as defined in section 860G(a)(8) of such Code)—

(1) prohibit or restrict (including restrictions on the type, number, percentage, or frequency of modifications or dispositions) such servicers or trustees from reasonably modifying or disposing of such qualified mortgages or such foreclosure property in order to participate in the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section _____2 of this Act,

(2) commit to a person other than the servicer or trustee the authority to prevent the reasonable modification or disposition of any such qualified mortgage or foreclosure property,

(3) require a servicer or trustee to purchase qualified mortgages which are in default or as to which default is reasonably foreseeable for the purposes of reasonably modifying such mortgages or as a consequence of such reasonable modification, or

(4) fail to provide that any duty a servicer or trustee owes when modifying or disposing of qualified mortgages or foreclosure property shall be to the trust in the aggregate and not to any individual or class of investors.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Subsection (a) shall apply to modification and dispositions after the date of the enactment of this Act, in taxable years ending on or after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) shall take effect on the date that is 3 months after the date of the enactment of this Act.

(B) EXCEPTION.—The Secretary of the Treasury may waive the application of subsection (b) in whole or in part for any period of time with respect to any entity if—

(i) the Secretary determines that such entity is unable to comply with the requirements of such subsection in a timely manner, or

(ii) the Secretary determines that such waiver would further the purposes of this Act.

SEC. _____2. ESTABLISHMENT OF A HOME MORTGAGE LOAN RELIEF PROGRAM UNDER THE TROUBLED ASSET RELIEF PROGRAM AND RELATED AUTHORITIES.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall establish and implement a program under the Troubled Asset Relief Program and related authorities established under section 101(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a))—

(1) to achieve appropriate broad-scale modifications or dispositions of troubled home mortgage loans; and

(2) to achieve appropriate broad-scale dispositions of foreclosure property.

(b) RULES.—The Secretary of the Treasury shall promulgate rules governing the—

(1) reasonable modification of any home mortgage loan pursuant to the requirements of this Act; and

(2) disposition of any such home mortgage loan or foreclosed property pursuant to the requirements of this Act.

(c) CONSIDERATIONS.—In developing the rules required under subsection (b), the Secretary of the Treasury shall take into consideration—

(1) the debt-to-income ratio, loan-to-value ratio, or payment history of the mortgagors of such home mortgage loans; and

(2) any other factors consistent with the intent to streamline modifications of trouble home mortgage loans into sustainable home mortgage loans.

(d) USE OF BROAD AUTHORITY.—The Secretary of the Treasury shall use all available authorities to implement the home mortgage loan relief program established under this section, including, as appropriate—

(1) home mortgage loan purchases;

(2) home mortgage loan guarantees;

(3) making and funding commitments to purchase home mortgage loans or mortgage-backed securities;

(4) buying down interest rates and principal on home mortgage loans;

(5) principal forbearance; and

(6) developing standard home mortgage loan modification and disposition protocols, which shall include ratifying that servicer action taken in anticipation of any necessary changes to the instruments governing the conduct of servicers or trustees with respect to qualified mortgages or foreclosure property are consistent with the Secretary of the Treasury's standard home mortgage loan modification and disposition protocols.

(e) PAYMENTS AUTHORIZED.—The Secretary of the Treasury is authorized to pay servicers for home mortgage loan modifications or other dispositions consistent with any rules established under subsection (b).

(f) RULE OF CONSTRUCTION.—Any standard home mortgage loan modification and disposition protocols developed by the Secretary of the Treasury under this section shall be construed to constitute standard industry practice.

SA 344. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FUNDING PRIORITIES.

It is the sense of the Senate that—

(1)(A) local and State agencies or authorities responsible for selecting projects to be funded under this Act or disseminating funds under this Act should, to the extent possible, select projects that utilize local populations; and

(B) preference should be given to projects that employ or subcontract with—

(i) veterans, or members of the reserve components of the Armed Forces;

(ii) low income people;

(iii) at risk youth;

(iv) individuals that are participating in reentry or career training programs; and

(v) individuals for whom construction work constitutes nontraditional employment;

(2) to the extent possible local and State agencies should maximize the utilization of individuals registered in apprenticeship programs, and expand participation in these programs by individuals in the populations described in paragraph (1)(B);

(3) to the extent possible State and Local agencies should maximize the utilization of contractors that provide health care and retirement benefits to their employees and maintain strong worker safety;

(4) to the extent possible the local or State agency receiving funds under this Act should coordinate with local community organizations, hiring centers, faith based organizations, labor organizations, and non-profits; and

(5) local and State agencies should make available on their State run websites information on how funds received under this Act are being implemented and disbursed to encourage participation and transparency.

SA 345. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 338, strike line 19 and all that follows through line 9 on page 339, and insert the following:

''(1) BREACH.—The term 'breach' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, or use of such information by an employee or agent of the covered entity or business associate involved if such acquisition, access, or use, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered entity or business associate and if such information is not further acquired, accessed, used, or disclosed by such employee or agent.''.

SA 346. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for

other purposes; which was ordered to lie on the table; as follows:

On page 70, line 16, insert ''Indian energy education planning and management assistance program established under section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) and for'' after ''available for''.

On page 70, line 22, strike ''That the remaining $2,100,000,000'' and insert ''That, of the remaining $2,100,000,000, $100,000,000 shall be available for the Indian energy education planning and management assistance program established under section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) with eligibility for grants under the program determined in accordance with section 2601 of that Act (25 U.S.C. 3501) and $2,000,000,000''.

SA 347. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 18, insert ''transmission plans, including'' after ''of''.

On page 74, line 2, insert ''transmission plans, including'' after ''of''.

SA 348. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 232, line 14, insert ''; *Provided further,* That of the funds provided under this heading, $25,000,000 shall be available to reimburse expenditures for the relocation and digitization of omni directional range navigation devices (DVOR) to enable or facilitate the construction of wind power development projects'' before the period at the end.

SA 349. Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 457, line 18, strike all through page 458, line 16, and insert the following:

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

''(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

''(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.''.

(b) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2009''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.82 or a thermal efficiency of at least 90 percent.''.

(c) MODIFICATIONS OF STANDARDS FOR OIL FURNACES AND HOT WATER BOILERS.—

(1) IN GENERAL.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

''(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or''.

(d) MODIFICATIONS OF STANDARDS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Subsection (c) of section 25C is amended by adding at the end the following new paragraph:

''(4) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Such term shall not include any component described in subparagraph (B) or (C) of paragraph (2) unless such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(2) ADDITIONAL QUALIFICATION FOR INSULATION.—Subparagraph (A) of section 25C(c)(2) is amended by inserting ''and meets the prescriptive criteria for such material or system established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009'' after ''such dwelling unit''.

(e) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) EFFICIENCY STANDARDS.—The amendments made by subsections (b), (c), and (d) shall apply to property placed in service after December 31, 2009.

SA 350. Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, between lines 10 and 11, insert the following:

SEC. _____. EXTENSION OF AND INCREASE IN NEW ENERGY EFFICIENT HOME CREDIT.

(a) EXTENSION.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2011''.

(b) INCREASE.—Paragraph (2) of section 45L(a) (relating to allowance of credit) is amended—

(1) by striking ''$2,000'' in subparagraph (A) and inserting ''$5,000'', and

(2) by striking ''$1,000'' in subparagraph (B) and inserting ''$2,500''.

(c) MODIFICATION OF ENERGY SAVINGS REQUIREMENTS.—So much of subparagraph (A) of section 45L(c)(1) as precedes cause (i) is amended to read as follows:

''(A) to have a level of annual total energy consumption which is at least 50 percent below the annual level of total energy consumption of a comparable dwelling unit—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to homes constructed and acquired after December 31, 2008.

SEC. _____. MODIFICATION OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.

(a) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$3.00''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$1.00'', and

(B) by striking ''$1.80'' and inserting ''$3.00''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SEC. _____. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred by the taxpayer for a qualified home energy rating conducted during such taxable year.

''(b) LIMITATION.—The amount allowed as a credit under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $200.

''(c) QUALIFIED HOME ENERGY RATING.—For purposes of this section, the term 'qualified home energy rating' means a home energy rating conducted with respect to any residence of the taxpayer by a home performance auditor certified by a provider accredited by the Building Performance Institute (BPI), the Residential Energy Services Network (RESNET), or equivalent rating system.

''(d) TERMINATION.—This section shall not apply with respect to any rating conducted after December 31, 2011.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Energy ratings of non-business property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. _____. CREDIT FOR HOME PERFORMANCE AUDITOR CERTIFICATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45R. HOME PERFORMANCE AUDITOR CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the home performance auditor certification credit determined under this section for any taxable year is an amount equal to the qualified training and certification costs paid or incurred by the taxpayer which may be taken into account for such taxable year.

''(b) QUALIFIED TRAINING AND CERTIFICATION COSTS.—

''(1) IN GENERAL.—The term 'qualified training and certification costs' means costs paid or incurred for training which is required for the taxpayer or employees of the taxpayer to be certified as home performance auditors for purposes of providing qualified home energy ratings under section 25E(c).

''(2) LIMITATION.—The qualified training and certification costs taken into account under subsection (a)(1) for the taxable year with respect to any individual shall not exceed $500 reduced by the amount of the credit allowed under subsection (a)(1) to the taxpayer (or any predecessor) with respect to such individual for all prior taxable years.

''(3) YEAR COSTS TAKEN INTO ACCOUNT.—Qualified training and certifications costs with respect to any individual shall not be taken into account under subsection (a)(1) before the taxable year in which the individual with respect to whom such costs are paid or incurred has performed 25 qualified home energy ratings under section 25E(c).

''(c) SPECIAL RULES.—

''(1) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.

''(2) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount taken into account under subsection (a) for such taxable year.

''(B) AMOUNT PREVIOUSLY DEDUCTED.—No credit shall be allowed under subsection (a) with respect to any amount for which a deduction has been allowed in any preceding taxable year.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ''plus'', and by adding at the end the following new paragraph:

''(36) the home performance auditor certification credit determined under section 45R(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Home performance auditor certification credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 351. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, between lines 10 and 11, insert the following:

SEC. _____. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred by the taxpayer for a qualified home energy rating conducted during such taxable year.

''(b) LIMITATION.—The amount allowed as a credit under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $200.

''(c) QUALIFIED HOME ENERGY RATING.—For purposes of this section, the term 'qualified home energy rating' means a home energy rating conducted with respect to any residence of the taxpayer by a home performance auditor certified by a provider accredited by the Building Performance Institute (BPI), the Residential Energy Services Network (RESNET), or equivalent rating system.

''(d) TERMINATION.—This section shall not apply with respect to any rating conducted after December 31, 2011.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Energy ratings of non-business property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SA 352. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, line 3, strike the period and insert ''; and''.

On page 410, after line 3, insert the following:

''(G) reviewing the specific number of jobs created by each title of each division of this Act.''.

On page 410, line 10, after ''agencies.'' insert ''The Board shall include a complete assessment of the number of jobs created by each title of each division of this Act and shall recommend to the appropriate committees of Congress for rescission unobligated balances of any program in this Act that is not creating or cannot be reasonably expected to create jobs or help those displaced by the current recession.''.

On page 431, after line 8, insert the following:

SEC. _____. POINT OF ORDER AGAINST CONTINUING SPENDING LEVELS.

(a) BASELINE.—The Congressional Budget Office shall not include any discretionary amounts provided in this Act in the baseline for fiscal year 2011 and fiscal years thereafter.

(b) POINT OF ORDER.—In the Senate, it shall not be in order to consider any bill, resolution, or amendment that continues the discretionary appropriations levels under this Act beyond fiscal year 2010.

SA 353. Mr. ENSIGN (for himself, Mr. MCCONNELL, and Mr. ALEXANDER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the''Fix Housing First Act''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FIX HOUSING FIRST

Subtitle A—Homeowner Security Program

SEC. 1001. HOMEOWNER SECURITY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Treasury (in this subtitle referred to as the ''Secretary'') shall, not later than 1 month after the date of enactment of this Act, in consultation with the Board of Governors of the Federal Reserve System, develop and implement a comprehensive homeowner security program in accordance with this subtitle, but only after making a finding that implementing such a program shall not disrupt the ability of the Federal Government to fund regular operations of the Government or not adversely affect the credit rating of debt instruments issued by the Government.

(b) CRITERIA.—The homeowner security program developed under this subtitle (in this subtitle referred to as the ''program'') shall—

(1) require the Federal Government to take action to restore mortgage interest rates for 30-year fixed mortgages to amounts that are comparable to the return on obligations of the Treasury having 10-year periods of maturity, based on the average of the spreads of such rates over the 20-year period preceding the date of enactment of this Act;

(2) include specific measures to minimize cost and risk to the taxpayer and minimize market distortions;

(3) be limited to—

(A) providing funds to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation from the fund established under section 1006 for the purpose of purchasing newly issued mortgages, bonds, or mortgage-backed securities under this subtitle; and

(B) the payment of applicable prepayment or other fees or penalties associated with underlying mortgage loans;

(4) limit such action to conforming loans, as determined by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, using conforming loan limits in effect for 2008;

(5) apply such action only—

(A) to creditworthy borrowers, as determined after an evaluation of debt to income ratio, credit rating, income, employment history, and other relevant information, who are current in payments on outstanding mortgage obligations;

(B) subject to a new, independent appraisal of the property securing the obligation; and

(C) with respect to mortgage loans that are—

(i) secured by the single-family, primary residence of the borrower; and

(ii) held or backed by—

(I) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(II) any another person, only if the loan-to-value ratio on the property securing the loan is not more than 95 percent;

(6) ensure availability of such mortgage loans for home purchase regardless of the type or size of financial institution that acts as a loan originator or a portfolio lender, taking into account the differences in the cost of funds and other factors when executing the program;

(7) allow new purchases and refinanced loans to qualify for such action; and

(8) result in the redemption of the vast majority of residential mortgage backed securities that are currently held in the marketplace.

(c) AUTHORITY TO PAY CERTAIN FEES.—Funds made available to carry out this subtitle may be used to pay loan origination fees, if the Secretary determines that such payments are necessary to maximize the economic benefit of the program.

(d) ADDITIONAL CONSIDERATIONS.—In developing the program under this subtitle, the Secretary shall consider whether refinancings under the program should be in the form of recourse or nonrecourse loans.

SEC. 1002. TERMINATION.

The program developed under section 1001, and the authority of the Secretary under this subtitle, shall terminate on December 31, 2010, or such earlier date, if the Secretary determines that no further economic benefit can be achieved or can't be achieved by the private market.

SEC. 1003. OTHER LIMITATIONS.

(a) RESALE.—If the Secretary, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation repackages and sells mortgages funded under the program developed under this subtitle, such mortgages shall be segregated from other mortgages not so funded, and shall be identified as such.

(b) INFORMATION AVAILABLE TO BORROWERS.—The rules of the Secretary under this subtitle shall assure the ability of the homeowner with respect to a mortgage loan refinanced under the homeowner security program to ascertain the identity of the owner or holder of the mortgage, including upon resale of the mortgage loan.

(c) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to issue such rules to carry out this subtitle as the Secretary determines are appropriate, including measures designed to address problems that have contributed to the mortgage crisis, and to prevent such future crises.

SEC. 1004. STUDY ON INTEREST RATES.

In carrying out this subtitle, the Secretary shall—

(1) conduct an economic study of reducing mortgage interest rates, estimating the impact on the mortgage delinquencies and foreclosures, housing prices, and credit markets; and

(2) develop clear metrics for the homeowner security program.

SEC. 1005. REPORTS TO CONGRESS.

The Secretary shall submit a report to Congress once every 3 months on the development and implementation of the program required by this subtitle, together with any necessary legislative recommendations.

SEC. 1006. FUNDING.

(a) ESTABLISHMENT OF TREASURY FUND.—The Secretary shall establish, within the Treasury of the United States, a fund comprised of the proceeds to the United States from the sale of Treasury bills having 30-year periods of maturity.

(b) APPROPRIATION.—There is appropriated to the Secretary from the fund created under subsection (a) to carry out this subtitle, $300,000,000,000, to remain available until expended.

(c) TERMINATION OF FUND.—The fund established under this section shall remain in effect for such period as any obligation under this subtitle remains outstanding, and shall be terminated when all such obligations are repaid.

SEC. 1007. OTHER MORTGAGE PURCHASES.

Nothing in this subtitle shall preclude the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation from using funds not appropriated under this subtitle for the purpose of purchasing mortgage loans.

Subtitle B—Foreclosure Mitigation

SEC. 1011. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the subtitle'' means the period beginning on the effective date of this subtitle and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 1012(a);

(9) the term ''Office'' means the Office of Aggrieved Investor Claims established under section 1013(a); and

(10) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 1012(b).

SEC. 1012. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the subtitle, to make payments to eligible servicers in an amount not to exceed an aggregate of $10,000,000,000, subject to the terms and conditions established under this subtitle.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the subtitle, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed $60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

For purposes of subparagraph (A), total fees which may be collected for any mortgage may not exceed $1,000.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

SEC. 1013. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this subtitle; and

(B) damages described in subsection (d)(4), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this subtitle;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this subtitle for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this subtitle by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this subtitle that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Secretary under this section may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of Columbia, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Secretary.

(3) STANDARD.—The decision of the Secretary incorporating the findings of the Secretary shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection with a claim submitted under this section, fees in excess of 10 percent of the amount of any payment on the claim.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than $10,000.

(k) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3716 of title 31, United States Code, shall not apply to any payment under this section.

(l) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f), and annually thereafter, the Secretary shall submit to Congress a report that describes the claims submitted under this section during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this section.

(m) GAO AUDIT.—The Comptroller General of the United States shall conduct an annual audit on the payment of all claims made under this section and shall report to the Congress on the results of this audit beginning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to $1,700,000,000, to remain available until expended.

SEC. 1014. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this subtitle.

SEC. 1015. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

Subtitle C—Credit for Certain Home Purchases

SEC. 1021. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after December 31, 2008, and

''(B) before January 1, 2010.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section, the term 'qualified principal residence' means a single-family residence that is purchased to be the principal residence of the purchaser.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of

the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a qualified principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the Fix Housing First Act''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the Fix Housing First Act''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

TITLE II—MIDDLE CLASS TAX RELIEF

SEC. 2001. 10 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 5 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(A) is amended by inserting ''(5 percent in the case of any taxable year beginning in 2009 or 2010)'' after ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 2002. 15 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 10 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REDUCTION IN 15 PERCENT RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, '10 percent' shall be substituted for '15 percent' in the tables under subsections (a), (b), (c), (d), and (e). The preceding sentence shall be applied after application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

TITLE III—BUSINESS TAX RELIEF

Subtitle A—Temporary Investment Incentives

SEC. 3001. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) EXTENSION OF SPECIAL ALLOWANCE.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(A) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(B) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(B) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(C) Subparagraph (B) of section 168(1)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(D) Subparagraph (C) of section 168(n)(2) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(E) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(3) TECHNICAL AMENDMENT.—Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (a)(3) shall apply to taxable years ending after March 31, 2008.

SEC. 3002. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—5-Year Carryback of Operating Losses

SEC. 3101. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected

the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(k) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 3102. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

Subtitle C—Incentives for New Jobs

SEC. 3201. INCENTIVES TO HIRE UNEMPLOYED VETERANS.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS HIRED IN 2009 OR 2010.—

''(A) IN GENERAL.—Any unemployed veteran who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

''(B) UNEMPLOYED VETERAN.—For purposes of this paragraph, the term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

''(i) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

''(ii) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

Subtitle D—Cancellation of Indebtedness

SEC. 3301. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

''(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.—

''(1) IN GENERAL.—At the election of the taxpayer, income from the discharge of indebtedness in connection with the repurchase of a debt instrument after December 31, 2008, and before January 1, 2011, shall be includible in gross income ratably over the 5-taxable-year period beginning with—

''(A) in the case of a repurchase occurring in 2009, the fifth taxable year following the taxable year in which the repurchase occurs, and

''(B) in the case of a repurchase occurring in 2010, the fourth taxable year following the taxable year in which the repurchase occurs.

''(2) DEFERRAL OF DEDUCTION FOR ORIGINAL ISSUE DISCOUNT IN DEBT FOR DEBT EXCHANGES.—

''(A) IN GENERAL.—If, as part of a repurchase to which paragraph (1) applies, any debt instrument is issued for the debt instrument being repurchased and there is any original issue discount determined under subpart A of part V of subchapter P of this chapter with respect to the debt instrument so issued—

''(i) except as provided in clause (ii), no deduction otherwise allowable under this chapter shall be allowed to the issuer of such debt instrument with respect to the portion of such original issue discount which—

''(I) accrues before the 1st taxable year in the 5-taxable-year period in which income from the discharge of indebtedness attributable to the repurchase of the debt instrument is includible under paragraph (1), and

''(II) does not exceed the income from the discharge of indebtedness with respect to the debt instrument being repurchased, and

''(ii) the aggregate amount of deductions disallowed under clause (i) shall be allowed as a deduction ratably over the 5-taxable-year period described in clause (i)(I).

If the amount of the original issue discount accruing before such 1st taxable year exceeds the income from the discharge of indebtedness with respect to the debt instrument being repurchased, the deductions shall be disallowed in the order in which the original issue discount is accrued.

''(B) DEEMED DEBT FOR DEBT EXCHANGES.—For purposes of subparagraph (A), if any debt instrument is issued by an issuer and the proceeds of such debt instrument are used directly or indirectly by the issuer to repurchase a debt instrument of the issuer, the debt instrument so issued shall be treated as issued for the debt instrument being repurchased. If only a portion of the proceeds from a debt instrument are so used, the rules of subparagraph (A) shall apply to the portion of any original issue discount on the newly issued debt instrument which is equal to the portion of the proceeds from such instrument used to repurchase the outstanding instrument.

''(3) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

''(4) REPURCHASE.—For purposes of this subsection, the term 'repurchase' means, with respect to any debt instrument, any acquisition of the debt instrument by—

''(A) the debtor which issued (or is otherwise the obligor under) the debt instrument, or

''(B) any person related to such debtor.

Such term shall also include the complete forgiveness of the indebtedness by the holder of the debt instrument. For purposes of subparagraph (B), the determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4). For purposes of this paragraph, the term 'acquisition' shall include any acquisition for cash, the exchange of a debt instrument for a debt instrument, the exchange of a debt instrument for corporate stock or partnership interest, as a contribution of the debt instrument to capital, and any significant modification of the debt instrument within the meaning of section 1001.

''(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

''(A) RELATED PERSON.—The determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

''(B) ELECTION.—

''(i) IN GENERAL.—An issuer of a debt instrument shall make the election under this subsection with respect to any debt instrument by clearly identifying such debt instrument on the issuer's records as an instrument to which the election applies before the close of the day on which the repurchase of the debt instrument occurs (or such other time as the Secretary may prescribe). Such election, once made, is irrevocable.

''(ii) PASS THROUGH ENTITIES.—In the case of a partnership, S corporation, or other pass through entity, the election under this subsection shall be made by the partnership, the S corporation, or other entity involved.

''(C) COORDINATION WITH EXCLUSIONS FOR TITLE 11 OR INSOLVENCY.—If a taxpayer elects to have this subsection apply to a debt instrument, subparagraph (A) or (B) of subsection (a)(1) shall not apply to the income from the discharge of such indebtedness for the taxable year of the election or any subsequent taxable year.

''(D) ACCELERATION OF DEFERRED ITEMS.—In the case of the death of the taxpayer, the liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or

similar case), the cessation of business by the taxpayer, or similar circumstances, any item of income or deduction which is deferred under this subsection (and has not previously been taken into account) shall be taken into account in the taxable year in which such event occurs (or in the case of a title 11 case, the day before the petition is filed).

''(6) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary or appropriate for purposes of applying this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008.

Subtitle E—Qualified Small Business Stock

SEC. 3401. MODIFICATIONS TO EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) TEMPORARY INCREASE IN EXCLUSION.—Section 1202(a) (relating to exclusion) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR STOCK ACQUIRED BEFORE 2011.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011—

''(A) paragraph (1) shall be applied by substituting '100 percent' for '50 percent', and

''(B) paragraph (2) shall not apply.''.

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000''' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(c) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(d) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2009, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(e) NONAPPLICATION OF MINIMUM TAX.—Section 57(a)(7) is amended by inserting ''(other than by reason of subsection (a)(3) thereof)'' after ''section 1202''.

(f) EFFECTIVE DATES.—

(1) EXCLUSION; QUALIFIED SMALL BUSINESS; MINIMUM TAX.—The amendments made by subsections (a), (c), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (b) and (d) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle F—S Corporations

SEC. 3501. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—

''(A) IN GENERAL.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

''(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

''(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

''(i) subparagraph (A) shall be applied without regard to the phrase '10-year', and

''(ii) subparagraph (B) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle G—Broadband Incentives

SEC. 3601. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48C the following new section:

''SEC. 48C. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent (20 percent in the case of qualified subscribers which are unserved subscribers) of the qualified broadband expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified broadband expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified broadband expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after December 31, 2008, and before January 1, 2011.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2008, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES FOR CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(1) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas and the unserved areas which the equipment is capable of serving with current generation broadband services, and

''(2) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 5,000,000 bits per second to the subscriber and at least 1,000,000 bits per second from the subscriber (at least 3,000,000 bits per second to the subscriber and at least 768,000 bits per second from the subscriber in the case of service through radio transmission of energy).

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 100,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 20,000,000 bits per second from the subscriber (or its equivalent as so measured).

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person

(other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment any—

''(A) cable operator,

''(B) commercial mobile service carrier,

''(C) open video system operator,

''(D) satellite carrier,

''(E) telecommunications carrier, or

''(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier or broadband-over-powerline operator,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED BROADBAND EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified broadband expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2008, and before January 1, 2011.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area, an underserved area, or an unserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area , or

''(ii) any residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include any commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(26) UNSERVED AREA.—The term 'unserved area' means any census tract in which no current generation broadband services are provided, as certified by the State in which such tract is located not later than September 30, 2009.

''(27) UNSERVED SUBSCRIBER.—The term 'unserved subscriber' means any residential subscriber residing in a dwelling located in

an unserved area or nonresidential subscriber maintaining a permanent place of business located in an unserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48C(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified broadband expenditures which would be determined under section 48C for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding after clause (iv) the following new clause:

''(v) the portion of the basis of any qualified equipment attributable to qualified broadband expenditures under section 48C.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following:

''Sec. 48C. Broadband internet access credit''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17), (23), (24), and (26) of section 48C(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48C—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any credit or portion thereof allowed under section 48C of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48C of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48C of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 48C of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48C of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2008.

Subtitle H—Clarification of Regulations Related to Limitations on Certain Built-in Losses Following an Ownership Change

SEC. 3701. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

SA 354. Mr. DODD proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term ''TARP recipient'' means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(c) SPECIFIC REQUIREMENTS.—The standards established under subsection (b) shall include—

(1) limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period that any obligation arising from TARP assistance is outstanding;

(2) a provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;

(3) a prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period that any obligation arising from TARP assistance is outstanding;

(4) a prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period that the obligation is outstanding to at least the 25 most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

SEC. 6003. BOARD COMPENSATION COMMITTEE.

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(b) NONBINDING VOTE.—A shareholder vote described in subsection (a) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(c) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue any final rules and regulations required by this section.

SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.

(a) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to employees of each entity receiving TARP assistance before the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

SA 355. Ms. CANTWELL (for herself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, line 3, strike ''a new subparagraph (E)'' and insert ''the following''.

On page 86, line 23, strike the closing quotation marks and the following period.

On page 86, between lines 23 and 24, insert the following:

''(F) OPEN PROTOCOLS AND STANDARDS.—As a condition of receiving funding under this subsection, the Secretary shall require that demonstration projects use open protocols and standards, to the extent available and appropriate.''.

On page 87, between lines 18 and 19, insert the following:

''(2) require as a condition of receiving a grant under this section that grant recipients use open protocols and standards, to the extent available and appropriate;''.

On page 87, line 19, strike ''(2)'' and insert ''(3)''.

On page 88, line 1, strike ''(3)'' and insert ''(4)''.

On page 88, line 4, strike ''(4)'' and insert ''(5)''.

On page 88, line 7, strike ''(5)'' and insert ''(6)''.

SA 356. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, line 5, insert '', of which not less than 5 percent shall be used to provide those services to Indian tribes'' before the period at the end.

SA 357. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike lines 5 through 9 and insert the following:

Bay-Delta Restoration Act (Public Law 108–361; 118 Stat. 1681): *Provided further*, That not less than $300,000,000 of the funds provided under this heading shall be used for congressionally authorized tribal and nontribal rural water projects, of which not less than $60,000,000 shall be used primarily for water intake and treatment facilities for those projects: *Provided further*,

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SA 358. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, line 17, strike ''may'' and insert ''shall''.

SA 359. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, strike lines 23 through 26, and insert the following:

(I) having been discharged or released from active duty in the Armed Forces during the period beginning on September 1, 2001, and ending on December 31, 2010, and

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SA 360. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ———. AVIATION PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Federal Aviation Administration Extension Act of 2009''.

(b) EXTENSION OF AVIATION PROGRAMS FOR FY 2009.—

(1) EXTENSION OF AVIATION TAXES.—The Internal Revenue Code of 1986 is amended by striking ''March 31, 2009'' and inserting ''September 30, 2009'' each place it appears in each of the following sections:

(A) Section 4081(d)(2)(B).

(B) Section 4261(j)(1)(A)(ii).

(C) Section 4271(d)(1)(A)(ii).

(2) EXTENSION OF EXPENDITURE AUTHORITY.—

(A) Such Code is amended by striking ''April 1, 2009'' each place it appears in each of the following sections:

(i) Section 9502(d)(1).

(ii) Section 9502(e)(2).

(B) Paragraph (1) of section 9502(d) of such Code is amended by inserting ''or the Federal Aviation Administration Extension Act of 2009'' before the semicolon at the end of subparagraph (A).

(3) EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.—

(A) Paragraph (6) of section 48103 of such title is amended to read as follows:

''(6) $3,900,000,000 for fiscal year 2009.''.

(B) Section 47104(c) of such title is amended by striking ''March 31, 2009,'' and inserting ''September 30, 2009,''.

(4) EXTENSION OF EXPIRING AUTHORITIES.—

(A) Title 49, United States Code, is amended by striking the date specified in each of the following sections and inserting ''September 30, 2009'':

(i) Section 40117(l)(7).

(ii) Section 44303(b).

(iii) Section 47107(s)(3).

(iv) Section 47141(f).

(v) Section 49108.

(B) Section 44302(f)(1) of such title is amended—

(i) by striking ''March 31, 2009'' and inserting ''September 30, 2009''; and

(ii) by striking ''May 31, 2009'' and inserting ''December 31, 2009''.

(C) Section 47115(j) of such title is amended by striking ''2008, and the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(D) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking ''before April 1, 2009,''.

(E) Section 186(d) of such Act (117 Stat. 2518) is amended by striking ''2008, and for the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2009.

SA 361. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

FEDERAL AVIATION ADMINISTRATION

NEXTGEN ACCELERATION

For grants or other agreements to accelerate the transition to the Next Generation Air Transportation System by accelerating deployment of ground infrastructure for Automatic Dependent Surveillance–Broadcast, by accelerating development of procedures and routes that support performance-based air navigation, to incentivize aircraft equipage to use such infrastructure and procedures and routes, and for additional agency administrative costs associated with the certification and oversight of the deployment of these systems, $550,000,000, to remain available until September 30, 2010: *Provided*, That the Administrator of the Federal Aviation Administration shall use the authority under section 106(l)(6) of title 49, United States Code, to make such grants or agreements: and *Provided further*, That, with respect to any incentives for equipage, the Federal share of the costs shall be no more than 50 percent.

SA 362. Mr. REID (for Mr. KENNEDY (for himself, and Mr. SANDERS)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 541, after line 20, insert the following:

SEC. _____. QUALIFIED COMMUNITY HEALTH CENTER BONDS.

(a) QUALIFIED COMMUNITY HEALTH CENTER BONDS TREATED AS STATE AND LOCAL BONDS.—

(1) IN GENERAL.—Section 150 is amended by adding at the end the following new subsection :

''(f) QUALIFIED COMMUNITY HEALTH CENTER BOND.—For purposes of this part and section 103—

''(1) TREATMENT AS STATE OR LOCAL BOND.—A qualified community health center bond shall be treated as a State or local bond.

''(2) QUALIFIED COMMUNITY HEALTH CENTER BOND DEFINED.—The term 'qualified community health center bond' means a bond issued as part of an issue by a qualified community health issuer 95 percent or more of the net proceeds of which are to be used by a qualified community health organization to finance capital expenditures with respect to a qualified community health facility.

''(3) QUALIFIED COMMUNITY HEALTH ORGANIZATION DEFINED.—A qualified community health organization is an organization which—

''(A) is described in section 501(c)(3) and exempt from tax under section 501(a),

''(B) is incorporated in a State in which at least one qualified community health facility owned by such organization is located, and

''(C) constitutes a health center within the meaning of section 330 of the Public Health Service Act.

''(4) QUALIFIED COMMUNITY HEALTH ISSUER DEFINED.—The term 'qualified community health issuer' means an entity—

''(A) which is established and owned exclusively by the National Association of Community Health Centers,

''(B) which is disregarded under section 7701 as an entity separate from the National Association of Community Health Centers, and

''(C) one of the primary purposes of which, as set forth in the documents relating to its formation, is to issue qualified community health center bonds.

''(5) QUALIFIED COMMUNITY HEALTH FACILITY DEFINED.—The term 'qualified community health facility' means property owned and used by a qualified community health organization to provide health care services to all residents who request the provision of health care services the operation of which is subject to sections 330 and 330A of the Public Health Service Act.

''(6) TREATMENT OF ISSUER AS OTHER THAN TAXABLE MORTGAGE POOL.—Neither the National Association of Community Health Centers, nor a qualified community health issuer, nor any portion thereof shall be treated as a taxable mortgage pool under section 7701(i) with respect to any issue of qualified community health center bonds.''.

(2) COORDINATION WITH PUBLIC APPROVAL REQUIREMENT.—Subsection (f) of section 147 is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULES FOR QUALIFIED COMMUNITY HEALTH CENTER BONDS.—In the case of a qualified community health center bond, any governmental unit in which the qualified community health facility financed by the qualified community health center bonds is located may be treated for purposes of paragraph (2) as the governmental unit on behalf of which such qualified community health center bonds are issued.''.

(3) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'' and by adding at the end the following new clause:

''(v) any guarantee of a qualified community health center bond for a qualified community health facility which is made under title XVI of the Public Health Service Act (or a renewal or extension of a guarantee so made).''.

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(b) LOANS AND LOAN GUARANTEES UNDER THE PUBLIC HEALTH SERVICE ACT.—

(1) AUTHORITY FOR LOANS AND LOAN GUARANTEES.—Section 1601 of the Public Health Service Act (42 U.S.C. 300q) is amended—

(A) in subsection (a)(2), by adding at the end the following:

''(C) In addition to authorizing loan guarantees, the Secretary may—

''(i) guarantee tax exempt bonds for the purpose of financing a project of a health center that receives funding under section 330 located in or serving an area determined by the Secretary to be a medically underserved area or serving a special medically underserved population as defined in such section 330 (referred to in this section as a 'health center project'), and

''(ii) use of such authorized guarantees for health center projects in conjunction with any credits allowed under the Internal Revenue Code of 1986, for such health center project.'';

(B) in subsection (b)—

(i) by striking ''The principal amount of'' and inserting ''(1) Subject to paragraph (2), the principal amount of''; and

(ii) by adding at the end the following:

''(2) Notwithstanding paragraph (1), a guarantee of a loan or tax exempt bond issued for the purpose of financing a health center project, as defined in subsection (a)(2)(C), shall cover up to 100 per centum of the principal amount and interest due on such guaranteed loan or tax exempt bond.'';

(C) by redesignating subsection (d) as subsection (e);

(D) by inserting after subsection (c) the following:

''(d) No State (including any State or local government authority with the power to tax) receiving funds under a Federal health care program (as defined under section 1128B(f) of the Social Security Act), may impose a tax with respect to interest earned on bonds issued under this section.''.

(2) GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS.—Section 1602 of the Public Health Service Act (42 U.S.C. 300q–2) is amended—

(A) in subsection (a)(2)—

(i) by redesignating subparagraph (D) as subparagraph (H);

(ii) in subparagraph (B), by striking ''subparagraph (D)'' and inserting ''subparagraph (H)''; and

(iii) by inserting after subparagraph (C) the following:

''(D) The Secretary shall approve, not later than 30 calendar days of receipt, an application for a loan or a tax exempt bond guarantee submitted by a health center for a health center project (as defined in section 1601q(a)(2)(C)), that is eligible for such guarantee, provided that the health center has certified, to the best of its knowledge, and consistent with its annual audit and such application, that the health center has satisfied or will comply with each of the following criteria:

''(i) The health center has for at least two out of last three fiscal years (on the basis of accrual accounting) received more in revenue (including the amount of Federal funds in any section 330 grants made in each year to the health center and all other revenue of

any kind received by the health center in each year) than the expenses of the health center in each year.

''(ii) The health center will contribute at least 20 per centum equity to the project in the form of cash contributions (from cash reserves, grants or capital campaign proceeds), equity derived as a result of tax credits (which may be structured as debt during the tax credit compliance period) or other forms of equity-like contributions.

''(iii)(I) As measured at the fiscal year end of its most recent fiscal year and on a current year-to-date basis, the health center's days cash on hand, including Federal grant funds available for drawdown, must have been/be greater than 30 days.

''(II) In this clause, 'days cash on hand' shall be calculated on an accrual accounting basis according to the following formula: The sum of unrestricted cash and investments divided by total operating expenses minus depreciation divided by 360.

''(iv)(I) The health center's debt service coverage ratio on a projected basis will not be less than 1.10X in any year.

''(II) In this clause, 'debt service coverage ratio' shall be calculated as the sum of net assets plus interest expense plus depreciation expense divided by the sum of debt service and capitalized interest payments due during the period.

''(v)(I) The health center has reasonably projected a leverage ratio (as measured after the first full year of the new/improved facility's operation) less than 3.0X.

''(II) In this clause, 'leverage ratio' shall be calculated as total liabilities less new markets tax credit (authorized under section 45D(f) of the Internal Revenue Code of 1986) or similar debt components, if any, divided by total net assets.

''(E)(i) Not later than 30 calendar days after the receipt of a health center's application and certification under subparagraph (D), the Secretary shall send a letter to the health center notifying it that the application has been approved, unless within such 30-day period the Secretary—

''(I) notifies the health center in writing as to why the Secretary reasonably believes any or all of the foregoing criteria are not met; and

''(II) provides the health center the opportunity to submit comments within 30 calendar days of receipt of such notice.

''(ii) Not later than 30 calendar days from the date of receipt of such comments, the Secretary shall provide a final decision in writing regarding the comments submitted by the applicant, including sufficient justification for the Secretary's decision.

''(F) The Secretary may approve an application for a loan or a tax exempt bond guarantee submitted by a health center for a health center project (as defined in section 1601(a)(2)(C)) that is eligible for such guarantee and which deviates from the criteria set forth in clauses (i) through (v) of subparagraph (D), provided that the Secretary determines that such deviation is not material or that the health center has provided sufficient explanation or justification for such deviation.

''(G)(i) Upon approval of a loan or tax exempt bond guarantee for a health center project eligible for such guarantee, the Secretary shall charge such health center a closing fee of 50 basis points, which will be put into a reserve fund to cover direct administrative costs of the program and to fund a loan loss reserve to support the guarantee program. Thereafter, the Secretary shall charge those health centers with loans or tax exempt bonds guaranteed through the program an annual fee of 50 basis points, calculated based on the principal amount outstanding on the guaranteed loan or tax exempt bond.

''(ii) All closing and annual fee proceeds shall be invested and maintained in an interest-bearing reserve account until such time as the reserve account reaches 5 per centum of the outstanding principal amount of loans and tax exempt bonds guaranteed through the program.

''(iii) If at any time the Secretary determines that, based on a lack of actual losses resulting from default, the amount of proceeds held in the reserve account is excessive, the Secretary may reduce the per centum to be maintained in such reserve account, calculated based on the outstanding principal amount of loans and tax exempt bonds guaranteed through the program.

''(iv) Subject to a determination under clause (iii) of this subparagraph to reduce the per centum maintained in the reserve account, any overages in the reserve account that are attributable to the collection of fee proceeds shall be rebated annually on a pro rata basis to those health centers with loans or tax exempt bonds guaranteed through the program and that are not in default.'';

(B) in subsection (d)—

(i) by redesignating paragraph (2) as paragraph (3);

(ii) by redesignating the matter following paragraph (1)(F) as paragraph (2)(A); and

(iii) by inserting after paragraph (2)(A), as so redesignated, the following:

''(B) In addition to the amounts authorized under subparagraph (A), there are authorized such amounts to support guarantees of loans or tax exempt bonds issued for the purpose of financing a health center project, which shall be added to any amounts derived from the fees required to be charged under subsection (a)(2)(G) and placed in the same interest-bearing reserve account established by subsection (a)(2)(G).''.

(c) APPLICATION DAVIS-BACON.—The provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall apply to any construction projects carried out using amounts made available under the amendments made by this section.

SA 363. Mrs. BOXER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place insert the following.

FINDINGS

The Senate finds that:

According to leading national and state organizations, there are many more NEPA compliant, ready-to-go activities, than are funded in this bill, and If there is an action or funds made available for an action that triggers NEPA, and that activity could cause harm to public health, and that harm has not been evaluated under NEPA, the project would not meet the requirements of NEPA and should not be funded.

SECTION

Any action or funds made available for an action that triggers NEPA, that have not complied with NEPA, and therefore pose a potential danger to our communities across the country, must-either come into compliance with NEPA or be replaced by other eligible activities.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, February 5, 2009 at 11 a.m. in Room 628 of the Dirksen Senate Office Building to conduct a hearing on Advancing Indian Health.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 4, 2009 at 3 p.m., to conduct a committee hearing on modernizing the U.S. financial regulatory system.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Madam President, I ask unanimous consent the following Finance Committee fellows and interns be allowed floor privileges during consideration of the American Recovery and Reinvestment Act: Lauren Bishop, Dan Gutschenritter, Marissa Reeves.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Terri Postma and Rachel Miller, members of my staff, be granted the privilege of the floor during the debate of H.R. 1.

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

CONGRATULATING THE PITTSBURGH STEELERS ON WINNING SUPER BOWL XLIII

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 27, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 27) congratulating the Pittsburgh Steelers on winning Super Bowl XLIII.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. BOXER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, and any statement be printed in the RECORD.

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

The resolution (S. Res. 27) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 27

Whereas on February 1, 2009, the Pittsburgh Steelers defeated the Arizona Cardinals to win Super Bowl XLIII;

Whereas the Steelers' 27–23 victory over the Cardinals was the Steelers' sixth Super Bowl win, the most Super Bowl wins in National Football League (NFL) history;

Whereas the Rooney family has exhibited a strong commitment to the Steelers organization, has led the Steelers to win 6 Super Bowl titles, and has created a legacy of dedication to, and integrity in, the NFL;

Whereas Coach Mike Tomlin is to be congratulated for being the youngest coach in the NFL to win a Super Bowl, in only his second season as the head coach of the Steelers;

Whereas ''Steeler Nation'', which encompasses fans from all over the world, is to be honored for proudly waving ''Terrible Towels'' in support of the Pittsburgh Steelers;

Whereas the Pittsburgh Steelers are an iconic symbol for hardworking Pittsburghers, exhibiting the same strong work ethic and ability to fight to the bitter end to achieve success as Pittsburghers;

Whereas the leadership of Steelers quarterback Ben Roethlisberger led the team to wins in the final plays of games throughout the season, and especially during the last 2 minutes and 30 seconds of Super Bowl XLIII;

Whereas Steelers wide receiver Santonio Holmes was named the Most Valuable Player in Super Bowl XLIII for his 6-yard touchdown reception with 35 seconds remaining, which is being called one of the most historic plays in Super Bowl history;

Whereas Steelers linebacker James Harrison, NFL Defensive Player of the Year, intercepted Kurt Warner at the goal line and returned the ball for a 100-yard touchdown, which has been recorded as the longest play in Super Bowl history;

Whereas the Steelers defense, under the leadership of 50-year NFL veteran and Steelers defensive coordinator Dick LeBeau, ranked number 1 in defense in the NFL throughout the 2008 season and carried the Pittsburgh Steelers to a winning season and a Super Bowl victory;

Whereas the Pittsburgh Steelers faced one of the toughest schedules during the 2008 NFL season and persevered to a winning season and a Super Bowl victory; and

Whereas approximately 400,000 Steelers fans packed the streets of Pittsburgh on February 3, 2009 to honor the Steelers in a parade along Grant Street and the Boulevard of the Allies: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Pittsburgh Steelers for winning Super Bowl XLIII;

(B) the Rooney family and the Steelers coaching and support staff, whose commitment to the Steelers organization has sustained this proud organization and allowed the team to reach its sixth Super Bowl victory;

(C) all Steelers fans, from around the world, whose enthusiasm for the team earns them recognition as one of the most loyal fan-bases in all sports; and

(D) the Arizona Cardinals on an outstanding season; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Steelers Chairman, Dan Rooney;

(B) Steelers President, Art Rooney II; and

(C) Steelers Head Coach Mike Tomlin.

AMENDING THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 383, that was introduced earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 383) to amend the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) to provide the Special Inspector General with additional authorities and responsibilities, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. BOXER. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (S. 383) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Special Inspector General for the Troubled Asset Relief Program Act of 2009''.

SEC. 2. AUDIT AND INVESTIGATION AUTHORITIES.

Section 121 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) in subsection (c), by adding at the end the following:

''(4)(A) Except as provided under subparagraph (B) and in addition to the duties specified in paragraphs (1), (2), and (3), the Special Inspector General shall have the authority to conduct, supervise, and coordinate an audit or investigation of any action taken under this title as the Special Inspector General determines appropriate.

''(B) Subparagraph (A) shall not apply to any action taken under section 115, 116, 117, or 125.''; and

(2) in subsection (d)—

(A) in paragraph (2), by striking ''subsection (c)(1)'' and inserting ''subsection (c)(1) and (4)''; and

(B) by adding at the end the following:

''(3) The Office of the Special Inspector General for the Troubled Asset Relief Program shall be treated as an office included under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) relating to the exemption from the initial determination of eligibility by the Attorney General.''.

SEC. 3. PERSONNEL AUTHORITIES.

Section 121(e) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) in paragraph (1)—

(A) by inserting ''(A)'' after ''(1)''; and

(B) by adding at the end the following:

''(B)(i) Subject to clause (ii), the Special Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

''(ii) In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under clause (i) of this subparagraph—

''(I) the Special Inspector General may not make any appointment on and after the date occurring 6 months after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009;

''(II) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

''(III) no period of appointment may exceed the date on which the Office of the Special Inspector General terminates under subsection (k).''; and

(2) by adding at the end the following:

''(5)(A) Except as provided under subparagraph (B), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Office of the Special Inspector General for the Troubled Asset Relief Program, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

''(B) Subparagraph (A) shall apply to—

''(i) not more than 25 employees at any time as designated by the Special Inspector General; and

''(ii) pay periods beginning after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009.''.

SEC. 4. RESPONSE TO AUDITS AND COOPERATION AND COORDINATION WITH OTHER ENTITIES.

Section 121 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (i), (j), and (k), respectively; and

(2) by inserting after subsection (e) the following:

''(f) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Secretary shall—

''(1) take action to address deficiencies identified by a report or investigation of the Special Inspector General or other auditor engaged by the TARP; or

''(2) certify to appropriate committees of Congress that no action is necessary or appropriate.

''(g) COOPERATION AND COORDINATION WITH OTHER ENTITIES.—In carrying out the duties, responsibilities, and authorities of the Special Inspector General under this section, the Special Inspector General shall work with each of the following entities, with a view toward avoiding duplication of effort and ensuring comprehensive oversight of the Troubled Asset Relief Program through effective cooperation and coordination:

''(1) The Inspector General of the Department of Treasury.

''(2) The Inspector General of the Federal Deposit Insurance Corporation.

''(3) The Inspector General of the Securities and Exchange Commission.

''(4) The Inspector General of the Federal Reserve Board.

''(5) The Inspector General of the Federal Housing Finance Board.

''(6) The Inspector General of any other entity as appropriate.

''(h) COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for the Troubled Asset Relief Program.''.

SEC. 5. REPORTING REQUIREMENTS.

Section 121(i) of the Emergency Economic Stabilization Act of 2008 (division A of Public

Law 110–343), as redesignated by this Act, is amended—

(1) in paragraph (1), by striking the first sentence and inserting ''Not later than 60 days after the confirmation of the Special Inspector General, and not later than 30 days following the end of each fiscal quarter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during that fiscal quarter.'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

''(2) Not later than September 1, 2009, the Special Inspector General shall submit a report to Congress assessing use of any funds, to the extent practical, received by a financial institution under the TARP and make the report available to the public, including posting the report on the home page of the website of the Special Inspector General within 24 hours after the submission of the report.''; and

(4) by adding at the end the following:

''(5) Except as provided under paragraph (3), all reports submitted under this subsection shall be available to the public.''.

SEC. 6. FUNDING OF THE OFFICE OF THE SPECIAL INSPECTOR GENERAL.

Section 121(j)(1) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343), as redesignated by this Act, is amended by inserting before the period at the end the following: '', not later than 7 days after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009''.

SEC. 7. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

The Special Inspector General for Iraq Reconstruction and the Special Inspector General for Afghanistan Reconstruction shall be a members of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for Iraq Reconstruction and the Office of the Special Inspector General for Afghanistan Reconstruction, respectively.

ORDERS FOR THURSDAY, FEBRUARY 5, 2009

Mrs. BOXER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. Thursday, February 5; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act.

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

PROGRAM

Mrs. BOXER. Mr. President, Senators should expect rollcall votes throughout the day as we work to complete action on this important economic recovery legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. BOXER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:10 p.m., adjourned until Thursday, February 5, 2009, at 9:30 a.m.