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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Lord of all nations, light of the world, illuminate the hearts of our Senators today. Enable them to shine Your light into our Nation and world, not to glorify themselves but to honor You. Lord, give them the fire of ethical congruence that will enable them to reinforce lofty rhetoric with righteous actions. As they face daunting challenges, lift the light of Your countenance upon them. Keep them from growing weary in doing what is right, as You remind them of the certainty of a bountiful harvest. Lord, help them to see the great results that come from seeking to do Your will and from striving to let their words and thoughts please You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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 3, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, it doesn't appear that Senator MCCONNELL or I will give any opening statements today. Therefore, we will move immediately to the Economic Recovery Act, H.R. 1.

The Senate will recess today from 12:30 to 2:15 p.m. for weekly caucus luncheons. There will be rollcall votes throughout the day and we hope into the night. We have a lot of work to do in the next few days. We need cooperation on both sides to make sure Senators have the opportunity to offer amendments they feel appropriate and to agree to a reasonable time on these.

The Republican leader and I are looking forward to a good debate and opportunities for people to offer amendments. At this stage, there appears to be no limit on the type of amendments offered. We hope people will be considerate of the rest of the Senators and move forward as quickly as we can. We have a lot to do in a little bit of time.

The Presidents Day recess is to begin a week from this Friday, and that recess will not begin unless President Obama has a bill on his desk to sign. I would hope everyone appreciates the fact that we not only have to complete the legislation but we have to work out some kind of arrangement with the House.

I have spoken last night to the Republican leader, and we intend to go to conference on this bill. I hope everyone keeps in mind the time concerns we have.

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.

The Senate resumed consideration of the bill.

Pending:

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

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

Mr. BAUCUS. Madam President, today, we continue consideration of the economic recovery bill. Our country is facing a serious economic challenge. America is in the middle of the most significant economic downturn in the lifetimes of most Americans, and the bill before us is a serious response.

The Finance and the Appropriations Committees have sought to assemble the most effective tools available to help our economy recover. Ninety-nine percent of the Finance Committee's response will take effect in the first 19 months of the bill. I repeat: 99 percent of the Finance Committee's response will take effect in the first 19 months of the bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Today, we begin work in earnest on the bill. We hope to consider a number of amendments. We have taken extraordinary steps to ensure the Senate is considering this bill with a fair process. We posted the Finance Committee part of the bill on the Internet last Friday, and Chairman INOUYE and I submitted our substitute amendment to the CONGRESSIONAL RECORD last Friday as well. So the legislative text of the measure before us has been available for 4 days.

During the Finance Committee's consideration of the bill in committee, we had a thorough and open amendment process. The committee considered the bill over the course of 11 hours. Senators filed more than 200 amendments. The committee voted on 30 amendments.

As we proceed to consideration of the bill on the Senate floor, we also hope to have an open amendment process. We hope it will proceed much as it did on the children's health bill last week. As Senators will recall, last week the Senate considered the children's health bill over the course of 4 days. Senators offered 27 amendments, and the Senate conducted rollcall votes on 14 amendments. I do not believe we turned any Senator away from offering an amendment last week. We had a thorough process, and the Senate passed the children's health bill with an overwhelming 66-to-32 vote.

This week, on the economic recovery bill, we hope once again to process a number of amendments. We intend to begin with an amendment by the Senator from Washington, Senator MURRAY, regarding infrastructure. This afternoon, we expect to consider amendments by Senator MIKULSKI regarding automobiles, Senator BOXER regarding repatriation, and Senator FEINGOLD regarding earmarks.

We hope to consider multiple amendments during the day. This is a significant bill. We have a work product from both the Appropriations and the Finance Committees represented in the pending substitute. Senators INOUYE and COCHRAN will manage the bill for the appropriations matters and Senator GRASSLEY and I will be managing the bill for finance matters.

I urge Senators to let the managers know of their intentions to offer amendments. We will want to make sure the appropriate manager is here to respond to the amendment. As much as possible, we would like to give all Senators notice about what subjects will be coming up. In other words, we are working on possibly grouping subjects so as to give Senators a little more notice and to help make the process a little more orderly.

I thank all Senators for their cooperation, and I look forward to a healthy debate.

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

Mr. NELSON of Florida. Madam President, I wish to talk about not just the stimulus bill but how we need to address this overall economic crisis, which the more we hear about, the worse it gets. If we don't watch out, we are going to be in a downward economic spiral.

Look back to where we got into the mess. Wall Street allowed banks to make too many bad home loans. They were home loans the homeowners could not afford, and many times they were rushed into signing these kinds of agreements when their income level would not support that kind of mortgage. Then Wall Street bundled thousands of those mortgages—sometimes you heard them referred to as subprime—and sold them as a security. Those were bought and sold throughout the financial process, from financial institution to financial institution. They were sold at a profit. There was little or no regulation. Of course, the bankers walked away with billions of dollars in bonuses and the taxpayers now have to clean up the mess.

Well, what began as trouble in the housing market quickly spread to the financial system and, from there, to the economy as a whole. The revenue stream for these mortgages was cut off because people weren't paying their monthly payments on the mortgages, and therefore the revenue from these bundled securities of bad mortgages weren't paying off, and that started rippling through the entire financial system for whoever held those bundled mortgages.

What started as an American problem now has become a global problem. Foreign governments, many of their investors, had invested in these bundled securitized mortgages. Foreign governments have seen their exports decline, and they are finding themselves shut out when they seek loans from the world's banks. The banks aren't lending because they do not have the security of knowledge that those borrowers are going to pay off. Lo and behold, since this thing has spread globally, even to foreign governments, some of the governments may even default on their own debts, which would be a devastating blow for any nation.

That is a story that has yet to be told. We may have foreign governments defaulting on their debts and going into insolvency. Such defaults could clearly pose a national security threat for us, as already fragile governments fall and are replaced by forces that are hostile to American interests.

At the same time, our current economic crisis will soon become a financing problem for our own Government. We are running up a large tab. We are spending nearly $900 billion in this bill to stimulate the economy. Maybe we are going to have to spend that much again to relieve the banks of the toxic assets—these bad assets that are so underwater—in order to get these toxic assets off the books of the banks.

Well, when you look down the road, it is hard to fathom that we are going to put this financial burden on our children, but economists—conservative and liberal—across the spectrum agree that the burden could be far worse if we don't take bold and immediate action, as evidenced in what is on the floor of the Senate now. We need to act, we need to act boldly, and we need to act now.

This economic recovery bill that we will consider this week begins to move us in the right direction. Now, there ought to be some tweaks and some iterations on it, and we are going to consider that in the amendatory process, but let's consider the thrust of it. It funds shovel-ready infrastructure—those projects that are ready to go—which are going to strengthen our Nation while creating jobs in the construction sector.

We heard the chairman of the Finance Committee say that over 90 percent of all the spending that occurs as a result of the tax cuts and the tax incentives—he said over 90 percent of all the tax portion of the bill is going to take effect in the first 19 months. Now that is the kind of stimulus we need.

This bill provides health and education assistance to State governments. It protects the most vulnerable, while putting money back into the economy. The legislation before us creates incentives for the private sector to put money into innovative ideas in health care technology, in energy efficiency, and in a smarter electricity grid.

I think this bill moves us in the right direction. But we have to watch out that we do not get sidetracked. We need to make sure we are investing in sectors where the economy is idle, where Americans stand ready to work on the projects we fund. As we debate the bill's tax provisions, we need to make sure they provide incentives for employers to create new well-paying jobs.

I saw something that is disturbing to me. I saw that a group of our Senators is trying to do some cuts in this, and in a publication this morning they singled out NASA, the National Aeronautics and Space Administration. The chairman of the Appropriations Committee has helped those of us who work in this kind of specialty here before the Senate. What this group of Senators does not realize is that is directly related to job stimulus because of the horrible situation we have ourselves in where we are going to shut down our American vehicle to get to space, the space shuttle, and it is going to be another 5 years, under the present plan, to get the new rocket ready to get to our own space station that we have built and paid for. As a result, the Kennedy Space Center, the Johnson Space Center in Texas, and the Marshall Space Center in Alabama are looking at massive layoffs. My space center in Florida is looking at 5,000 jobs being laid off. The chairman of the Appropriations Committee, who has an insight into this, has provided that money for stimulus for those jobs. So let's keep that

goal in mind—jobs. That is what we want to do with this stimulus bill.

The legislation alone is not going to move us beyond the total problem we are facing, the potential downward spiral. Experts, liberal and conservative, now agree that the Nation's banks are going to need ongoing support at a cost that might exceed what we have committed already. If the banks are going to continue receiving Government support, they must grant taxpayers a meaningful ownership stake. They must boost lending to individuals and to small business, and they must accept real limits on executive compensation.

Of course, there is another story chronicled in this morning's newspapers about how all of these banks have gotten all of these billions of dollars, and that not only has not increased lending, their lending to borrowers has actually decreased. That is unacceptable.

If we provide the banks with more support—and I suspect we are going to have to—in this next tranche of $350 billion, then we still are going to have to address the mortgage foreclosure crisis, which is the root cause of the current circumstance. We need a credible plan for Government-backed mortgage refinancing, whether it is through Freddie or Fannie, the FDIC, or whether we create a new loan facility that is created specifically for that purpose. I talked to the Secretary of the Treasury three times about this, and I am encouraged that the administration appears to support such a plan.

I am telling you, every one of us knows that our constituents, particularly those near retirement age and retired, are dramatically concerned about the loss of their retirement savings which has accompanied the markets' collapse.

Since the 1980s, what happened? We have seen a shift away from a defined benefit pension, toward a market-based individual retirement account. Many Americans now rely on such accounts as a vital source of retirement income—the IRAs, the 401(k)s—and for those who have reached retirement—and every one of us has a lot of retirees in our State—or for those who hope to retire in the near future, the markets' collapse has delayed or laid waste to their plans, all the while Wall Street executives walk off with billions of dollars in bonuses. These are folks who have worked. They played by the rules. They have saved all of their lives. They deserve our attention more than the bankers who got us into this mess.

I want to quote from an Indiana newspaper, the Evansville Courier. To our colleagues from Indiana, I wish to compliment the editorial from your newspaper on February 2:

> The middle class retirees who saved in their IRA and 401(k) plans, and who intended to use their Social Security entitlement to supplement their investment income, and thereby to live out their days in modest comfort, now face the complete loss of that dream. It was not a dream of luxury, just a hard-won freedom from daily work and maybe a trip to somewhere warm in the winter.

That is what they saved for. And once this economy recovers—and it will, hopefully sooner than many predict—we are still going to have a lot of work that will remain. We need to look at the current causes of our crisis, and we need to better regulate our financial markets. As the economy recovers, we will need to keep a close eye on the Nation's monetary policy. Interest rates now are at historic lows, and our monetary policy is looser than it has been in decades. As we step on the fiscal gas, in addition to the monetary loosening, we need to make sure we do not overshoot the mark and trigger a new period of inflation.

So our problems are many and our options are few. Things may get worse before they get better. If we put aside the differences and reason together, they will get better.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. I am going to proceed for a few moments on my leader time.

Evidently, the President had a meeting with House and Senate Democratic leadership last night, impressing upon them, obviously, the urgency of approving a stimulus bill that actually works. But I think it is safe to say that the version House Democrats approved last week certainly does not meet that test. Most of the infrastructure projections it includes would not impact the economy for at least a year.

I was recently talking to my Governor, and he indicated basically that the spend-outs were in year 2 and 3 in much of this, thereby kind of illustrating my point that in terms of immediate impact, it is quite deficient. Worse still, permanent spending—or what we call, inside the Beltway, ''entitlement spending''—is actually increased by $200 billion.

The President has talked on a number of occasions—I know I have spoken with him about it—about my willingness to work with him on a bipartisan basis to get entitlements or permanent spending under control. We know it is going to ruin our country in the near future. This bill, in the name of stimulus, actually increases permanent spending, entitlement spending, by $200 billion, making an already incredibly difficult problem worse. As everybody—almost everybody—is now fully aware, the House bill was, of course, additionally loaded with wasteful spending. Unfortunately, the version Senate Democrats put forth is not a whole lot better.

President Obama said 75 percent of the bill's discretionary projects should be paid for within 2 years. Yet more than half of the spending in the Senate version would not be spent until after 2 years. President Obama said 40 percent of the bill should be tax relief. Yet less than one-third of the spending in the Senate version would go to tax relief. And like the House bill, the spending portion in the Senate version is simply way too big. The spending portion is way too big. If you include the interest payments on all of this money we are purportedly about to spend, the Senate Democratic bill is nearly $1.3 trillion. So I cannot imagine President Obama is terribly pleased with the proposal Democrats in the House or the Senate have put forward at this point. I am hoping he convinced them last night that it is time to put forth, together, a bill that gives an immediate jolt to the economy and creates jobs right now, not a bill that increases permanent spending, not a bill that spends out in years 3 and 4. A stimulus package ought to do something right now to stimulate the economy.

President Obama has acknowledged that Senate Republicans have a number of good ideas that he would like to incorporate into the final bill. So has the senior Senator from New York. Republicans will be pursuing these ideas this week, and how they would help President Obama achieve his goal for the stimulus bill. We Republicans think we can send the President a simpler, more targeted stimulus bill that gets right at the root of our current economic troubles, that does not waste money we do not have on projects that do not create jobs now.

Most people recognize that housing is at the root of the current economic downturn, so we would fix this problem before we do anything else. Republicans believe that one way to do that is to provide a Government-backed, 30-year fixed mortgage at approximately 4 percent to any creditworthy borrower. That would reduce monthly mortgage payments and increase demand for homes. According to this proposal, the average family would see its monthly mortgage payment drop by over $400 a month. That comes out to over $5,000 a year. Over the life of a 30-year loan, that is a savings of over $150,000. That is a proposal to get right at the housing problem now.

Next, in order to get money into the economy quickly, Republicans propose that we cut income tax rates for working Americans right now. The Federal Government imposes a 10-percent tax on married couples for incomes up to $16,700. By cutting that rate in half, we put $500 into the pockets of every working family and give an immediate jolt to the country. Incomes between $16,700 and $67,900 are taxed at 15 percent. Republicans would cut that rate to 10 percent, putting another $1,100 into the pockets of working couples. And single filers would get similar rate reductions. In other words, everyone who works and pays income taxes would see an immediate increase in pay. This simpler, targeted plan gets at the root of the problem, which is housing. It puts money into people's pockets immediately.

President Obama asked Congress to put together a bill without wasteful

spending that creates jobs now. We Republicans believe we have better ideas for doing both. We look forward to having the chance to explain these ideas this week to the American people through our amendments, and we look forward to having votes on those amendments in the hope that many of them will pass.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington State is recognized.

AMENDMENT NO. 110 TO AMENDMENT NO. 98

Mrs. MURRAY. Madam President, I send an amendment to the desk on behalf of myself, Senator FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, and Mr. REED of Rhode Island, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, and Mr. REED of Rhode Island, proposes an amendment numbered 110 to amendment No. 98.

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

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

The amendment (No. 110) is as follows:

(Purpose: To strengthen the infrastructure investments made by the bill)

Beginning on page 118, line 4, strike ''$6,400,000,000, to remain available'' and all that follows through ''$2,000,000,000 shall be for'' and insert in-lieu thereof ''$13,400,000,000, to remain available until September 30, 2010, of which $10,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $3,000,000,000 shall be for''.

On page 232, line 16, insert ''and other surface transportation'' prior to the word ''investment'', ''

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$40,060,000,000''.

On page 239, line 24, strike ''$8,400,000,000'' and insert ''$10,400,000,000''.

On page 242, after line 10, insert the following:

SUPPLEMENTAL GRANTS FOR FIXED GUIDEWAY MODERNIZATION

For an additional amount for capital expenditures authorized under section 5309(b)(2), $2,000,000,000, to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337(a)(7) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SUPPLEMENTAL FUNDS FOR CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'' as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $1,000,000,000, to remain available through September 30, 2011: *Provided*, That in awarding grants with funding provided under this heading, the Secretary shall give priority to projects that the grant funding can expedite their completion and their entry into revenue service: *Provided further*, That such funding shall be allocated without regard to the requirements of section 5309(m)(2)(A)(i) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Capital Investment Grants account.

Each amount provided in this amendment 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.

Mrs. MURRAY. Madam President, last year was tragic for workers who lost their jobs and their homes in this economic crisis. Through no fault of their own, millions of people are now wondering where they are going to find the next dollar to pay for groceries or to keep a roof over their heads. For them, putting money away to save for college or for a secure retirement is simply a dream. It is clear we need to take bold action to get us through this recession and back on the road to economic recovery. I believe the American recovery and reinvestment plan now before the Senate is that kind of bold investment.

Before I continue, I particularly congratulate our new Appropriations chairman, Senator INOUYE, and commend him for his management and tremendous work on getting this bill and this part of it to the floor. He has always shown evenhandedness and poise, as he has managed dozens of bills on the Commerce and Appropriations Committees. We are very fortunate to have him as our chairman on the Appropriations Committee, helping us with this critical piece of legislation. I also thank our former chairman and ranking member for his long dedication to the Appropriations Committee, Senator COCHRAN. I truly appreciate his contribution to this committee.

I rise to offer an amendment that will make this good bill even better by boosting our investment in infrastructure and creating thousands more good-paying American jobs. Our economy needs a jolt. We have to create jobs, and we have to get commerce going again. I believe one of the best ways we can do that and bring stability to communities is by investing in construction projects throughout the entire country. The amendment I offer today will get more than 650,000 Americans back to work by injecting $25 billion into our highways and roads, mass transit systems, and water and sewer networks.

Investing in construction projects is the tried and true way to put people back to work. My amendment not only supports over 650,000 jobs, it supports the kind of good-paying jobs we desperately need to help families put meals on the table or send their kids to school or save a little money for retirement. These are also the jobs our State Governors and local mayors say they are praying for to help their communities. States and municipalities have felt the economic crisis particularly hard. They have had to make some painful cuts and layoffs. They are even canceling projects now under way to conserve cash. This weekend Governor Granholm from Michigan told CNN that her State could ''have dirt flying within 180 days'' if we pass a bill that increases Federal infrastructure investments.

With the amendment we are offering today, States such as Michigan could create jobs as fast as they are able to spend the money, and thousands of people in all 50 States would benefit. It would support, for example, more than 18,000 jobs in Georgia, 27,600 jobs in Florida, over 20,000 jobs in Michigan, more than 13,000 jobs in the State of Washington, to name a few.

I ask unanimous consent to print in the RECORD a chart that displays what this will do for every State.

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

Formula Funding and Jobs Impact by the Infrastructure Amendment:

State	Highway Funding in HR 1	Highway Amdt Increase	Total Highway	Highway Jobs Increased by Amdt	Highway Jobs Total Increase	Transit Funding in HR 1	Transit Increase	Total Transit	Transit Jobs Increased by Amdt	Transit Jobs Total Increase
ALABAMA	510,388,740	250,492,813	760,881,553	6,969	21,170	59,898,932	14,421,357	74,320,289	401	2,068
ALASKA	132,440,000	65,000,000	197,440,000	1,808	5,493	48,072,829	54,991,671	103,064,500	1,530	2,868
ARIZONA	502,431,243	246,587,366	749,018,609	6,861	20,840	122,061,635	36,465,319	158,526,954	1,015	4,411
ARKANSAS	360,744,049	177,048,952	537,793,001	4,926	14,963	37,033,479	8,938,947	45,972,426	249	1,279
CALIFORNIA	2,554,367,859	1,253,653,811	3,808,021,670	34,880	105,951	1,162,211,543	652,734,249	1,814,945,792	18,161	50,497
COLORADO	425,788,184	208,971,851	634,760,035	5,814	17,661	122,092,228	46,803,370	168,895,598	1,302	4,699
CONNECTICUT	243,835,864	119,671,785	363,507,649	3,330	10,114	162,927,992	72,746,633	235,674,625	2,024	6,557
DELAWARE	132,440,000	65,000,000	197,440,000	1,808	5,493	27,296,636	6,515,772	33,812,408	181	941
DIST. OF COL.	132,440,000	65,000,000	197,440,000	1,808	5,493	122,596,991	193,941,707	316,538,698	5,396	8,807
FLORIDA	1,342,640,241	658,952,097	2,001,592,338	18,334	55,690	372,195,363	141,233,561	513,428,924	3,930	14,285
GEORGIA	897,639,463	440,550,929	1,338,190,392	12,257	37,232	167,603,802	107,598,818	275,202,620	2,994	7,657
HAWAII	132,440,000	65,000,000	197,440,000	1,808	5,493	50,232,641	16,301,740	66,534,381	454	1,851
IDAHO	164,198,222	80,586,563	244,784,785	2,242	6,811	23,601,410	5,692,181	29,293,591	158	815
ILLINOIS	945,433,022	464,007,448	1,409,440,470	12,910	39,215	430,055,025	253,044,431	683,099,456	7,040	19,006
INDIANA	627,200,608	307,822,709	935,023,317	8,565	26,015	97,583,872	34,759,939	132,343,811	967	3,682
IOWA	389,442,980	191,134,051	580,577,031	5,318	16,153	46,042,812	11,086,317	57,129,129	308	1,590
KANSAS	401,224,409	196,916,238	598,140,647	5,479	16,642	39,363,817	9,488,376	48,852,193	264	1,359
KENTUCKY	419,754,610	206,010,644	625,765,254	5,732	17,411	63,547,851	15,284,526	78,832,377	425	2,193
LOUISIANA	425,063,478	208,616,174	633,679,652	5,804	17,631	77,378,064	21,223,317	98,601,381	590	2,743
MAINE	133,323,210	65,433,469	198,756,679	1,821	5,530	17,347,953	4,196,024	21,543,977	117	599
MARYLAND	419,971,070	206,116,880	626,087,950	5,735	17,420	240,852,636	109,349,630	350,202,266	3,042	9,744
MASSACHUSETTS	408,467,809	200,471,214	608,939,023	5,578	16,943	386,246,819	186,690,351	572,937,170	5,194	15,941
MICHIGAN	884,623,998	434,163,092	1,318,787,090	12,080	36,693	165,008,430	41,137,803	206,146,233	1,145	5,736
MINNESOTA	561,775,770	275,712,965	837,488,735	7,671	23,301	111,216,046	50,851,244	162,067,290	1,415	4,509
MISSISSIPPI	382,310,789	187,633,655	569,944,444	5,221	15,858	34,033,125	8,241,128	42,274,253	229	1,176
MISSOURI	638,285,959	313,263,269	951,549,228	8,716	26,475	103,046,085	41,991,326	145,037,411	1,168	4,035
MONTANA	168,286,449	82,593,017	250,879,466	2,298	6,980	19,956,041	4,848,534	24,804,575	135	690
NEBRASKA	257,910,300	126,579,353	384,489,653	3,522	10,698	29,315,457	7,062,324	36,377,781	196	1,012
NEVADA	201,570,404	98,928,392	300,498,796	2,752	8,361	59,622,016	14,262,865	73,884,881	397	2,056
NEW HAMPSHIRE	132,440,000	65,000,000	197,440,000	1,808	5,493	16,935,918	4,073,977	21,009,895	113	585
NEW JERSEY	586,516,033	287,855,196	874,371,229	8,009	24,328	633,728,497	265,975,271	899,703,768	7,400	25,032
NEW MEXICO	245,711,006	120,592,083	366,303,089	3,355	10,192	34,890,008	8,410,962	43,300,970	234	1,205
NEW YORK	992,306,143	487,012,226	1,479,318,369	13,550	41,159	1,199,255,100	728,153,121	1,927,408,221	20,259	53,626
NORTH CAROLINA	729,907,072	358,229,838	1,088,136,910	9,967	30,275	131,121,337	32,082,348	163,203,685	893	4,541
NORTH DAKOTA	160,774,985	78,906,479	239,681,464	2,195	6,669	13,708,018	3,315,262	17,023,280	92	474
OHIO	914,598,673	448,874,311	1,363,472,984	12,489	37,936	203,034,842	66,975,038	270,009,880	1,863	7,512
OKLAHOMA	499,511,701	245,154,489	744,666,190	6,821	20,719	50,170,037	12,082,832	62,252,869	336	1,732
OREGON	344,745,050	169,196,831	513,941,881	4,708	14,299	89,446,876	44,881,447	134,328,323	1,249	3,737
PENNSYLVANIA	897,060,671	440,266,865	1,337,327,536	12,250	37,208	310,788,849	159,260,776	470,049,625	4,431	13,078
RHODE ISLAND	132,440,000	65,000,000	197,440,000	1,808	5,493	49,330,420	12,024,891	61,355,311	335	1,707
SOUTH CAROLINA	482,314,809	236,714,456	719,029,265	6,586	20,006	53,688,016	12,913,846	66,601,862	359	1,853
SOUTH DAKOTA	182,487,252	89,562,605	272,049,857	2,492	7,569	14,457,321	3,504,543	17,961,864	98	500
TENNESSEE	578,764,583	284,050,875	862,815,458	7,903	24,006	90,597,655	23,295,710	113,893,365	648	3,169
TEXAS	2,263,162,957	1,110,733,858	3,373,896,815	30,904	93,872	452,188,117	154,891,589	607,079,706	4,310	16,891
UTAH	222,407,496	109,154,993	331,562,489	3,037	9,225	69,168,919	24,202,781	93,371,700	673	2,598
VERMONT	132,440,000	65,000,000	197,440,000	1,808	5,493	7,545,598	1,827,970	9,373,568	51	261
VIRGINIA	699,908,574	343,506,926	1,043,415,500	9,557	29,031	136,610,971	80,168,270	216,779,241	2,231	6,031
WASHINGTON	495,069,722	242,974,418	738,044,140	6,760	20,535	201,280,291	127,484,908	328,765,199	3,547	9,147
WEST VIRGINIA	197,039,259	96,704,559	293,743,818	2,691	8,173	23,808,878	8,401,360	32,210,238	234	896
WISCONSIN	537,075,284	263,590,255	800,665,539	7,334	22,277	99,839,633	26,503,931	126,343,564	737	3,515
WYOMING	132,440,000	65,000,000	197,440,000	1,808	5,493	11,869,051	2,886,452	14,755,503	80	411

Mrs. MURRAY. But this amendment doesn't only help the economy today by creating new jobs. This amendment will literally pave the way for future economic growth across the country. These investments will help communities provide cleaner drinking water and roads that are free of congestion. They will help create modern railroads that will get workers to their jobs more quickly and safely. They will help improve our ports so they are more efficient and more competitive. We all know businesses need good transportation and stable water and sewer systems. Less traffic means more productivity, cleaner air, and a stronger economy. These investments will pay off for years to come because communities will be stronger and more competitive in the global economy.

Finally, this amendment is critically needed because roads, bridges, and water and sewer systems are literally falling apart. Year after year, we have had to put off repairs, while we have spent billions of dollars in the wars in Iraq and Afghanistan. In August of 2007, we all stood aghast and watched in horror as the I–35W bridge in Minneapolis collapsed into the Mississippi River. That tragedy brought home to everyone how critical it is that we invest in the national highway system.

Last week, we had another reminder when the American Society of Civil Engineers issued its annual report card on the condition of America's infrastructure. The results were truly dismal. The leading experts on the state of our Nation's infrastructure have reduced the grade point average of our entire system of roads and bridges and transit and sewer plants to a D. Let me make it clear, that was a D average for all of the Nation's infrastructure. Several specific areas which I am targeting in the amendment did even worse. Wastewater treatment systems, on which I have worked with Senator FEINSTEIN, got a D-minus. The engineers pointed out that leaking pipes across the country lose an estimated 7 billion gallons of drinking water each and every day. The Nation's roads got a D-minus since a third of the major roads are considered to be in poor or mediocre condition. More than a third of urban highways are congested. American families now spend about 4.2 billion hours each year stuck in traffic. That is costing the economy almost $80 billion every single year. These are roads in every one of the States. It is time to fix them.

Our transit systems only got a D, but that is still not acceptable. With ridership skyrocketing, it could get worse, if we don't make the upgrades and improvements so dramatically needed.

Speaking as a mom and a former teacher, a D-minus or a D is not going to cut it. As far as I am concerned, when it comes to infrastructure, a D stands for disappointment. A D means demand change, demand attention, and demand investment.

The amendment I have offered is going to help us address these deficiencies head on and put over 655,000 Americans back to work. For any of my colleagues who are worried about whether we can spend infrastructure dollars fast enough, I want to be clear: More than a million workers across the country are today ready and able to start tomorrow. The unemployment rate in the construction industry is now just under 16 percent. More than 1.5 million construction workers are out of a job, a 54-percent increase over a year ago. Skilled workers all across the country are now forced to try to pick up whatever odd jobs they can to pay for their week's groceries. This amendment is about bringing jobs back to those workers and stability to their families and making the kinds of investments America has ignored for too long.

I am proposing in the amendment that we invest another $25 billion in this bill, bringing the total spending on infrastructure to $167 billion. My amendment would increase transportation investments from $45.5 billion to more than $63.5 billion, with the largest boost going to highway construction. It would give all States and communities the equivalent of 2 years of Federal highway contributions at once, enabling them to support 362,000 construction jobs alone, and another $5 billion would go to mass transit, supporting 139,000 jobs. Senator FEINSTEIN will discuss how it will increase water and sewer grants within the Environmental Protection Agency by $7 billion, supporting 154,000 new jobs.

It is a scary time for millions of families across America. They are extremely worried about their stability and the future of their families. They are worried about how they will pay their bills and whether they will be able to keep their homes. They have put their faith in all of us and in our new President to set us on a path that will not only turn things around but leave our country stronger and more resilient than ever. Today they are watching this debate, and they are expecting us to take bold, swift action to get us started. This amendment is that kind of bold action. It supports 655,000 new, good-paying jobs. It will help us rebuild roads, bridges, mass transit networks, water and sewer systems that we have neglected for too long. Most importantly, these investments will leave communities stronger and more secure in the future.

I urge my colleagues to support the amendment and help put thousands of American workers back on the job and the country back on its feet.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Will the Senator yield?

Mrs. MURRAY. I am happy to yield.

Mr. INOUYE. I am extremely impressed by the Senator's presentation. I am proud to say that I support the measure. It will provide 655,000 new jobs. As the boys in the back room would say: This is just what the doctor ordered. Congratulations.

Mrs. MURRAY. I thank the Senator.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the matter before this body is the majority's stimulus bill. It merges the products of last week's markup in the Finance Committee and the Appropriations Committee. Twenty-three Senators were involved in the Finance Committee markup. In that group, there were 13 Democrats, 10 Republicans. Thirty Senators were involved in the other committee's markup, the Appropriations Committee. In that group, there were 17 Democrats and 13 Republicans. So if we add that up, it means over half the Senate has been involved in either the Finance Committee part or the Appropriations Committee part of this legislation. For the first time, however, all Senators will have to consider this very large and complicated piece of legislation. That started yesterday and will go on for a week. So the public who want to follow Congress will have a long time to follow the issue.

We ought to take that sort of time with an $800, almost $900 billion piece of legislation. First, I will discuss process and then focus on substance. Because I am the senior Republican on the Finance Committee, I will focus on the Finance Committee's portion. I, like 69 other Senators, am still studying the Appropriations Committee part.

First, I thank my friend from Montana, Chairman BAUCUS, for courteously and professionally consulting Members on this side. We had one bipartisan Members' meeting where Chairman BAUCUS patiently heard all of us out. In addition, Chairman BAUCUS apprised me of the negotiations between Democratic leadership of both bodies and the Obama administration. Those Democrats-only negotiations were extensive. Folks on our side who read press reports could see how extensive they were. Further evidence of that deal making is the relatively small differences between the basic structure of the Committee on Ways and Means of the House of Representatives and the Finance Committee of the Senate. I congratulate Chairman BAUCUS on those negotiations. The fruit of that labor is the Finance Committee package.

One significant change followed a recommendation I made in early January. That change was made in committee. That was the addition of the alternative minimum tax patch for this year which means over 24 million families need not worry about an average tax increase of at least $2,000 per family for this year. But let no one be mistaken that this bill is the result of bipartisan negotiations. While Republicans were courteously consulted at the Member and staff level, we were never at the negotiating table. Speaker PELOSI best described the bottom line of the process from the Washington

Post, dated Friday January 23, when she said:

Yes, we wrote the bill. Yes, we won the election.

Indeed, there was a rumor floating around about an informal agreement among Democratic Members. The agreement appeared to be to vote against any Republican amendments, no matter what the merits of the amendments might be. As proof of that, if one would review the markup, they will find that nearly all Republican amendments were defeated on a virtually party-line vote. They will also find, for the first time in recent Finance Committee tax legislative history, small issues or modifications raised by dissenting Members, with a couple exceptions. I thank the leadership for those exceptions. None of these smaller issues were even accommodated.

So let's be clear. We knew at the outset the markup would be ratifying a deal made between Democratic leaders of the House and Senate: No Republican ideas need apply. With the exception of that AMT patch amendment, this was the basic outcome.

Since the largely partisan markup process finished, we have been told by the President and members of the Democratic leadership that this bill is open to improvement by amendment, and I am hopeful we will see that follow through, and before the day is over, I am sure we are going to have some votes where we can do that.

If I could define ''bipartisanship'' just for a minute, I would define it kind of the way I have seen it work over the past decade in the Finance Committee but probably other committees do the same thing. Days before you want to bring up a bill, you sit down and you negotiate between the two leaders, and maybe other people, but you consider every member's position to some extent, and you come out with what is called a bipartisan mark.

In our committee, for some times that was Grassley-Baucus, for other times it was Baucus-Grassley. It is a little bit like buying a new car. If it is going to be a family operation, CHUCK GRASSLEY does not go up to Barbara Grassley and say: I have made a determination that we are going to buy a Ford Taurus, and it is going to be blue, and it is going to have these accessories, et cetera, et cetera. No. You sit down. CHUCK and Barbara GRASSLEY sit down, and we decide what color car do we want, what brand do we want, what do we want for accessories, et cetera, et cetera. And you go to the dealer, and you have a uniform family position of what kind of a car you buy.

That is the way bipartisanship ought to work here. That is the way I define it. That is the way it has worked over a long period of time. But it is not the way it worked in the product we have before us.

Now we have the President of the United States saying to leaders of his party, when they meet at the White House: Republicans have good ideas, and we want to work toward bipartisanship. Now we have a process in place. Will the President's leadership make a difference to the majority party here on Capitol Hill?

Before I get into substance, though, I wish to pull back and talk about the larger picture for a couple minutes. Majority Leader REID opened debate on this bill yesterday. Yesterday we also had Groundhog Day. My first chart is a depiction of Punxsutawney Phil, that famous weather forecaster there in Pennsylvania. Yesterday, Phil saw his shadow. Groundhog Day is a recurring event. ''Groundhog Day'' is also the title of a famous film starring Bill Murray.

I have another picture for you of Phil and Bill driving along. In the movie ''Groundhog Day,'' Bill Murray finds himself continually repeating the same routine. Now, my friend, Chairman BAUCUS, last year rightly pointed out the message of the film. The message was that Bill, guided by Phil, eventually had to figure out what he was doing wrong. Once Bill figured it out, he escaped the infinite loop.

On this bill before us, we need to learn from Bill's and Phil's adventure. We cannot and we should not legislate in a hasty manner and place ourselves in an infinite loop of repeating the same exercise. Democrats and Republicans and the President need to get this right, particularly in the time of the terrible economic recession we are in. We cannot casually deficit spend and ask American taxpayers to clean up the fiscal mess with high taxes down the road.

To me, there is a particularly compelling irony to the fact that we are debating another stimulus bill at roughly the same Groundhog Day timeframe. One year ago, almost to this exact date, the Senate spent a week debating an economic stimulus package. The target time set for enacting legislation was similar to the one for this package. I am talking about the Presidents Day recess. Let's keep the Groundhog Day irony in mind as we move forward this week and next week. Let's not repeat the same exercise, except this time with even much bigger dollars. Let's get it right.

Now to substance. I want to make it clear that most on our side agree with President Obama that stimulus is necessary. The economy is flat on its back. Too many Americans who want to find work cannot find those jobs. A lot of Americans are worried their job will be the next to go. We get that on our side. Everyone here knows we need to do everything we can to get the economy moving again. Where we differ between parties is the degree to which the engine ought to be Government or the engine ought to be the private sector, especially America's biggest job creator, our small business sector, where you hear quite regularly from economists that 70, 80 percent of the new jobs are created. In fact, in the year 2007, big business created no new jobs. All the new jobs in 2007 were created by small business.

These are honest, well-intentioned, philosophical differences between our two parties: Government or the private sector. But those are differences that are there. On our side, we want the new jobs to come from the private sector. On the other side, the preference is to grow employment through an expansion of Government.

Many on the other side and opinion makers who agree with them are invoking the example of Iowa-born President Hoover. Iowa is my home State. They seem to be doing it to portray anyone who questions the trillion-dollar package as a reincarnation of what we call Hoover economics. It is an unfair characterization. Again, let's be clear. Folks on our side recognize the need for action. So do not accuse us of Hooverism.

Also, though Iowans are rightly respectful of the only Iowan to be President, President Hoover, you have to recognize history. I would instruct the other side on a couple lessons from the Hoover era, too, where President Hoover was wrong. One lesson: Do not obstruct free trade. The highest tariff levels in the history of this country—the Smoot-Hawley tariffs—were enacted in the middle of his Presidency, and it shut down world trade. We have to think about that right now because the latest reports have the first reversal of the growth of trade worldwide since 1982. There is little doubt those protectionist barriers that were put up in 1930 or 1931 made the Great Depression worse. So let's not repeat that mistake. There is some evidence on the other side of the aisle that they do want to repeat that mistake and build up protectionist walls.

Now, there is another lesson from the Hoover era I want the other side to be aware of. President Hoover signed into law significant tax increases that made that Depression worse. Like high tariffs, economic history tells us that these burdensome taxes retarded the economy's ability to recover—a recovery that did not happen until World War II came along. We do not want war to get us out of a recession.

On this side, we agree the lessons from the Hoover era need to be learned. We cannot be passive. President Hoover was passive. Errors of omission on fiscal stimulus should be avoided by all of us. Likewise, errors of commission on fiscal stimulus, such as impeding free trade and raising taxes, also should be avoided.

By the conclusion of this debate, those differences will be plain to people at the grassroots of America. I will tell you, all you have to do is go to Iowa, go to church on Sunday, go eat at the Village Inn after church with your family, go to a University of Northern Iowa basketball game, and talk to your neighbors. The public knows what is going on here. They see this as a big spending bill and not a stimulus bill.

We will see differences fleshed out in the debate and on the amendments. That is the way it should be. As I indicated above, most on our side want to improve this bill. Our amendments, large and small, will be offered as improvements. We hope the other side is sincere and will follow our President's admonition yesterday in their desire to change the bill in a way that can garner a bipartisan majority. Whether Republicans or Democrats have been in control, the test of proper stimulus boils down to three words.

That famous Harvard economist, former Secretary of the Treasury, a good person, Larry Summers, had this to say that ought to be a lesson for both political parties:

> As with any potent medicine, stimulus, if misadministered, could do more harm than good by increasing instability and creating long run problems. A stimulus program should be timely, targeted, and temporary.

He may not be an MD, but there is a lesson from that Ph.D. we can learn. It is a lesson of medicine: First, do no harm. Well, we want to measure this bill according to what Dr. Summers says. If you apply the three ''T's'' test to much of the spending in this proposal, you will find it fails the test. We will get into that when we examine and debate the bill.

Some folks might ask: What is the problem if we overshoot and flunk the test? The first problem is running out of budget room. The bill before us will, when interest costs are included, add up beyond that $900 billion to $1.3 trillion added to the deficit. All of this extra deficit increase would be proposed when the baseline deficit for this fiscal year will hit $1.2 trillion. That amount exceeds all historical records. As a percentage of our economy, that will mean 8.3 percent of gross domestic product.

I have read some economists saying that is more stimulus than we have ever had in the history of this country. Maybe 8.3 percent is enough. I think in a bipartisan way, and with the President, we concluded it is not enough. But above that, it seems to me, we ought to be cautious and make sure it is timely, temporary, and targeted because this amount of 8.3 percent easily exceeds the 5.7 percent in 1983. It is almost 50 percent above any comparable post-World War II levels.

The figures on Federal debt held by the public are likewise staggering. In the period of 2001 to 2007, debt held by the public increased by comparatively smaller amounts, roughly 1 percent per year. This year's change easily exceeds all of that, as you can see from this chart of how the deficit continues to go up. You also see it there, as a percent of gross national product, higher than it has been for a 40-year average.

So we need to acknowledge the deficit situation we are in. It is very serious. So whatever we do, we ought to not make the long-term fiscal situation worse than it is. You can see from this chart in the outyears how bad that situation is going to be.

The other problem is if we prime the pump too much and the pumped-out stimulus does not materialize until after the hoped-for recovery is upon us, then we might risk too much stimulus. The result could be inflation.

Let's look at the timely part of Dr. Summers' statement. That needs to be brought into sharper focus. The Congressional Budget Office tells us that less than half of the appropriations amounts will be spent out by the end of fiscal year 2010. So only half of the spending in the bill is timely. The Finance package does a little better. Ironically, the tax policy stimulus, much maligned by the hardcore of both Democratic caucuses, helps the spend-out ratio greatly in the Finance package.

The theory for erring on the side of overloading the spending side is that we need to direct dollars to the folks most likely to spend them. This is the reason we are told we need extra FMAP money, expanded entitlements, and other State aid.

It misses the point that the U.S. fiscal policy system already has an arsenal of antirecessionary automatic stabilizers directed to the very same populations. These stabilizers provide immediate assistance to those most vulnerable who have been hit by an economic downturn. The Congressional Budget Office says that these benefits, including food stamps, unemployment insurance, and Medicaid, will grow to $250 billion this year. That built-in, lower income-population stimulus will be equal to 1.8 percent of gross national product.

It also misses the point, when you argue that you ought to err on the side of overspending, about ensuring that the lessons of moral hazards apply to the States. The fiscal problems faced by many of our States and localities are largely the result of their inability to keep spending in line with revenue. Between the third quarter of 2006 and the third quarter of 2008, State revenues increased 7 percent and State spending increased twice that amount—15 percent. In other words, the States and localities spent $2.22 for each additional dollar of revenue. The States have been on a spending spree, and they have dug themselves into a hole.

Now, we will hear that the Medicaid money we are adding—which I refer to as a slush fund for States—is necessary to avoid tax increases at the State and local level. We will also hear that vital services will be cut unless we cut a big blank check to States. Just as we did during the Finance Committee markup, some on our side will test these assumptions with amendments on these points. An open-ended slush fund is not targeted. It is not going to bring about sound, responsible fiscal policy in the States that need it, and this is true no matter how you dress up this issue.

Perhaps the most disturbing stimulus test failure is on the third ''t''—that it should be temporary. This is what bothers me most about this bill. I am referring, of course, to the temporary test. In this package, there are many new popular spending programs labeled ''temporary.'' Those programs total $140 billion. If these programs are extended or made permanent, we can expect another $1.3 trillion added to future deficits. I will challenge anyone on the other side to tell me these programs will be turned off once enacted. With large Democratic majorities and a Democratic President, I would say any such promise is dubious in this Congress. It is about as deliverable as a promise to sell the Brooklyn Bridge.

Just so appropriators don't get too far out on a limb, I wish to quote from what Chairman MILLER of one of the House committees had to say. He was talking about these built-in expenditures that are going to go beyond the 2 years; things that ought to be handled by the Appropriations Committee on an annual basis, considering all of the priorities that come to us from all segments of the economy and from all government programs. If you think you are building this into the base, this is Chairman MILLER—I am going to quote here from Congress Daily:

> Chairman Miller in the House was asked about the fact that funding for education programs disappears in two years, and he said the word he got from the Obama administration is that these funding levels will NOT become the baseline and that in two years, we can expect that the President's Budget Request will be lower than these new levels. That means schools will see a short-term jump for these programs, but any teacher or programs they put in place may be cut in two years.

Now, let me just ask my colleagues about that. Is it smart to use something that is absolutely needed—a stimulus bill—for an excuse to jack up spending well into the future? That is going to be done in 1 week. Isn't that something appropriations committees generally take several months to do before they make decisions to go down that road? That is something for my colleagues to consider.

To sum it up, this package meets a different three t's test. We start with trillion-dollar deficits. We have a bill that, with interest added, adds more than another trillion dollars to future deficits. We have a bill that has new spending ostensibly labeled as ''temporary'' but likely to be extended, that bakes into the cake another $1 trillion of future deficits. Passing this three t's—as in trillions—test ought to be a Senator's pause, and we hope during this debate that pause happens. From our side's view, these are major shortcomings on the substance.

Although we saw execution of a deal to vote down our amendments in committee no matter whether our ideas were meritorious or not, we would like to be and will be constructive, and we will build on parts of the package that we support. But make no mistake about it, we are going to try to use Dr. Summers' guideline of, first, do no harm—he didn't say that—but the

three t's test he put on the chart from his quotation. In other words, we hope our amendments will be more openly received on the Senate floor than they were in committee.

In this respect, we will go back to major differences between the parties on how to get the economy moving. On our side, we would like to push more incentives for long-term growth of private sector jobs. There is a good start on a broad-based middle-income tax cut in the package. We would like to expand the tax cut to cover all middle-income taxpayers.

During this fall's campaign, the President described as middle class families making less than $250,000. Many of the tax cuts don't apply to millions of families making less than $250,000. It doesn't make sense to me to call a proposal a middle-class tax cut if it doesn't apply to millions of middle-class families. We would like to direct that at labor and capital income earned by middle-income taxpayers.

Since we weren't at the negotiating table to offer these progrowth ideas, you will see them arise as constructive offers to improve the package.

I wish to speak for just a minute to some health provisions in the bill.

Spending in this bill should be judged based on two criteria: Will it stimulate the economy, and is the money being well spent? In committee, we aired our honest disagreements over whether several of these provisions were actually stimulative. Improving health information technology is critical for health care infrastructure. I support many of those provisions, but I have to ask: Will it stimulate our economy, and is this money we should add to the deficit rather than offsetting it?

It wasn't so long ago that $16 billion was a lot of money around here. Providing assistance to States makes sense if we are concerned about States raising taxes or cutting spending. But is $87 billion the right number, and is increasing Medicaid spending the right way to do it beyond what is necessary to take care of the millions of people who are going to lose their health insurance? That is a much smaller figure; somewhere around $10 billion to $12 billion rather than $87 billion. Could we better stimulate economic recovery using all or part of that money elsewhere?

The Finance Committee package also includes a 2-year extension of our current Trade Adjustment Assistance Programs. I am working with the chairman to see if we can agree with our counterparts on the House Ways and Means Committee on a broader reauthorization of these programs, but that is still a work in progress.

Apart from trade adjustment assistance, I am disappointed that this administration isn't focusing on trade as a component of an economic stimulus package. As I said, we should heed an important lesson from the Hoover era. Economic growth comes from expanding free trade, not contracting it, because protectionism in the 1930s brought us to World War II. Opening new markets for U.S. exporters should be a part of the mindset to stimulate our economy.

Right now, 20,000 people are being laid off from Caterpillar. I don't think John Deere has laid off very many yet, but 22 percent of John Deere workers have their jobs because of international trade—tractors made in Waterloo, IA, getting on boats in Baltimore to go overseas. We don't want to shut down those kinds of jobs, and without emphasis upon trade being a very important part of a stimulus package, we are sending a message that trade does not matter. Trade does matter. For instance, we have these pending agreements with Colombia, Panama, and South Korea which would provide significant opportunity to do just that, and they should be implemented as soon as possible.

As we go through the bill, our side will offer several amendments that I hope will be accepted to try to make the bill better and answer the questions I and other Members have raised. The people back home see Congress spending vast amounts of taxpayers' money. They are counting on us to ensure their money is spent wisely and not wastefully, and that means to make sure this is a stimulus bill and not a ''porkulus'' bill.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I will be very brief. I know the Senator from California wishes to make a statement.

Very briefly, I might just say first how much I enjoy working with my good friend, Senator GRASSLEY from Iowa. He is a joy to work with. I know of no finer Senator. He is a man of his word. He is a man of integrity and good will. He is a terrific Senator. I have enjoyed working with him on the committee in many respects.

I also wish to thank him for his kind words about the openness with which I have attempted to conduct the committee. I also wish to commend him for his AMT amendment to make sure Americans don't pay more taxes over the next year. The amendment he offered, as well as the Senator from New Jersey, Mr. MENENDEZ—the two of them offering the amendment was the right thing to do. Some have suggested we drop that amendment. I vigorously resisted that because I think it is a good idea that we have the AMT patch.

There are other provisions in here which remind all of us to help taxpayers. One is extending the small business expensing provision for 2 years. That is going to help small business. That also included an entire threshold that was enacted last year. Added to that, we have payback periods for net operating loss extended from 2 years to 5 years, as well as business tax credits extended from 2 years to 5 years. So businesses can carry back losses with respect to credits they have otherwise earned, whether it is an R&D tax credit or an energy credit.

So I want to continue working with the good Senator from Iowa as we improve this bill. I do not know whether I agree with all of the amendments some Senators on his side of the aisle will be offering, but we will certainly do our very best to keep improving the bill. There are some very good tax provisions in here to help individual taxpayers and business taxpayers.

So I just wish to thank the Senator for working with us on this.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise in support of the amendment Senator MURRAY has just sent to the desk which would add $25 billion to the infrastructure portion of the bill. I thank her for her work on this amendment.

I also thank the chairman of the committee, Senator INOUYE. Senator INOUYE became chairman of the committee approximately 1 week before this bill came out of committee, so it really represents a great deal of work in a very short period of time, and I believe he is to be commended for that.

In my view, as a former mayor, a stimulus means job production, very simply. As this bill stands, only 16 percent of the stimulus package goes toward infrastructure, which is the physical basis on which a nation's economy functions, while 39 percent would finance tax cuts.

To be very candid with you, I am one of those who do not believe tax cuts are necessarily stimulative. The reason I don't believe that is because I believe the buying habits of Americans in this particular crisis have changed. I don't think $80 a month in the form of a tax credit is going to change that. We put $135 billion out in a rebate, and less than 15 percent of it, it was estimated—by the best chance—went into the economy. So I really worry that this package is tax cut heavy and doesn't do what it should do with respect to the production of jobs to repair this physical base on which a nation's economy can function.

The amendment, as Senator MURRAY said, is cosponsored by 21 of us. I very much appreciate all of the Senators' support. It adds $18 billion for highway and rail. Those of you who have ridden high-speed rail from Tokyo and Osaka know that it was built in the mid-sixties. Here we are in 2009, and we don't have a real high-speed rail, either by MAGLEV or steel wheel, anywhere in this country today. If you travel through Europe, you travel on fast trains. If you go from Pudong in Shanghai to the airport by transit, you can take a MAGLEV system, which does 30 miles in less than 20 minutes. Our highways are jammed. People go to work in gridlock. The newspaper this morning reported that metropolitan Washington, D.C. has some of the highest commuter travel times in America.

We need to repair this infrastructure, and the beauty of doing it as part of this package is that it puts people to work immediately on projects that are shovel ready. So I believe $18 billion in this bill, which is for highway and rail, and an additional $7 billion in revolving loan funds for clean water and sewer projects is really necessary. You might say: $25 billion—what does that do in this package? I will tell you what it does. It raises the percentage of infrastructure from 16 to 19 percent. That is all it does. That is how big this package is and how little of it is really the kind of infrastructure we should be producing.

For the water infrastructure portion alone, this amendment could create as many as 154,000 additional jobs beyond that which is estimated in the stimulus package. The transportation portion of the amendment would add 501,000 jobs. So, as Senator MURRAY said, in total, this amendment would create a net new 655,000 jobs—jobs that are desperately needed to put Americans back to work and revive our country.

I come from a State that is big. It is the seventh or eighth largest economy in the world. It has stopped all public works projects, and it is furloughing State employees. It is in deep trouble. Where California goes, because it is such a big part of the economic infrastructure of this Nation, affects other States as well.

I want to expand a bit as chairman of the Interior and Environment Subcommittee of Appropriations because I am very concerned about what I believe has been insufficient funding for clean water and sewer projects. We put over 50 percent of our allocation into these projects. It wasn't enough. We have a huge water infrastructure problem in America. Our sewer systems are deteriorating; they are old and they are broken. Each year, aging and overburdened sewer and storm water systems overflow; they break and release more than 860 billion gallons of partially treated sewage into our rivers and streams, polluting them. Last year, contamination from these spills and overflows was the second leading cause of beach closings and water health advisories nationwide—more than 4,000 closings and advisories—and the problem is only getting worse.

Investment in our Nation's water systems has not kept pace with the population growth or sprawling development.

The Government Accountability Office and EPA report that the Nation faces a $300 billion to $500 billion water and wastewater funding gap over the next 20 years. So by investing now in needed water and wastewater infrastructure, we can, in fact, create millions of jobs here at home and better protect human health.

With this amendment, the total for the water and wastewater State revolving fund will be $13 billion, with $10 billion for wastewater projects and $3 billion for drinking water projects. As I said, the EPA, which oversees this Federal program, has indicated to us that they can move these additional dollars quickly. These funds will go directly to the States, which in turn make them available to local communities. Because the law is a revolving loan fund, there is language in this that effectively makes these loans grants to States. The $6 billion currently in the bill will fund 1,290 wastewater projects and 769 drinking water projects. By increasing this funding by $7 billion, for the total of $13 billion, this amendment would triple the number of wastewater projects to 3,226 and provide 30 percent more drinking water projects.

The States will choose these projects based on their most urgent needs. Here are some of the projects that have been funded in the past through this program:

The aquifer in Rockland County, NY, was being polluted by sewer waste from septic tanks. The local sewer district used $80 million from the Clean Water State Revolving Fund to replace these septic systems with a new collection system and wastewater treatment plant. The county also installed advanced treatment technology to protect the millions of residents downstream of its facility.

The town of Easton, MD, was flushing huge nutrient loads into the Chesapeake Bay. It received a $20.5 million loan to expand its wastewater system to install enhanced nutrient-removal technologies and now exceeds Chesapeake Bay's water quality goals.

A subdivision with septic systems in Lexington County, SC, needed a connection to the nearest town's public sewer. The area septic systems had been improperly maintained and were in jeopardy of contaminating the groundwater. Thanks to funding from this program, it has a connection.

In my State, Orange County is using $162.9 million to implement a ground water replenishment system, the largest of its kind in the world. Highly treated wastewater will be pumped into basins, where it will percolate back into the ground. This project not only improves water quality but reliability and supply in an area facing long-term drought.

This amendment, as I said, waives the State match requirement in an effort to maximize the use of the funds. This funding, which can be put to use immediately, will assist the municipalities of our Nation in upgrading their wastewater systems and ending the damage to our environment. But it is not only these benefits that speak to the merits of increasing this funding—and we could do more; we could do at least another $3 billion more under EPA's ability to move the money.

The U.S. Conference of Mayors estimates that every dollar spent on wastewater infrastructure generates a return of $3 to $7 that flows back directly into the economy. The Commerce Department estimates that for each additional job created in the water and sewer industry, 3.68 jobs are created in all industries. So it has a ripple effect.

The Association of State and Interstate Water Pollution Control Administrators indicates that nearly $20 billion of shovel-ready wastewater infrastructure projects await financing today throughout the country.

In conclusion, Mr. President, the problem I have with this package is that, in my view, it is heavy on tax cuts which go right to the bottom line of the deficit and the debt and will reduce allocations to appropriators to fund the next 2 years' budgets, unless we drive this country deeper into debt and deficit. It is shy on the infrastructure, which is the stimulus projects.

Let me make one other point on the change of America's buying habits which I believe has taken place. If you look at people actually laid off from Caterpillar and you look at retail closures—the latest of which is Macy's, as of last night, indicating that they are terminating 7,000 people from their jobs—you will see that people are buying less. It is reflected in automobile sales, it is reflected in tractor sales, and it is reflected in shopping and electronic equipment shopping.

I believe the important thing of this package is to put people back to work. My State has 1.7 million people who are out of work. We need to do those things that are necessary, such as extend unemployment insurance, protect the safety net, and have a massive program to rebuild what is a failing economic infrastructure in this country, so that America can compete in this new millennium.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add as cosponsors Senators SCHUMER and BYRD.

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

Mrs. MURRAY. Mr. President, I thank Senator FEINSTEIN for her cosponsorship and working with me and the chairman on including this amendment that would provide 655,000 jobs.

I heard the Senator from Iowa earlier talking about providing or increasing Government jobs. I would let our colleagues know that this amendment before us is about private construction jobs.

In fact, I ask unanimous consent to have printed in the RECORD a letter from AGC of America, Associated General Contractors, as well as a letter from FasterBetterSafer, Americans for Transportation Mobility, which represents the American Public Transportation Association, the American Road and Transportation Builders Association, the Associated Equipment Distributors, the Association of Equipment Manufacturers, the Associated General Contractors, the American Society of Civil Engineers, the International Union of Operating Engineers, the Laborers International Union of

North America, the National Asphalt Pavement Association, the National Stone, Sand, and Gravel Association, the United Brotherhood of Carpenters and Joiners of America, and the U.S. Chamber of Commerce, in support of this amendment.

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

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Arlington, VA, February 2, 2009.

Re: Support Murray/Feinstein Amendment.

Hon. HARRY REID,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR REID: The Associated General Contractors of America urges you to support the Murray/Feinstein amendment to the American Recovery and Reinvestment Act of 2009. The amendment will provide additional funding to critical surface transportation and water infrastructure projects across the country.

Construction employment has tumbled by 899,000, or 11.6 percent, since peaking in September, 2006. Unfortunately because of dwindling public and private funding more than a million more good workers could face layoffs in 2009 without significant construction stimulus.

Providing a significant investment in funding for construction projects would help address our nation's infrastructure investment gap and create good jobs in communities across America. AGC estimates that, an additional $1 billion of investment in nonresidential construction supports or creates 28,500 jobs. More than half of the gain would impact non construction elements of our economy, as workers and owners in the construction and supplier industries spend their added income on a wide range of goods and services.

We estimate that the American Recovery and Reinvestment Act would create or support more than 1.85 million new jobs between now and the end of 2010, including over 620,000 construction jobs, 300,000 jobs in supplying industries and 930,000 jobs throughout the broader economy.

The construction industry stands ready to participate in the economic recovery spawned by the American Recovery and Reinvestment Act of 2009. Thousands of AGC members across the country have expressed their personal commitment to putting this funding to use quickly. Please support the Murray/Feinstein amendment.

Sincerely,

JEFFREY D. SHOAF,
Senior Executive Director, Government and Public Affairs.

WASHINGTON, DC,
February 2, 2009.

TO THE MEMBERS OF THE U.S. SENATE: The Americans for Transportation Mobility (ATM) Coalition strongly supports the inclusion of funding for highways and public transportation in S. 336, the ''American Recovery and Reinvestment Act of 2009,'' and urges the Senate to increase funding levels for highways and public transportation to at least the levels provided in H.R. 1, the House-passed version of this legislation.

Preserving and creating jobs through highway and public transportation infrastructure investment is a key element of this economic recovery package. The investments in near-term transportation projects supported by this legislation would protect and create jobs to support broad recovery and address particularly hard hit sectors like construction. Transportation spending also results in long-term economic benefits: transportation infrastructure plays a critical role supporting the nation's economy by facilitating safe, efficient, and reliable movement of people and goods.

The recovery package is an important step toward renewing highway and transit infrastructure, but it is only a beginning. The ATM Coalition looks forward to working with the Senate in the coming months on reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), which must build on the investment in the American Recovery and Reinvestment Act by providing the policy and programmatic reforms as well as long-term funding needed for highways and public transportation.

ATM urges you to increase funding for highways and public transportation investments in S. 336 to at least the House-passed levels.

Sincerely,

AMERICANS FOR TRANSPORTATION MOBILITY.

ATM Management Committee Members: American Public Transportation Association, American Road and Transportation Builders Association, Associated Equipment Distributors, Association of Equipment Manufacturers, Associated General Contractors, American Society of Civil Engineers, International Union of Operating Engineers, Laborers International Union of North America, National Asphalt Pavement Association, National Stone, Sand, and Gravel Association, United Brotherhood of Carpenters and Joiners of America, U.S. Chamber of Commerce.

Mrs. MURRAY. Mr. President, the point is these are private sector jobs. In fact, less than 1 percent of these will go to Government jobs, and those jobs will be oversight and accountability to make sure our taxpayer dollars are spent wisely.

I look forward to having a vote on this amendment as soon as our chairman determines the time. I ask our Senate colleagues to join us in making sure we create the kind of investment, infrastructure, job creation that we have told America about, and we know will get us back on our feet.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I applaud the Senator from Washington in bringing this point to the attention of the American people, as I have been trying to do, that in this stimulus bill—and the same is true on the House side—there is far too little construction, far too little jobs.

I found it very difficult to believe that in the bill that came over from the other side there was only some $30 billion. I can share now, because it has been public, that 8 days ago on Monday, President Obama addressed our conference. During that conference, we talked about the stimulus bill. He was very generous with his time. In fact, he was there for an entire hour. I said: It is inconceivable to me—and here we were talking about the bill that was being considered on the other side—that with some $800 billion or $900 billion—that is without interest—it is going to be over $1 trillion when you add interest—but with those amounts, you only have $30 billion of roads and highways.

Quite frankly, President Obama was not sure my statement was accurate, and he asked Larry Summers, who was in the meeting. We were all a little bit confused about that, except I wasn't because very specifically it said $30 billion on roads and highways.

To be fair, there is another $19 billion in water projects. Infrastructure was a little higher than that. My concern is roads and highways.

The reason I am concerned is that we went through the 2005 Transportation reauthorization bill. At that time, Republicans were in the majority, so I was taking the lead on passage of that bill. I had the support of the ranking member at that time, who was Senator BOXER from California. We worked closely together on that bill. We actually were increasing all we could as time went by because the idea of funding infrastructure and funding roads and highways has a history to it.

When I was first elected, every year we had huge surpluses in the highway trust fund. That is probably the most popular tax out there. With the highway trust fund, people know or they believe that money is going to be used to increase capacity and increase the condition, the repairs, the maintenance of the transportation system we have now.

Senator BOXER and I worked together on that bill to do all we could to enhance it, to raise the amounts because even as large as that bill was, that did not even maintain what we have today.

Over the years, as people saw the surpluses in the highway trust fund, their tendency, as is always the tendency around this place, was let's grab it and put it into something else. We started having hiking trails, we started having other elements of transportation, over and above roads and highways, bridges and maintenance. Those are the things that originally the highway trust fund, way back in the early fifties, was there for. That is what was established back in the Eisenhower administration.

We have gone over the years, and this took a turnaround a few years ago with so many people loading on to the highway trust fund and less and less was used for maintenance and expansion of our highway system. We got into the position where in 1998, during the Clinton administration, he witnessed the very large surplus that was in the highway trust fund. He took it and put it into the general fund. The total amount was $9 billion. That was something to which I was very much opposed because I thought of that as a moral issue. The people of this country were led to believe that if they paid for gas at the pump, that money was going to enhance our highway system. That used to be the situation. Anyway, we were able to successfully remove that and bring that back into the highway trust fund a matter of a few weeks ago. We improved that a little bit. Still, we have a deficit that cannot do the job the American people expect.

I am considered by some of the rating organizations to be one of the most

conservative Members of the Senate. Yet I am a big spender in some areas—national defense, infrastructure. That is what we are supposed to be doing, and we have these opportunities to do it.

As I said, I applaud the Senator from Washington for recognizing the need to increase the amount of money for roads and highways.

During the reauthorization bill of 2005, we talked about what our needs were. We happen to have a guy in the State of Oklahoma, a guy named Gary Ridley, the best highway director anywhere in the United States. What he has done is put together what do we have in the State of Oklahoma that is spade-ready to employ people tomorrow if we are able to have enough money to take care of some of the things that are already authorized; we don't have to go through the environmental impact statements and other statements. This is all ready to go.

For that reason, I thought if this job stimulus bill is going to do something to stimulate the economy, it is going to have to hire people. To hire people, you are going to have to get a much larger percentage.

Getting back to 8 days ago when President Obama was before the Republicans, at that time I said: If I am right and you are wrong in terms of the fact that you only have 3.5 percent of the total amount of money that will go to roads and highways, would you be willing to raise that to some 10 percent? I am not sure the answer was very clear, but nonetheless, it is something that is very reasonable to make as a request.

I have one problem with the Murray bill. First, I agree that we need to have a larger percentage of the money going into roads and highways. But I think we also need a little bit of truth in advertising. If we are going to call this package a stimulus bill, then we need to direct the resources to the programs that have demonstrated the ability to create jobs immediately. However, merely adding the total number, as this amendment does, without giving priority to programs that are truly stimulative is perhaps not all that responsible.

In addition, the major problem I have is that the stimulus needs to be offset. You cannot tell me, if we are looking at $900 billion out there, we cannot find something to offset in order to take care of the immediate problems we have in this country in terms of our infrastructure.

I do not see the Senator from Washington on the floor now, but I would ask her—and I asked her a few minutes ago—if she was willing to offset this money. I believe her response was not at the present time. So if it changes as this develops, then perhaps I will change.

I will say this: If you are not going to be able to offset this amount, then I certainly would oppose this amendment. There will be lots of opportunities to increase the infrastructure investment over the next few days that do not add to the size of the bill. We cannot add to the size of this bill.

To me, the whole idea—well, the amount is inconceivable to most people, most thinking people, in America, and it cannot be increased.

We have numerous opportunities. We have the Boxer-Bond amendment to increase highway investment by $5.5 billion. It is fully offset. I strongly support Senator BOXER and Senator BOND in this effort. The program they eliminate is a discretionary program that would not even select projects for an entire year.

Then the program provides an additional 3 years to finish the project. That makes sense to me. My chairman, Senator BOXER, and I as the ranking member of Environment and Public Works Committee, go along with a bipartisan group of colleagues who will have a second amendment to add $50 billion to highway transit and clean drinking water. This amendment would take funds not obligated within a year up to $50 billion from programs in the stimulus that are not spending and redirect them to infrastructure projects that are ready to have a contract awarded within 120 days after receiving the funding. That is what we call a stimulus. That puts people to work in jobs. And it doesn't add to the cost of the bill.

Those are two opportunities coming up; we will have to get this done. It also moves the money from programs that are not stimulating the economy, which I think is a good idea.

I at this time urge my colleagues to oppose the Murray amendment even though I agree with what she is trying to do. I want to have this offset. We have these two opportunities that I mentioned coming up where we will have the opportunity to accomplish the same objective and have them offset.

Frankly, the amount she is talking about is not as much as I would like. I would like it to be an additional $50 billion which we will be talking about in another amendment coming up.

Since it is not going to be offset, I make a point of order against the Murray amendment's emergency spending designation under 204(a)5A of S. Con. Res. 21 of the 110th Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that Senator INOUYE be able to make a UC and then I be granted the floor to speak in favor of the Murray amendment and for the waiver she will need.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I ask unanimous consent that at 12:20 p.m. today, the Senate proceed to vote in relation to the Murray-Feinstein-Specter and others amendment No. 110 and that time until then be equally divided and controlled in the usual form; that if a budget point of order is raised against the amendment, that a motion to waive the relevant point of order be considered as made; and that no amendments be in order to the amendment prior to a vote in relation thereto.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. Reserving the right to object, can I clarify exactly then what the UC is? The Senator from Hawaii would have an opportunity to respond and offer a unanimous consent request, and then the Senator from California would have how much time?

Mrs. BOXER. I have not asked for a specific time. I would take 15 minutes.

Mr. THUNE. I was hoping I would have an opportunity to make some remarks before the vote. The vote is going to occur at 12:20. Very good.

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

The Senator from California is recognized.

Mrs. BOXER. Mr. President, I rise as the chairman of the Environment and Public Works Committee in favor of the Murray-Feinstein amendment, and I hope we will vote to waive this budget point of order. I want to tell you why.

Senator INHOFE is correct that I will be working with him very proudly on a couple of amendments which will all be offset. But in general, we are in such a crisis in this country that we need to look at three things in this package: jobs, jobs, jobs. This package falls short. Once we get to the conference, I think some things will fall away. I do. But we need to boost the spending, it seems to me, on the most efficient programs that create jobs, and not just any type of job but good jobs—jobs in the construction industry where we have seen devastation hit our families.

In my State of California, we have a 9.2-percent unemployment rate. Let me reiterate. In my State of California, we have a 9.2-percent unemployment rate. Were it not for our environmental laws which are putting people to work, putting solar rooftops on and the rest, I hate to think of where we would be because housing construction has literally stopped in its tracks.

The importance of the Murray-Feinstein amendment is this: jobs, jobs, jobs. That is what the people want us to invest in. We know very well that when we invest money in the type of infrastructure we are talking about—highways, water systems, sewer systems—the jobs come along with it.

We also know a lot of our physical infrastructure is failing. We can never get out of our minds the tragic collapse of the bridge in Minnesota. And when we look at the condition of our bridges across this great Nation of ours, we find there are way too many—maybe a quarter of them—in need of repair. So when we talk about this amendment, we are talking about adding funding

for roads, for bridges, for transit, for rail, for ports, for drinking and wastewater infrastructure, which are the most efficient job creators.

I think it is fair to ask, are our States and localities ready to spend these dollars or will they go there only to sit? The answer is, our States are more than ready. According to the U.S. Department of Transportation, the backlog of needed improvements to simply maintain the current bridge and highway network is $495 billion. That is the backlog. This amendment is $25 billion, and as I understand it, that is being added to $27 billion. So we are at least adding more funding that is real.

To me, it is not enough. That is why Senator INHOFE and I are going to have an amendment that says if the rest of the funds in this bill are not committed by a time certain, we are going to put up to $50 billion more into these accounts. I hope that passes, but this is a very important amendment. I hope we will pass it on a bipartisan vote, but the first step is to allow the budget act to be waived.

The Department of Transportation also told us something else. They said that for every $1 billion invested in highways and bridges at the Federal level—and if that funding is matched—we could create and maintain 34,800 jobs. That is 34,800 jobs for $1 billion invested at the Federal level. I want to sort of shake my friends, in a nice way, and remind them that a million jobs were lost in this great Nation in the last couple of months—a half million in December and a half million in January. By the way, a half million also in November. I want you to think about your States and how many families that is. The number of jobs that have been lost is bigger than some States—bigger than some States. Close your eyes and imagine the whole State of Delaware with every person unemployed. That is what has happened so far, and worse.

We need to get ahead of ourselves here. What worries me about the Senate is that we are kind of chasing after this tiger called recession. It took the Bush administration forever to call it a recession. Then they finally called it a recession and said, well, hopefully, we will get over it quickly. But we keep chasing it, trying to grab it by the tail. We have to get in front of this recession or it will become a depression. You get in front of it by doing the things you know will create jobs.

Now, is every single item in this bill something I support? No. But I support the infrastructure part, I support the help to the energy sector so we can get off foreign oil, I support building a smart grid, I support making sure people who are long-term unemployed get the chance to feed their families, and I support doing more about housing. But I surely know this, as chairman of the Environment and Public Works Committee, a dollar invested in the physical infrastructure, in rebuilding it, is a dollar that will create jobs—thousands and thousands and thousands of jobs. This amendment is a good amendment. It doesn't overreach. It underreaches. But it is a start.

The next question might be: Well, Senator, I agree with you that this investment will create jobs, but have the States identified projects that will qualify? The State departments of transportation, according to the American Association of State Highway and Transportation Officials, have identified over 5,000 projects of over $64 billion in value which could create nearly 1.8 million jobs. We could restore the jobs that have been lost in the last 2 months with this amendment. Our committee, the Committee on Environment and Public Works—and I have my good staff here—has surveyed many of these States and we have determined these projects are shovel ready.

So let me say it again: $64 billion of shovel-ready projects, ready to go—1.8 million jobs. And the underlying bill falls short. The underlying bill falls short. If we pass the Murray-Feinstein-Boxer, et cetera, amendment, we will in fact move toward equaling that shovel-ready number we have.

The American Public Transportation Association tells us that States have identified 787 ready-to-go public transit projects totaling $15.9 billion that would sustain thousands of jobs. The U.S. Conference of Mayors tells us there is a total of 15,000 ready-to-go infrastructure projects in 641 cities. So you have the States telling us they are ready, you have the transit districts saying they are ready, and you have the U.S. Conference of Mayors saying they are ready. And when I look at the underlying bill, I believe it didn't fund these projects to the tune they should have.

This amendment also increases investments in drinking water and wastewater infrastructure. We are so far behind on those programs. If our kids can't drink the water, that is trouble. We need to make sure the drinking water is safe. If we have a sewer spill, that is a disaster. We need to get out ahead of that. A recent EPA study—and, Mr. President, you will be interested in this—found that failure to increase investment in water and wastewater infrastructure could result in a $500 billion water infrastructure gap in the next 20 years. That EPA study was done under George Bush. Okay, George Bush's EPA told us we could have an infrastructure gap of $500 billion in the next 20 years. So let's invest in water infrastructure. It will replace aging water pipes, expand treatment facilities, reduce pollution flowing into our Nation's rivers and streams and allow for implementation of projects to improve water efficiency.

The Murray-Feinstein amendment, my friends, is critical. We don't do enough in the underlying bill. And for those who worry about an offset, we will find those in conference. We are going to keep this bill where President Obama wants it. We know that. But let's walk down the bipartisan lane on this one. We all know our States and our localities are crying out. We all know our people are hurting because they are not working. With this amendment, we create jobs in areas that we have to pay attention to anyway. Are we going to wait for our sewers to overflow into the streets? Are we going to wait for more bridges to collapse? I say that is ridiculous. You can't be a great economy when bridges are collapsing all around you, and our bridges are in trouble.

So to say you won't vote for this amendment because it is $25 billion in an $800-plus billion, almost $900-plus billion bill, is shortsighted. I commit to working with my friends on the other side to find the offsets in this bill. It is not going to be that hard. I agree with Senator INHOFE, they are not in this bill, but we can work to get some offsets in the conference.

Local people are saying to us, please, Senators, do something to help us get out there, spend the money on these shovel-ready projects—the highways, the bridges, the transit systems, the sewer systems, the safe drinking water issues. Help us do it. We can make this a far better bill. Private industry wants this, and these are private sector jobs. These are contracts that will be let for local contractors, small business, big business, union members, and nonunion members. This is what we should be doing in this bill.

I signed a letter with Chairman BAUCUS on this very topic and, guess what, Senator INHOFE signed it, Senator BOND signed it, and we said we need to do more building of the infrastructure of our great country. The unemployment rate for construction workers is double the national unemployment rate. Listen to this: The unemployment rate for construction workers is 15.3 percent—15.3 percent in December—compared to a 7.1-percent national unemployment. There are plenty of workers available. They are ready and they are excited to get to work. They have to support their families. They are suffering, they are worried, and they do not want to be on the Federal dole. They do not want to get food stamps. They do not want it. They want to work. They want to work.

This is an important test of whether the Senate has a heart, frankly, and a brain, because I think this is where your brain and your heart come together with a yes vote. Because with our heart we know people are suffering. With our heart we know construction workers are suffering. With our brain we know that when they go to work and they pay taxes, we all benefit. With our brain we know when we rebuild the physical infrastructure our country is stronger and we set the predicate for a very strong economic recovery into the future.

So I feel very strongly, as I am sure you can tell from the sound of my voice. I just hope we don't have a partisan vote. I think this is one where we

should come together. We will find new offsets. President Obama is going to have a cap. He is going to say we don't want to spend more than X. We will make this work, but let's have a good vote on this motion to waive the budget act. I think our country will be better for it, and the people out there who are watching this debate will feel good that we know our construction workers are suffering and our construction companies are suffering, and this would go a long way to boost their confidence.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand the Senator from South Dakota wants to speak for 15 minutes. I ask unanimous consent that the Senator from Michigan, notwithstanding the pending unanimous consent request, be allowed to speak for 5 minutes following Senator THUNE of South Dakota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, this is a very important debate for the American people. We have an economy that is struggling, we have a lot of people who are hurting, and I think in the context of that debate, it is very important that we remember these dollars we are spending are the American people's dollars. Yes, we want to be able to respond to the economic crisis the country is experiencing in a way that allows people to spend more money, that gets more money back into the hands of the American people, that will help grow the economy and create jobs, and provide the necessary incentives for small businesses to invest, but I think it is important at the outset of the debate that we give serious consideration and thought to what we are doing here and what we are talking about in terms of the dimensions and the scale of what we are talking about.

When we throw around numbers here in Washington, DC, when we talk in millions and we talk in billions, and in this case a trillion dollars, we treat it as if it is something abstract. I think it is sometimes important to boil it down so that we put in perspective the dimension, the scale, the scope, and the size of what is being talked about this week on the floor of the Senate.

I want to put up a chart that illustrates that very point. Imagine thinking about a trillion dollars, and putting it back to back or if you put a bunch of hundred dollar bills back to back on top of each other and asking people around the country how high that stack would go.

I am sure you would get a lot of varying answers. You would probably have some people say it might go 300 yards into the air. Some people might say: Well, it might go 5 miles into the air. But the reality is, if you took hundred-dollar bills and stacked them on top of each other, you would have a stack that goes 689 miles high, back to back to back. That is hundred-dollar bills. We are not talking about dollar bills, we are talking about hundred-dollar bills.

Mrs. BOXER. Will the Senator yield for a question on this point?

Mr. THUNE. I would say to the Senator, through the Chair, the Senator from California just had an opportunity. I would like to finish my remarks. Then I would be happy to yield.

Mrs. BOXER. Thank you. I will stay on the floor.

Mr. THUNE. The point I am making is, you have to sometimes illustrate this in a sometimes very graphic way to help us understand what we are talking about. So I would make my point simply again: Hundred-dollar bills stacked back to back to back, if you stacked them on top of each other, would equal 689 miles.

Now, another way of looking at this is, if you took hundred-dollar bills and wrapped them around the Earth at the Equator, in other words, you took hundred-dollar bills, not stack them on top of each other but wrap them side by side all the way around the Earth, if you can believe this, it would go around the Earth almost 39 times. That is 969,000 miles of hundred-dollar bills that would go around the Earth if you took a trillion dollars and broke it down that way.

That very simply puts into perspective what it is we are talking about. Someone else has described it this way: If you started spending a million dollars a day on the day Christ was born, and you spent a million dollars every single day up until today, you still would not have spent a trillion. That is the dimension of what we are talking about.

I remember when I was in business school, we had our little business analyst calculators that we used to do financial calculations. You could not even get to this. You could not even get to a trillion dollars on calculators back at that time. I hope, today, for purposes of doing economic calculations, because of the scale we are talking about, these calculators go that far.

But my point is, this is an enormous amount of money, an enormous amount of money. We are talking about $1.26 trillion of our children's and grandchildren's money over the next 10 years. I think there is a basic principle that all Members of the Senate should consider when we are spending our fellow citizens' hard-earned dollars. That principle is this: We should not spend money we do not have on things we do not need. Let me say that again. We should not spend money we do not have on things we do not need.

Families and business owners understand this principle. Unfortunately, it is a principle that has been lost and escaped our colleagues on the other side who have drafted this 700-page, trillion-dollar spending bill, which is filled with lots of Government spending that I think most Americans would characterize as wasteful. I am not saying all Government spending is bad. Government spending, if it is properly focused and highly scrutinized, may have some countercyclical impact. One example of that would be infrastructure spending that we use to improve our roads and bridges and provide access to clean drinking water, that can provide jobs in the short term, and can create economic opportunity in the long term.

The problem we have is this bill is laden with unfocused, unnecessary, and wasteful spending. Now, the stated goal of a stimulus proposal, as stated by, I think, Larry Summers earlier this year, was it should be timely, temporary, and targeted. I may not be saying these in the right order but basically timely, temporary, and targeted, basically three criteria, three metrics by which we would measure a stimulus proposal and whether it is effective and whether it works.

I would argue this particular bill is none of the above. It is slow, it is unfocused, and it is unending. It makes commitments way beyond the 1-year, 2-year window that we are talking about if we want to have an impact and create jobs with stimulus.

So even with a price tag that is greater than any previous stimulus package in the history of our country, the majority of the spending in this bill is not focused on job creation and fails to meet the job creation goals our President called for and I think the American public expects.

With record deficits in the near term, this bill, as drafted, is a mistake that I do not believe we can afford to make. According to the Congressional Budget Office, we have a $1.2 trillion deficit in fiscal year 2009, before any financial stabilization or stimulus measures are passed by this Congress.

Now, again, we are going to spend $1 trillion. I would point out what $1 trillion means. If you took hundred-dollar bills, you put them side by side, 969,000 miles, and that is the amount we are talking about spending. It is also the amount of the deficit in this particular fiscal year, fiscal year 2009. That is before, as I said before, any financial stabilization or stimulus measures are passed by this Congress. Frankly, we expect other requests to come forward in the area of financial stabilization.

To put the $1.2 trillion deficit into perspective, that is roughly triple the previous record of $455 billion that the deficit came to in fiscal year 2008. So it is important to note that already this deficit in fiscal year 2009 will exceed by almost three times the deficit in the year 2008. It is going to be over $1 trillion before we do any of these other things.

It is also important to note that the Congress, not the executive branch, has the constitutional authority to raise

and to spend revenue; that is, the power of the purse, by our Constitution, falls to Congress. So if we are looking for a scapegoat in this whole fiscal imbalance, we need to look no further than the Halls of Congress.

In fact, in the last couple years—the Democrats regained the Congress back in 2007, the Federal deficit has ballooned from $160 billion or 1.2 percent of our gross domestic product in 2007 to over $1 trillion or 8.3 percent of our gross domestic product this year, in fiscal year 2009.

Now, if we include just the additional spending for this proposal before us, the 2009 projected deficit, I am talking about now stimulus and the deficit as I mentioned earlier that is already projected for 2009, it would increase to $1.43 trillion, almost $1.5 trillion, in deficits or, put another way, about 10 percent of our gross domestic product.

I have to remind my colleagues that we are still very early in the year. We have almost 9 months left in this fiscal year to spend even more of our children's and grandchildren's tax dollars. The Congress is soon going to consider an omnibus spending bill for the remainder of 2009.

We also will have to consider a war supplemental bill and the potential of additional bailouts for the financial sector and we are told that request may be coming as early as next week.

Without a question, we are going to end 2009 in perhaps the worst financial condition the Nation has ever seen. In fact, the last time we had a single-year deficit that the GDP ratio was over 8 percent was the year 1945, during the height of World War II.

Now, for comparative purposes, the European Union, the Federal deficit there that we have this year of 10 percent, if you add the stimulus in, would not even be good enough to get into the European Union. According to European Union rules, member nations have to have a budget deficit of 3 percent or less. Our Federal deficit this year will be three times higher than the maximum threshold to get into the European Union.

Of course, European countries are also dealing with the same contractionary forces that we are dealing with in this country, which are driving up their collective deficit to GDP ratios to record highs. But even with those factors and influences in those economies, the Euro zone's collected deficits will only reach 4.7 percent in 2009. That is 4.7 percent of their gross domestic product, which will be less than half the U.S. total.

When you talk about being faced with such unsustainable deficits, Congress, I would argue, has to carefully analyze any and all deficit spending. Any additional Government programs that are financed with more deficit spending need to meet the highest standards of job creation and return on taxpayer investment.

Unfortunately, the spending bill we have before us contains a long list of Government programs that fail to meet that standard. I can start to go down the list—I will not go through the entire list because it would take too long—$1 billion for the Census; $20 billion for the removal of small- to medium-sized fish passage barriers; $400 million for STD prevention; $25 million to rehabilitate ATV or recreational vehicle trails; $34 million to remodel the Department of Commerce headquarters in Washington, DC; $70 million to support supercomputer activities for climate research; $208 million for disconnected youth; $1.2 billion for summer employment; $246 million in tax breaks for Hollywood filmmakers; $6 billion so bureaucrats in Washington can enjoy the benefits of green technology.

I happen to be one who supports green technology. I think we ought to be moving in that direction. But we also have many opportunities, energy bills we have made on a regular basis around here, in order to engage in how we invest to be moving our country in a green direction.

These programs do not create jobs. They hardly justify a $1.2 trillion debt on the shoulders of our children and grandchildren.

So I would encourage my colleagues, as we go through the debate this week to scrutinize every line item in this 700-page bill and ask themselves if these provisions will create jobs and justify making record deficits even worse. We should not spend money we do not have on things we do not need.

Over the next few days, several amendments are going to be offered to strike or replace wasteful spending items in this bill. I would call on my colleagues to consider these amendments with an open mind and a clear understanding of the dangerous consequences of a trillion-dollar mistake. A trillion dollars is a terrible thing to waste.

What we are talking about, as I mentioned in terms of the dimensions of this, if you look at hundred-dollar bills side by side, 38.9 times it goes around the Earth at the Equator. That is what I am talking about.

Mrs. BOXER. Would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I am astounded by this new-found fiscal responsibility I hear from the other side of the aisle. I wish to ask my friend a question: Do you know what the debt was when Bill Clinton left office and George Bush took over and there was a Republican Congress? Do you know what it was at that time?

Mr. THUNE. I would say I am not sure I know the answer, but I am sure I am going to hear it.

Mrs. BOXER. The debt was $5.7 trillion when George Bush and the Republicans took over. I will say to my friend, not to ask him a question, the debt today is $10.1 trillion; a doubling of the debt was brought to you courtesy of the Republicans.

Does my friend know—I am sure he does—that when Bill Clinton left office, we had a surplus in our budget. We not only did not have a deficit, we had a surplus. My friend knows what George Bush left us with—hundreds of billions of dollars, hundreds of billions of dollars of debt.

So for him to stand up now that the people are suffering and struggling and they need jobs and become the Herbert Hoover of current day times, I think it is hurtful to the American people. I say to my friend: Why is it that my friend now is suddenly talking about debt and did not discuss it when the Republicans were in charge?

Mr. THUNE. Mr. President, I thank the Senator from California for her question. I think we can all talk about what has come before, what has happened in the past. Frankly, there are lots of reasons why we are in the situation we are in.

But I would remind my colleague from California that the President of the United States does not appropriate a single penny; that is done by the Congress. That is done by the Congress. We in the Congress have created this problem. Now, arguably it has happened under Republican Congresses, it has happened under Democratic Congresses. But the point is, we are here talking about spending an additional trillion dollars on the top of a historic amount of debt that we have in the country and deficits that this year are going to be $1.2 trillion. That is without adding in the stimulus. That is without talking about the financial stabilization request that is going to come later. That is without the omnibus spending bill, which is for the first time, I might add, going to be over $1 trillion, and that is without the supplemental bill that will be coming our way later this year.

This Congress is talking about going on a spending spree that is unprecedented in American history. Yes, we can all point to the mistakes that were made in the past, but I am here to talk about today my concern for the future and what we are doing in the future, to future generations and our children and grandchildren, when we impose this kind of burden on them.

Mrs. BOXER. Mr. President, may I have 60 seconds?

Mrs. MURRAY. May I ask how much time is left on our side?

The PRESIDING OFFICER. There is 5 minutes allocated to the Senator from Michigan. That is all the remaining time.

Mrs. MURRAY. As the sponsor of the amendment, I ask unanimous consent for 30 seconds prior to the vote.

Mrs. BOXER. And I ask unanimous consent to extend that for 1½ minutes.

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

Mrs. BOXER. I want to take 60 seconds to respond to Senator THUNE. He says he doesn't want to point fingers. He is pointing fingers all over the place. He says we are here today talking about a trillion dollars. Let me tell

my colleagues what we are talking about: the deepest recession since the Great Depression, jobs being lost at 500,000 and 600,000 a month. All of a sudden some of our Republican friends have said: Whoops. Now that we can't give tax breaks to the people who are earning over a million and now that the Iraq war is winding down, we are not that interested in spending money.

Democrats, when we were in control, had our priorities straight. We said: Put families first. We balanced the budget, and we will do it again. But we must restore this economy. When I use the phrase ''Herbert Hoover,'' which has become kind of a symbol for doing nothing in the face of the middle class crumbling, I know what I am saying. I hope we will vote for the Murray amendment. It will create thousands of jobs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mrs. STABENOW. Mr. President, I commend Senator MURRAY for her amendment. I am proud to be a cosponsor, and I strongly support the motion to waive the Budget Act. When my friend from South Dakota said we should not spend money on things we don't need, we need jobs. We need jobs, and that is exactly what this amendment does. The additional resources in this amendment of $25 billion, according to the normal formulas used, by my calculation would create over 1,187,500 new, good-paying jobs. That is exactly what we need to do to get this economy going again. With all due respect to my colleagues on the other side of the aisle, the reality is, we have had 8 years of their philosophy, 8 years of a philosophy focused on the supply side of supply and demand. Start at the top, it will trickle down. What has that gotten us? In the last year alone, what that has meant to us is 2,956,000 good-paying American jobs gone, in 1 year. Over the last 8 years in manufacturing, which is the backbone of the middle class, we have lost over 4.1 million manufacturing jobs.

What this amendment is about, what this recovery plan is about, is changing the way we do business, changing priorities, focusing on middle-class workers, communities, folks working hard to stay in the middle class or get into the middle class, the people who need money in their pocket to buy things so we can have a strong economy again. We are talking about, in this proposal, creating jobs. That is what this is about.

The philosophy that has been operating for the last 8 years has put us in a situation where we lost more jobs last year than any other time since 1945: Eleven million people are out of work. Something has to change.

I commend our committee chairmen for their leadership, Senators BAUCUS and INOUYE, and all of the good work that has gone into changing direction.

The reality is, we are at a point in time where we have to focus on the folks who want a job, who want to go to work in the morning, to be able to pay the bills and keep the mortgage and put the kids in college and put food on the table. That is what this amendment does. This is about rebuilding America. At the end of it, we as taxpayers get something for it. We know a quarter of our bridges are in dangerous condition. We know we need to focus on roads and bridges and water and sewer systems, building 21st century schools for children, more focus on public transportation. We need to focus on creating good-paying jobs. That is what this amendment is all about. We have had enough of policies that only focused on a few. We have had enough of policies that asked the majority of Americans to sit and wait for something to trickle down to them and their families. This recovery plan rejects a philosophy that has not worked. Frankly, it is a philosophy that was rejected last November. People are saying they want to change the focus.

What have we done? We have put together a recovery plan that focuses on jobs and rebuilding America. That is what the Murray amendment does. We focus on green manufacturing and green technologies, which are so important to our future, because as manufacturing was the backbone of the middle class for the last century, a green economy will build on manufacturing, will build on the middle class of the future. We have significant investments that move us in that direction, that not only make sure we are growing fuels and that we are operating in a more efficient manner, but that we are building the green technologies here so the jobs are here. That is what this is about. I believe strongly that we need to waive the Budget Act. We need to get on with the Murray amendment, because the bottom line of all of this is rebuilding the middle class.

I yield the floor.

Mr. LAUTENBERG. Mr. President, the amendment we have before us is of critical importance. By adopting this infrastructure amendment, we will improve this package by increasing its focus on repairing and upgrading our Nation's infrastructure. The fact is, our Nation's highways, bridges, and transit and water systems are just not keeping pace with our country's needs.

For our economy, our workers, and our future, we have to rebuild America. This amendment will instantly translate into construction projects in communities across our country and send a quick jolt through our economy.

In all, this amendment will create 655,000 new jobs. We cannot forget that unemployment in construction is higher than in any other sector.

We know transportation investments are one of the most effective ways to grow our economy. For every dollar we invest in transportation, we get an immediate $1.59 in return.

But make no mistake—this amendment is not just a short-term fix. It is a long-term investment that will pay off for our entire Nation.

The truth is, as a Nation, we have neglected our pressing infrastructure needs. More than 25 percent of our Nation's bridges are deficient. Let us not forget the catastrophic bridge collapse in Minneapolis just a year and a half ago. Gridlock on our highways means each commuter spends an average of 38 hours a year sitting in traffic, burning 26 gallons of gas while going nowhere. And travelers in many parts of our country are stuck in their cars simply because they don't have the option to board a train. Our economy—the largest in the world—still doesn't have a world-class passenger rail system.

This amendment will allow States to invest in highways, bridges, transit systems and expanded rail service.

And it will put people back to work. Right now, families across our country are suffering. Every day more and more people join the unemployment line, a line that is right now 11 million people long.

We have a tremendous opportunity before us to rebuild our infrastructure, reinvigorate our economy, and create jobs.

We have a lot to do in the next week, and I hope we will meet our obligations and get the job done.

Mr. CARDIN. Mr. President, this amendment directs $25 billion to a targeted list of infrastructure programs, including highway, transit, and water and sewer programs. Adopting the amendment will make investments in our Nation's physical infrastructure a clear focal point in the economic recovery bill. And it will create 654,818 jobs.

We have shovel-ready projects in every jurisdiction in my home State of Maryland.

Let me take just a few minutes to explain how this amendment will benefit my State. It is a story that will be repeated across America.

Transportation:

The amendment calls for a $2 billion increase in transit grants for local communities, which will be allocated by well-established formula. This provision alone would increase Maryland's share of transit funds by $35.8 million.

Fixed guideway modernization funding will be increased by $2 billion as well, resulting in an $88 million boost for Maryland. Together these two transit provisions will provide nearly 3,000 jobs in Maryland.

The highway provisions in the bill will add $13 billion to repairing and improving our network of roads. Maryland's share will be $208 million, creating 5,580 jobs here in this state alone.

Water:

Drinking water: the amendment sends an additional $13.8 million for drinking water projects to Maryland to upgrade our aging drinking water facilities.

Clean water: this amendment will send an additional $146.4 million into Maryland. We have over a billion dollars in needs to repair and upgrade our sewer systems in Maryland. These additional funds will protect Marylanders

from the health effects associated with sewerage overflows. It will improve our water quality in rivers and streams across the State, including our national treasure, the Chesapeake Bay.

Together the water infrastructure funds total an additional $160.2 million in Maryland that will create 6,270 jobs.

This is an amendment that meets our critical infrastructure needs and creates jobs right away, giving our economy the stimulus it needs.

But this is also an amendment that is temporary and targeted. We will get major infrastructure improvements that will last much longer than the funds themselves. These are investments roads, bridges, sewer systems, drinking water facilities—that typically last 30, 40 even 50 years. This is a smart investment in America's future.

I am proud to serve as an original cosponsor of this amendment, and I urge my colleagues to give it their enthusiastic support. This is an amendment that is an investment in America.

The PRESIDING OFFICER. The Senator from Washington, under a previous order, is recognized for 30 seconds.

Mrs. MURRAY. I ask unanimous consent that Senators CARPER and TESTER be added as cosponsors of the amendment, and I ask unanimous consent that the Senator from Pennsylvania be given 2 minutes prior to my closing remarks.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe we do need a stimulus package. I have not had an opportunity to speak on the bill generally but will do so later today to express concerns I have about not following regular order in having hearings. But I understand the President is concerned about very prompt action. I support this amendment for $25 billion in infrastructure. I believe the bill is too heavily weighted on items which ought to be in the budget process, very important items, but not in the stimulus package, and more heavily directed to infrastructure on projects which are shovel ready. This amendment is directed to that objective. Governor Rendell has assured me and the public that he can have highway jobs ready in 6 months, shovel ready to proceed. So I believe this is what the stimulus ought to be doing.

I would have preferred to have seen an offset for this $25 billion. There are funds where it could have been offset; for example, in the State Stabilization Program, $79 billion, which is broad, wide-ranging discretion to the Governors, which ought not to be a part of the stimulus package. We will have an opportunity in the balance of this bill to find the savings of this $25 billion. The overall bill ought to be less than the $819 billion passed by the House. But for the present time, I will vote to waive the budget, looking for an opportunity to find the $25 billion offset later and looking for other opportunities to have an effective stimulus which is not quite so expensive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Pennsylvania. I urge my colleagues to approve this $25 billion for the 655,000 jobs across the country to rebuild roads, bridges, sewers, and infrastructure. This amendment will put people to work, and it will get the country back to the point where we feel strong again. I have heard the arguments about offsets, and I know there are a number of Senators who are working to find agreement on how we can reduce the cost of the underlying bill. We will work with them. But let's make sure we understand that infrastructure is a priority and approve this amendment.

I ask for the yeas and nays on the motion to waive the Budget Act.

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 yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—58

Akaka	Feinstein	Nelson (FL)
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Bond	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Specter
Byrd	Lautenberg	Stabenow
Cantwell	Leahy	Tester
Cardin	Levin	Udall (CO)
Carper	Lieberman	Udall (NM)
Casey	Lincoln	Warner
Conrad	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	
Feingold	Murray	

NAYS—39

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Crapo	Lugar	Wicker

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected and the emergency designation is stricken.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, at 12:55 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida pertaining to the submission of S. Con. Res. 4 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Oklahoma is recognized.

AMENDMENT NO. 109 TO AMENDMENT NO. 98

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up an amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 109.

Mr. COBURN. Mr. 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 as follows:

On page 475, beginning on line 1, strike through page 477, line 17.

Mr. COBURN. Mr. President, we are in the midst of debating a ''stimulus bill'' that has been brought forth in the hopes of alleviating some of the economic pain we have in this country.

Principally, I object to many of the provisions in the bill because they are not stimulatory whatsoever. We all know that. We are going to add $1.2 trillion to the debt and we are not fixing the real problem this country is encountering, and that is the absolute collapse of the housing industry. We can spend all the money we want to spend on ''stimulus'' packages—which this one isn't—and it is not going to do a thing, unless we fix housing and the liquidity crisis.

I bring up this amendment because it shows how misaligned this bill is. This amendment seeks to eliminate a $246 million earmark. It is nothing but that. It is a tax earmark for the movie industry. Let's put the history out there. The movie industry today can take advantage and write off all of its

production costs and take an additional $15 million out of the taxpayers' pocket for every movie they produce in this country, of which 75 percent of the expenses are actually incurred in this country. What we have added is an earmark to markedly increase all movies produced in 2009, which is an additional $246 million.

I am not against tax breaks that are general across the board and will be truly a stimulus, but this is a tax break earmark that has a tremendous odor to it. The odor is this: We already created tax breaks, starting in 2004, for the movie industry that are greater than we have for any other industry, and now we are going to add to it—at a time when Hollywood is at one of its zeniths of success. As a matter of fact, yesterday in USA Today is the headline: ''Billion Dollar January is the Box Office's Best in History.''

They had the best January in their history—more profits, more revenue, a 20-percent increase in ticket sales. Yet we are going to take a stimulus bill and add another quarter of a billion dollars to one of the few industries in our country that is faring well.

To quote Rob Reiner, whom most people know—and I think this is probably disappointing to him—this is what he said when asked about Hollywood's relationship with Washington, DC:

> We are a special interest group that doesn't ask for anything, like earmarks, legislation, or tax breaks. We are the one industry that doesn't ask for a quid pro quo.

What have we done in this bill? We have sent a quarter of a billion dollars of our grandkids' money to some of the most profitable businesses in this country, which at this point in time have not been impacted and don't project to be impacted at all by the recession we are currently experiencing.

This isn't stimulus; this is a gift. It is not going to stimulate the economy at all. What it is going to do is line the pockets of very wealthy individuals who are already not experiencing the downside of the economy. What we should have instead is tax breaks that go across the board to every small business and to every large business. If it is written that way, I would not object if Hollywood got some of the money. But we have singled out one industry to give them special treatment, when they already get special treatment under the Tax Code. This is not an appropriations earmark, this is a Finance Committee earmark. The chairman of the Appropriations Committee is on the floor as we speak. It is not aimed at him.

How long are we going to continue to play this game? How long are we going to continue to confuse the American people about what we are doing? I want the American people to respect what we are doing in this body. When we do things such as this and sneak in a quarter of a billion dollars for our friends, when they don't need it, because we can, we demean this institution. But more importantly, we contribute to the undermining of confidence in this country, showing that we are not about the best interests of all Americans, but instead the best interests of the special interests that have effective lobbying that can get a quarter of a billion dollars for this industry into a bill.

I will come back later and talk on this again. I want the people in America to ask a simple question: Is this something we ought to be doing right now to help and heal America? Is it going to help people who are out of work? Is it going to help in terms of restarting the engine of consumer spending? Is it going to do the things we need to do to make a difference in our economic situation in the world today? The answer, on this special interest earmark, is absolutely not. What we are going to do is benefit those who are doing the best in the economy today, not those who are doing the worst.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota is recognized.

Mr. DORGAN. 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. DORGAN. 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. DORGAN. Mr. President, I will speak briefly. I believe Senator MIKULSKI is perhaps going to offer the next amendment. I do not want to disadvantage the time that has been allotted. I did want to, however, point out that I intend to talk about three amendments very briefly. I filed two of them; I will file the third shortly.

All of us understand what has happened in recent months. In the last 4 or 5 months we have seen money go out the backdoor of this Government unlike any time in the history of our country. In fact, you can read the U.S. Constitution. I don't think you can find a place in the Constitution that describes the mechanism by which massive amounts of money have gone out of this Government—$8.5 trillion, to the extent we now know how much has been moved from our Government to support various enterprises.

The reason we know that is Bloomberg News sued the Government and the Federal Reserve Board, which is the only way anybody got the information about how much money has been obligated by the Federal Reserve Board which opened its discount window for the first time in history to investment banks.

It has never before happened. How much money was committed? We know some snippets of all of that. We know that, for example, Citigroup got about $45 billion, and then we are told we have reached an agreement, along with the direct funding to Citigroup, that we are guaranteeing nearly $300 billion for toxic assets for Citigroup. We know that. We know how much has gone to some of the other investment banks. We know how much money went to AIG. We have a notion of how money went in certain directions. But no one knows exactly how much went out of the Federal Reserve Board, to whom, in what direction, for what purpose. How much from the FDIC, how much from TARP, when, why, how much—we don't know the answers to all of those questions.

Here is what I propose: Last week there was a lot of discussion about bonuses. I believe last year the Wall Street investment firms lost $35 billion in income and paid $18 billion in bonuses to their employees. I don't know. I have a masters in business. We went through a lot of casework in business school. I don't think I came across a case that said: Here is good business—lose $35 billion and then pay $18 billion in bonuses. I don't guess I saw that in the Harvard Business Review.

One amendment is, we ought to, as a government, have the right to understand what kind of bonuses are being paid by firms that are receiving financial assistance under the structure of the financial assistance that has been offered by our Government.

I propose an amendment. It is an amendment that would report bonuses to the American taxpayers. I want all companies receiving emergency economic assistance from any Federal financial agency to publicly release information on any bonuses paid, including the bonus recipients and the amount of the bonuses. The American people have a right to that information. After all, these are companies that have asked for and received Federal assistance. Let's have the American public be able to shine a spotlight on what has happened to that money, including, especially, the use of that money potentially for bonuses.

Second is an amendment I have filed that is what I call the Jobs Accountability Act. This is all about creating jobs. If we are, in fact, about creating jobs, then this proposal would be to say we should have quarterly reports in the Congress after this legislation is passed because tens of billions, hundreds of billions of dollars will have been spent in the pursuit of creating new jobs.

Why is that important? Mr. President, 20,000 people will likely learn today they lost their job, 20,000 people today and every day; 2.6 million last year, and they say 2.6 million more in the first 6 months of this year. This is a deep crater. We have to care about trying to create jobs, putting people back on payrolls to give them some hope and some confidence again.

If we are spending money to do that in what is called an economic recovery program, let's try to track that money. This amendment is very simple. It is the Jobs Accountability Act. What I propose is that when this money goes out the door to the recipients—State

governments, local governments, and others—we ask them to file quarterly reports with the Congress to say three things: One, I received the money; two, here is how I spent the money; and, three, here is how many jobs I estimate we created with this money. It is the only place we will get this kind of information.

Does anybody think we ought to just ship money out the door and not ask for some sort of reporting requirement about how many jobs we created? Otherwise, it is sort of the helicopter theory of money. Get the money in bags, take it up in a helicopter, shove it out the side, and let it scatter. That is not what this is about. We are supposed to be focusing like a laser on jobs. Let's get the reports from everybody who received this funding in order to determine the effect of what we have done. That is an amendment I have filed.

The third amendment I have not filed but will file today is the issue of runaway manufacturing plants. It is something I have worked on in the past with my colleague from Maryland, Senator MIKULSKI. This is an interesting proposition. We are trying to create jobs because we are losing jobs in this country.

We have a perverse provision in our Tax Code that says this: If there are two companies in Maryland right across the street from each other, making exactly the same product to be sold in this country, in our marketplace, and one of them, on a cool January day, decides: You know what, I am leaving Maryland. I am getting rid of my workers. I am moving my production to China and I will make that product by hiring 30-cent-an-hour labor and I will ship the product back to America to be sold—after that transaction is done. What is the difference between the company that stayed in Maryland and the company that left Maryland to produce in China? The difference is the American company that left and got rid of their jobs and moved to China has a tax bill that is lower than the company that stayed.

We actually provide in this tax system of ours the most pernicious incentive I can imagine, and that is an incentive to say to companies: If you have a choice, we will actually pay you an incentive in the Tax Code to move your jobs overseas. My runaway plant amendment will fix that situation.

I have offered it, I believe, four times with my colleague from Maryland and some others. We have come up short four times. But we have a lot of new Senators who I think would very much like to vote on this amendment. We also have a new President who campaigned on it, a new President who went all across this country and said: Let's stop the incentives for shipping jobs overseas.

This is the perfect place, it seems to me, to have this vote. The reason is because we have a tax bill on the Senate floor now. This is, it seems to me, exactly the wrong incentive. If we are trying to create jobs, why should we have provisions in our Tax Code that move jobs elsewhere? Let's plug that hole, and we can do it with the amendment I will be offering.

My amendment has had over the years many cosponsors and the strong support of my colleague from the State of Maryland. I will file that amendment today. A tax bill is on the Senate floor. If not now, when should we ever plug this loophole that says as a country, we stand behind shipping jobs overseas. Let's say we stand behind keeping jobs here. No tax advantage for those who export them. Let's provide tax advantages, if we are going to, for those who create jobs and keep jobs in this country.

Ms. MIKULSKI. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Ms. MIKULSKI. My question is about the steel industry. As the Senator knows, I, along with him, tried to stand up for American steel. So the Senator means to say if a steelmaker moves production overseas at a very minimal rate, and then ships steel back, they are going to have a lower tax rate than the steel company that struggled, downsized, rightsized to try to stay in this country and manufacture steel?

Mr. DORGAN. That is exactly the case. Most people would not even believe that to be the case. They would say: How on Earth would someone have constructed a system that allows that to happen? Oh, but they did, and they have fiercely protected it.

The reason the steel company that stays here pays a higher tax is the steel company that leaves and ships back to this country gets what is called a deferral of income tax; they don't have to pay the tax until some point later. Of course, we know from history and from the history what has been described as being filed to this bill, ultimately if they are repatriated, they get to pay a tax rate of 5½ percent, something no other American gets to pay. It is a pernicious tax incentive that we certainly ought to put an end to, in my judgment.

Ms. MIKULSKI. Will the Senator agree that we are often chastised for ''Buy American'' amendments, but essentially what exists now is a ''Tax American'' situation, and the amendment of the Senator from North Dakota would remedy that situation.

Mr. DORGAN. That is exactly the case. There is a ''Buy American'' amendment I helped put in this bill that has caused a fair amount of controversy, but it is not violative of any trade agreement. It represents in this bill mostly grants to the States and others for public works projects. It seems to me to the extent we possibly can, we ought to urge the purchase of steel or iron or skids steer loaders in this country to do so. I recognize it is controversial. I am not interested in being violative of any trade agreement that we have, and my understanding is this provision does not violate trade agreements because it will largely come from State grants for public works projects.

I hope to offer the amendment dealing with the tax issue, and I will file that this afternoon. I hope I can get in line so we can have a debate because it is first and foremost about jobs.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 104 TO AMENDMENT NO. 98

(Purpose: To amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles)

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 104.

The PRESIDING OFFICER. Is there objection?

Mr. ISAKSON. Reserving the right to object, and I will not, can we establish an order of recognition? I have been on the Senate floor. Senator MCCAIN has joined us. Senator MIKULSKI has been here for a while. Can Senator MIKULSKI give us an order of presentation?

Mr. REID. Can I make a parliamentary inquiry, please?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I say to my friends, it was my understanding—I just stepped on to the Senate floor—we had a Democratic amendment that was offered. Senator COBURN offered an amendment. What we are going to try to do is rotate back and forth. The next in line that we have is Senator MIKULSKI.

Mr. MCCAIN. Is there a previous unanimous consent agreement?

Mr. REID. No. There was just an understanding between Senator MCCONNELL and me that we would rotate back and forth. The Senator can decide on his side who goes next.

Mr. MCCAIN. I was just asking if there was a previous unanimous consent agreement, I ask the Presiding Officer.

The PRESIDING OFFICER. There is a pending unanimous consent request made by the Senator from Maryland.

Mr. MCCAIN. What is the nature of that request?

The PRESIDING OFFICER. Will the Senator from Maryland restate her request?

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 140.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, would the majority leader and the Senator from Maryland object to a sequence of speaking so some of us can plan the use of our time at least for the next two or three speakers?

The PRESIDING OFFICER. The majority leader.

Mr. REID. I was not aware a Coburn amendment had been laid down. I think it would be appropriate to have the Senator from Maryland lay down her amendment and go back to the Coburn amendment. People who wish to speak on that amendment should be able to do that before we have the speaking order of the Senator from Maryland. It is my understanding the Senator from Arizona wishes to speak on the Coburn amendment.

Mr. MCCAIN. I would, Mr. President. I ask unanimous consent that after the Senator from Maryland, the Senator from Georgia and whatever speaker on the other side wishes to speak, then I be——

Mr. REID. If I may interrupt my friend, all the Senator from Maryland wants to do is lay down her amendment so when we complete action on the Coburn amendment, we can move to her amendment.

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

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, and Mr. BROWNBACK, proposes an amendment numbered 104 to amendment No. 98.

(The amendment is printed in the RECORD of Monday, February 2, 2009, under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. 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.

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

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

Ms. MIKULSKI. Mr. President, to give a sense of process, I have an amendment that I think will contribute to both creating jobs and saving jobs in the American automobile industry. Before I explain my amendment, I wish to note that my remarks will take about 5 minutes. I ultimately will want to vote on this amendment later on today, when the leadership on both sides of the aisle agrees to a time in sequencing they choose. I know there will be opponents to my amendment, and I will return to debate at that time. But in the interest of comity, I will lay down my amendment, speak for 5 minutes to explain it, and then we can return to the discussion on the Coburn amendment.

Mr. President, I think we all agree that our economy is in shambles and that Congress needs to act and act very quickly. My amendment does what the President said he wanted to do, and what the other side of the aisle says it wants to do, or the other side of my amendment says they want to do. The Mikulski amendment is timely, targeted, and temporary, and it is focused on saving jobs and creating jobs in the automobile industry.

What does my amendment do? It does this. If you buy a passenger car, minivan or light truck within this year, you will get a tax deduction for your sales or excise tax and the interest on your car loan. It means a family could save approximately $1,500 on a $25,000 car purchase.

Now, what does this amendment mean and what does it do? This amendment is actually about creating jobs. Our automobile industry is languishing—from the people who make them, to the dealers who sell them, to the people who service them, to the back office people, and to the people who also provide the supplies.

My amendment is also cost-effective in terms of the Treasury. Not a nickel will be spent unless you go buy a car or a minivan or a light truck. So we are not throwing money out of a helicopter, and we are not putting money out there and hoping people will spend. We are giving money to banks hoping they will lend. Under the Mikulski amendment, it only happens if you walk into a dealership, buy an automobile, and then once you complete that purchase, take that deduction for the sales tax along with the interest.

Why is this good? First of all, for the consumer, it means they get a deal. It is a market incentive and gets them into the showroom to buy what they want. Second, it helps the environment because all new cars—and this is going only to new cars—get greater fuel efficiency and have lower carbon emissions. It is also the only amendment that affects business up and down the chain in our own country. My amendment is not limited to only American cars but it is focused on cars made in the United States. So whether it is a Ford, a Chevy, a Chrysler, a Nissan or a Toyota, it qualifies for the Mikulski amendment.

No. 1, it helps manufacturing. If you buy a car, it means they have to be built. We are facing a crisis in the automobile industry. We can give all the bailouts we want, but unless people buy cars, the bailout will just become part of the bucket list. My amendment helps manufacturing, which means it also helps the dealerships. There are 20,000 new car dealerships in the United States, and they employ about a million people. I have met them in my own State. In many of the rural parts of my State, they are the major employer. They are also the major contributors to the United Way, to the rotary clubs, and to the athletic leagues. These are human beings who sell cars. They are the auto mechanics, with grease under their fingernails but patriotism in their hearts; they are the taxpayers who pay for the bailout of the banks, but they don't want a bailout, they want people to come in to buy their cars. My amendment also will help the consumer to have one more incentive to be able to buy these cars.

One of the auto mechanics said to me he had worked at a Chevy dealership for over 23 years. He said: Senator BARB, I have worked all my life, and I love to work on cars. I just love it. I love to fix them and I love to repair them, and I think I have done a good job at it. I am happy to think I have helped a lot of other people to be in safe, reliable vehicles, and all I want is to have a real job and a real income so that I can send my two kids to college.

I could elaborate on my amendment, but I know others also wish to speak on it, and I will reserve the right to come back and to further debate it. But if you want to help create jobs, save jobs, keep the automobile industry going, and get our economy back on its wheels, vote for the Mikulski automobile tax deduction amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Arizona is recognized.

AMENDMENT NO. 109

Mr. MCCAIN. Mr. President, I would like to begin by thanking the managers for their patience and their leadership in this marathon that we are engaged.

I rise in support of the Coburn amendment, which strikes the $246 million Hollywood tax earmark. It is quite an interesting earmark in that the stimulus legislation provides a tax earmark for Hollywood in the amount of $246 million—a quarter of a billion dollars—over the next 11 years, and would allow large Hollywood studios the opportunity to choose between the existing tax break for movie studios or to write off 50 percent of the entire production cost for movies and TV shows made in 2009. In the years that follow the remainder of the production cost would be written off according to existing depreciation law. The 50-percent accelerated depreciation in the first year is a ''bonus depreciation.'' Obviously, this amendment would strike that special earmark.

I would point out to my colleagues that Hollywood is doing okay. They raked in over a billion dollars in January—the biggest January ever for the movie industry. That is testimony to the attractiveness of the product. Box office receipts were up nearly 20 percent in January 2009, with ticket sales up 16 percent over January 2008, when January is typically considered a weak month for the industry.

Movie director Rob Reiner was recently asked about Hollywood's relationship with Washington, DC, and claimed:

We are a special interest group that doesn't ask for anything like earmark legislation or tax breaks. We are the one industry that doesn't ask for a quid pro quo.

Well, rather than targeting tax breaks at big-time political donors, the stimulus should have targeted its tax break toward mainstream America.

I regret that I can't support the so-called stimulus bill that has been presented. We have an opportunity to craft a bill that would provide real relief for the American people at a time of great economic uncertainty. Unfortunately, that opportunity has so far

been rejected. Once again, parochial partisan and special interests have taken precedence over the interests of the American people.

This bill has become nothing more than a massive spending bill, expected to cost taxpayers more than $1.2 trillion, according to the latest estimate by the Congressional Budget Office, and $1.2 trillion dwarfs any Government program in history, after adjusting for inflation. It is bigger than the New Deal and the Iraq war combined. The interest alone will be costlier than the Louisiana Purchase in current dollars or the amount the United States spent to land on the Moon.

During a press conference in November 2008 to introduce the new Director of the Office of Management and Budget, then President-elect Obama said:

The new way of doing business is, let's figure out what projects, what investments are going to give the American economy the most bang for their buck, how we protect taxpayer dollars so that this money is not wasted, restore a sense of confidence among taxpayers that, when we spend our money, it is on that which is actually going to improve their quality of life, create jobs that are so desperately needed, help to spur on economic growth and business creation in the private sector. That is all part of the new way of doing business.

1I was very pleased to hear the President speak those words. However, I do not believe the bill before us today is reflective of that sentiment. Let's acknowledge and continue to acknowledge that American families are hurting and they need our help. We have entered the second year of a recession. RECORD numbers of homeowners face foreclosure, our financial markets have nearly collapsed, the U.S. automobile manufacturers are in serious trouble, and the national unemployment rate stands at 7.2 percent—the highest in 16 years—with over 1.9 million people having lost their jobs in the last 4 months of 2008. Additionally, the number of Americans filing first-time unemployment claims this month matches the highest level in 26 years. Housing starts decreased 15.5 percent in December compared to the prior month. For 2008, housing starts were at a new low, shattering the previous record of 1.014 million set in 1991.

The list goes on and on, and I don't have to tell any American of the economic challenges we face and the real suffering that is going on throughout America. In the last year alone, due to the mortgage crisis, the Government has seized control of Fannie Mae and Freddie Mac, and we already passed a massive $700 billion rescue of the financial markets. We have debated giving the big three auto manufacturers tens of billions in taxpayer money as a ''short-term infusion of cash,'' knowing they would be back for more.

Last week, the House approved its $819 billion stimulus package on a party-line vote. The total cost of that legislation is almost as much as the annual discretionary budget for the entire Federal Government. We need to stimulate the economy, but we need to do it in a smart, fiscally responsible manner that will not bankrupt future generations of Americans. It is more important now than ever before that Congress restore fiscal discipline to Washington and get our financial house in order.

In a November 25, 2008, opinion piece in the Wall Street Journal, John Taylor, a senior fellow at the Hoover Institution and a professor of economics at Stanford University, wrote:

The major part of the first stimulus package last year was the $115 billion temporary rebate payment program targeted to individuals and families that phased out as incomes rose. Most of the rebate checks were mailed or directly deposited during May, June, and July of 2008. The argument in favor of these temporary rebate payments was that they would increase consumption, stimulate aggregate demand, and thereby get the economy growing again. What were the results? This chart reveals the answer. The upper line shows disposable personal income through September. Disposable personal income is what households have left after paying taxes and receiving transfers from the government. The big blip is due to the rebate payments in May through July. The lower line shows personal consumption expenditures by households. Observe that consumption shows no noticeable increase at the time of the rebate. Hence, by this simple measure, the rebate did little or nothing to stimulate consumption, overall aggregate demand or the economy. These results may seem surprising, but they are not. They correspond closely to what basic economic theory tells us. Temporary increases in income will not lead to significant increases in consumption. However, if increases are longer term, as in the case of a permanent tax cut, then consumption is increased and by a significant amount.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of Mr. Taylor's op-ed.

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

[From The Wall Street Journal, Nov. 25, 2008]

WHY PERMANENT TAX CUTS ARE THE BEST STIMULUS

(By John B. Taylor)

The incoming Obama administration and congressional Democrats are now considering a second fiscal stimulus package, estimated at more than $500 billion, to follow the Economic Stimulus Act of 2008. As they do, much can be learned by examining the first.

The major part of the first stimulus package was the $115 billion, temporary rebate payment program targeted to individuals and families that phased out as incomes rose. Most of the rebate checks were mailed or directly deposited during May, June and July.

The argument in favor of these temporary rebate payments was that they would increase consumption, stimulate aggregate demand, and thereby get the economy growing again. What were the results? The chart nearby reveals the answer.

The upper line shows disposable personal income through September. Disposable personal income is what households have left after paying taxes and receiving transfers from the government. The big blip is due to the rebate payments in May through July.

The lower line shows personal consumption expenditures by households. Observe that consumption shows no noticeable increase at the time of the rebate. Hence, by this simple measure, the rebate did little or nothing to stimulate consumption, overall aggregate demand, or the economy.

These results may seem surprising, but they are not. They correspond very closely to what basic economic theory tells us. According to the permanent-income theory of Milton Friedman, or the life-cycle theory of Franco Modigliani, temporary increases in income will not lead to significant increases in consumption. However, if increases are longer-term, as in the case of permanent tax cut, then consumption is increased, and by a significant amount.

After years of study and debate, theories based on the permanent-income model led many economists to conclude that discretionary fiscal policy actions, such as temporary rebates, are not a good policy tool. Rather, fiscal policy should focus on the ''automatic stabilizers'' (the tendency for tax revenues to decline in a recession and transfer payments such as unemployment compensation to increase in a recession), which are built into the tax-and-transfer system, and on more permanent fiscal changes that will positively affect the long-term growth of the economy.

Why did that consensus seem to break down during the public debates about the fiscal stimulus early this year? One reason may have been the apparent success of the rebate payments in 2001. However, those rebate payments were the first installment of more permanent, multiyear tax cuts passed that same year. Hence, they were not temporary.

What are the implications for a second stimulus early next year? The mantra often heard during debates about the first stimulus was that it should be temporary, targeted and timely. Clearly, that mantra must be replaced. In testimony before the Senate Budget Committee on Nov. 19, I recommended alternative principles: permanent, pervasive and predictable.

Permanent. The most obvious lesson learned from the first stimulus is that temporary is not a principle to follow if you want to get the economy moving again. Rather than one- or two-year packages, we should be looking for permanent fiscal changes that turn the economy around in a lasting way.

Pervasive. One argument in favor of ''targeting'' the first stimulus package was that, by focusing on people who might consume more, the impact would be larger. But the stimulus was ineffective with such targeting. Moreover, targeting implied that increased tax rates, as currently scheduled, will not be a drag on the economy as long as increased payments to the targeted groups are larger than the higher taxes paid by others. But increasing tax rates on businesses or on investments in the current weak economy would increase unemployment and further weaken the economy. Better to seek an across-the-board approach where both employers and employees benefit.

Predictable. While timeliness is an admirable attribute, it is only one property of good fiscal policy. More important is that policy should be clear and understandable—that is, predictable—so that individuals and firms know what to expect.

Many complain that government interventions in the current crisis have been too erratic. Economic policy—from monetary policy to regulatory policy, international policy and fiscal policy—works best if it is as predictable as possible.

Many good fiscal packages are consistent with these principles. But what can Congress and the incoming Obama administration do to give the economy a real boost on Jan. 20? Here are a few fairly bipartisan measures worth considering:

First, make a commitment, passed into law, to keep all income-tax rates where they are now, effectively making current tax rates permanent. This would be a significant stimulus to the economy, because tax-rate increases are now expected on a majority of small business income, capital gains income, and dividend income.

Second, enact a worker's tax credit equal to 6.2% of wages up to $8,000 as Mr. Obama proposed during the campaign—but make it permanent rather than a one-time check.

Third, recognize explicitly that the ''automatic stabilizers'' are likely to be as large as 2.5% of GDP this fiscal year, that they will help stabilize the economy, and that they should be viewed as part of the overall fiscal package even if they do not require legislation.

Fourth, construct a government spending plan that meets long-term objectives, puts the economy on a path to budget balance, and is expedited to the degree possible without causing waste and inefficiency.

Some who promoted the first stimulus package have reacted to its failure by saying that we must now switch to large increases in government spending to stimulate demand. But government spending does not address the causes of the weak economy, which has been pulled down by a housing slump, a financial crisis and a bout of high energy prices, and where expectations of future income and employment growth are low.

The theory that a short-run government spending stimulus will jump-start the economy is based on old-fashioned, largely static Keynesian theories. These approaches do not adequately account for the complex dynamics of a modern international economy, or for expectations of the future that are now built into decisions in virtually every market.

Mr. MCCAIN. Now, one of the unfortunate things, and this is beginning to be appreciated by the American people, is that Members of Congress couldn't resist the temptation to load this bill with hundreds of millions of dollars in unnecessary spending, that will not do anything to stimulate the economy. We all know some of these, but they bear repeating, that have been included under the guise of stimulus: $400 million for STD prevention; $600 million for new cars for the Federal Government; $34 million to remodel the Commerce Department headquarters here in our Nation's Capital; $25 million to rehabilitate ATV trails; $150 million for honeybee insurance; $75 million for smoking cessation; and $50 million for the National Endowment for the Arts.

There is no doubt all of those are worthy causes which probably deserve our attention, our care and, sometimes, our dollars. But to portray them and others as a stimulus to create jobs and to have our economy recover, I think flies in the face of reality.

In the Senate bill, we have $100 billion to assist States with agricultural losses; $300 million for diesel emission reduction grants; $150 million for facility improvements at the Smithsonian Museum; $198 million for school food service equipment; and $2.9 billion for the weatherization assistance program.

There is also $6 billion of wiring for broadband and wireless in rural areas. I have always been an advocate of that. But the fact is, anyone who is knowledgeable of the difficulties and challenges will tell you that it takes years to achieve that goal even if the funds are available.

In order to comply with the Congressional Budget Resolution, the committee report contains a statement of how the emergency provisions contained in the bill meet the criteria for emergency spending. The report states, and I quote:

The bill contains emergency funding for fiscal year 2009 for responses to the deteriorating economy, natural disasters and for other needs. The funding recommended herein is related to unanticipated needs and is for situations that are sudden, urgent, and unforeseen, specifically the devastating effects of the economic crisis, natural disasters and rising unemployment.

Perhaps the authors of the bill can explain to me how $150 million for honeybee insurance falls within the distinction as outlined in the legislation. Someone needs to explain to me how giving tens of millions of dollars to the National Endowment of the Arts or the Smithsonian Museum will reverse ''the devastating effects of the economic crisis.''

The problem is we are accumulating debt that we are laying upon future generations of Americans. We are going to have to pay this debt sometime. My great worry is that if we do not account for this debt in some way, if we continue trillions of dollars of unnecessary and wasteful spending, then obviously we will find ourselves back in the situation we were in the 1970s, when we had hyperinflation and had to debase the currency.

I want to say a word for a minute about ''Buy American.'' The next time I come to debate on the ''Buy American'' provisions, I intend to bring a picture of Mr. Smoot and Mr. Hawley, the two individuals who were responsible, in the view of historians, for taking a country that was in a serious recession into the depths of one of the great depressions in the history of the United States.

Because as we enact protectionist measures, I was interested to hear my friend from North Dakota, Senator DORGAN, say it was not in violation of any treaty. It is in violation of several treaties. It is in violation of what has been an important aspect of America's policy which has been free and open trade.

I guess the fundamental difference I have between the authors of the ''Buy American'' provisions and myself is that I believe the most productive, the most innovative, and the strongest and best workers in the world reside in the United States of America, that the innovations and technology that have led the world have come from the United States of America, and that our products can compete anywhere in the world under free and open trade conditions.

Now, there have been violations on the part of other countries. That is why we are members of the WTO. That is why there are provisions in the North American Free Trade Agreement that should be vigorously pursued when there are violations and protectionist activities on the part of any nation of which we are participants in trade agreements.

If there are specific violations, then those violations should be addressed. But I wanted to emphasize, if we pass these ''Buy American'' provisions, you will find other nations retaliating and you will find us on a sure but unfortunate path to the exacerbation of our economic difficulties. That is a matter of history. Consult any historian. I hope we will not keep these ''Buy American'' provisions in whatever legislation we arrive at.

This bill contains protectionist ''Buy America'' provisions that will prove harmful to both the American worker and the world economy. The Senate version of the stimulus bill goes beyond the stark protectionism of its House counterpart in a way that risks serious damage to our economy. The Senate bill requires that major projects funded in the bill favor American-made steel, iron, and manufacturing over goods produced abroad. These anti-trade measures may sound welcome to Americans who are hurting in this economy and faced with the specter of layoffs. The United States, after all, produces the world's finest products. Yet shortsighted protectionist measures 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 cost 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.

We have seen this tendency before. In the 1930s, as depression swept the globe, countries around the world enacted protectionist legislation in a counterproductive effort to preserve jobs at home, at the expense of those abroad. It was a fool's errand, and the result was the largest and most prolonged economic downturn of the 20th century. We know better now, and we must have the foresight and the courage to do what is right.

I am very concerned about the potential impact these ''Buy America'' policies will have on bilateral trade relations with our allies. From a philosophical point of view, I oppose this type of protectionist trade policy, not only because I believe free trade to be an important means of improving relations among all nations, but it is essential to U.S. economic growth. Moreover, from a practical standpoint, the added ''Buy America'' restrictions in this stimulus bill could seriously impair our ability to compete freely in the international markets and could also result in loss of existing business from long-standing trading partners.

Let me be clear. I am not against U.S. procurement of American products. The United States, without a doubt produces the very best products in the world, this certainly is the case with American-made defense products. In fact, a Department of State study reported that U.S. defense companies sold more weapons and defense products and claimed a larger share of the world market than was previously realized. This study shows U.S. exports of defense products increased to nearly $49 billion in 2006, comprising nearly 70 percent of global exports. This number continues to rise steadily. Furthermore, I believe that competition and open markets among our allies on a reciprocal basis would provide the best equipment at the best prices for the taxpayers and U.S. and allied militaries alike.

Congress can continue to protect U.S. industries from foreign competition for selfish, special interest reasons, or we can loosen these restrictions to provide necessary funds to ensure our economy can return to the strength it once had. ''Buy America'' policy in defense spending is particularly harmful and costly. Every dollar we spend on archaic procurement policies, like ''Buy America,'' is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old and worn-out weapon systems, and advancing our military technologies. It is my sincere hope that legislative provisions like ''Buy America'' in the stimulus bill are dropped and that Congress will end once and for all the anticompetitive, antifree trade practices that encumber our Government, the military, and U.S. industry.

In addition to the ''Buy America'' language contained in both the House and Senate stimulus bills, other policy provisions have been included in this legislation. Many of these items are nothing more than typical policy riders that will do nothing to stimulate the economy and create jobs. Most are partisan provisions that were added to this bill because it is considered to be ''must-pass'' legislation. They should not be included in any type of stimulus legislation and should instead go through the regular legislative process and subjected to necessary debate. Some examples of these policy riders include requiring the Transportation Security Administration to buy 100,000 employee uniforms from U.S. textile plants, legislation to give Federal workers new whistleblower protections, and legislative language favoring open access, or net-neutrality, that telecoms have long opposed.

Additionally, both bills contain wasteful Davis-Bacon provisions that mandate artificially high wage rates, based on faulty data, for its Federal construction spending. These rates are determined by the Secretary of Labor to be the prevailing wages in the geographic locality of the project for similar crafts and skills on comparable construction work. A report by the Department of Labor found that the wage surveys on which the prevailing wages are based are inaccurate. DOL's inspector general submitted a report to Congress that noted that a contractor hired by DOL found ''one or more errors in nearly 100 percent of the wage reports we reviewed.'' The error rates were high even after a more than $20 million effort to fix the surveys. In addition to outright errors, the inspector general noted that DOL used faulty methodology from unscientific surveys that led to bias, and even the data it did collect was untimely and, therefore, suspect.

The Davis-Bacon Act is an outmoded, depression-era, inflationary policy that, according to recent estimates, will inflate the construction costs of this bill by $17 billion. If we are trying to create new jobs then we should repeal Davis-Bacon, not encourage its expansion in this bill. Davis-Bacon imposes heavy regulatory burdens and unnecessary costs on Government contractors—not to mention the taxpayers who have to foot the bill for the inflated costs. Furthermore, Davis-Bacon makes it more difficult for entry level job seekers, the unemployed, and the unskilled to obtain work.

A recent study noted that ''contrary to its purpose, the Davis-Bacon Act distorts construction labor markets. Davis-Bacon wages bear little relation to market wages, because the Government's prevailing wage estimates are wildly inaccurate. In some cities, Davis-Bacon rates are much higher than market wages. In Long Island, New York, for example, market rates for plumbers are $29.68 an hour. Davis-Bacon rates, however, are $44.75 an hour, 51 percent more than what the markets demand. In other cities, Davis-Bacon wages are significantly below market rates. For instance, Davis-Bacon rates for carpenters and plumbers in Sarasota, FL, are $6.55 an hour, a figure below Florida's minimum wage of $7.21. Nationwide, Davis-Bacon rates average 22 percent above market wages and inflate the cost of Federal construction by 10 percent.'' Mr. President, decent, livable wages are important for every American—but imposing harmful, outdated Davis-Bacon requirements on Federal construction projects will do nothing more than bloat the cost of this bill, suppress new construction hires, and depress the economy.

I want to say a few words about the proposal that I and a group of other Senators have presented today and will be proposing as we go through this debate. Basically in the category of taxes, it would eliminate the 3.1-percent payroll tax for all American employees, lower the tax bracket from 10 percent to 5 percent, lower the 15-percent tax bracket to 10 percent, lower corporate tax brackets from 35 to 25, lower tax brackets to 25 from 35 to small businesses, and help provide for accelerated depreciation for capital investment. The total cost of that provision would be $275 billion.

It would also extend the unemployment insurance benefits, extend food stamps, unemployment insurance benefits would be made tax free, and training and employment services for dislocated workers would be provided at the cost of $50 billion.

There would be housing provisions. Let me emphasize to my colleagues what we all know: It was the housing crisis that began this conflagration and it will be the stabilization of home values that ends it.

My friend from Nevada here and others have been working hard to try to address the housing crisis. In our respective States, obviously, the housing crisis is of the utmost severity, as it is throughout the country. But in high-growth areas of the country such as ours, it is even more severe. We have seen even more dramatic reductions in home values.

So our primary goal, my friends, is that we must stabilize home values if we are going to reverse this deep and precipitous slide we are seeing and the difficulties we are experiencing in our economy.

Among other proposals, $11 billion would require the Federal Government to allocate funding to increase the fee that servicers receive from continuing a mortgage and avoiding foreclosure from a one-time fee of $1,000 up to $60 per month for the life of the loan.

Safe harbor provisions remove the legal constraints inhibiting modifications; tax incentives for home purchases; the tax credit in the amount of $15,000 or 10 percent of the purchase price, whichever is less, with the option to utilize all in 1 year, or spread out over 2 years, and GSE and FHA conforming loan limits. This cost would be around $32 billion.

We should invest in our national infrastructure and defense. We should spend $9 billion to improve, repair, and modernize Department of Defense facilitates, restore and modernize barracks, improve facilities and infrastructure directly supporting the readiness and training of the Armed Forces, and invest in the energy efficiency of Department of Defense facilities. This activity would generate construction and craftsmen jobs in the short term by addressing deteriorating conditions of existing facilities for projects that are ready to be carried out in the next 9 months.

As to the resetting our combat forces, the Department of Defense will be requesting emergency supplemental appropriations in the spring of 2009 to support the operations in Iraq and Afghanistan. Inclusion of this in the stimulus accelerates those requirements and will be used to place new orders or to repair vehicles, equipment, material, ammunition required to fully equip our combat units, while generating jobs on assembly and manufacturing lines around the country.

I urge my colleagues to think about, if we are going to provide funds, that our defense needs are great, of the equipment that has been worn out in Iraq and will again be required to be used in Afghanistan. Obviously all of us who have visited our military installations know there are facilities that need to be modernized, restored, and new construction. We propose $70 billion for road and bridge infrastructure, road and bridges on Federal land, public transit and airport infrastructure and improvements, and $1 billion for a small business loan program. The total estimated cost for investing in our infrastructure: $88 billion.

Finally, we need to require these spending programs in the stimulus bill be sunset 3 years from enactment. If this spending is intended to restore our economy and jump-start it, once the economy is jump-started and restored, then we should not have to continue this spending and increase the size of our debt and lay it on future generations of Americans.

This proposal states that after two consecutive quarters of economic growth greater than 2 percent of inflation-adjusted GDP, the following control mechanisms will trigger to reduce the deficit and promote long-term economic growth: All spending provisions in the economic stimulus legislation where funds have not been spent or obligated will be cancelled and permanently rescinded. The budget baselines shall be adjusted downward to ensure that all spending in the stimulus, whether spent or cancelled, is treated as a one-time expenditure and not assumed to be repeated.

What a lot of Americans do not know is every time we add a spending provision, that becomes part of the baseline, which assumes that that money will be spent over time. We cannot continue that indefinitely. We propose a 2-percent across-the-board reduction in spending, with the goal of balancing the budget by 2015.

We should establish two separate entitlement commissions, one to make recommendations on systems and the other Medicare-Medicaid. We all know the elephant in the room is Social Security and Medicare, and the unfunded liabilities associated with it. We should also require recipients to disclose costs for awarded projects, prohibit stimulus funds from being used for lobbying activities, political contributions, holiday parties, unnecessary renovations, and questionable travel.

We should spend some more money on accountability, transparency, oversight, and results. We should create a recovery and accountability and transparency board with a Web site, create a Congressional oversight panel, establish a recovery and reinvestment oversight board composed of Federal agency heads, require review and audits by the Comptroller General on the bill's effectiveness in achieving economic and workforce recovery goals, and establish a special inspector general modeled after the oversight required for TARP. The total is $445 billion. I think this is a balanced proposal and one that I hope deserves the serious consideration of this body.

I want to say a word about TARP. The American people have been dissatisfied with the results, and Members of this body have been as well. In the first round of $350 billion, it seemed that the priorities seemed to change literally on a daily or weekly basis.

It became unclear as to exactly what that $350 billion was going to do, and, apparently, if you look at all of the statistics, it has not resulted in significant improvement.

Now, what would have happened without it will be a matter of conjecture and analysis by economists and historians. Now we are in the second round. Now we are told there may need to be more, another TARP, after we pass this stimulus legislation and an omnibus appropriations bill.

When we start totaling that, we are talking about several trillion dollars, and we can't continue that without the American people experiencing some tangible results. Most Members of this body are in agreement. We need to stimulate and jump-start the economy. Let's not do it in such a way that our children and grandchildren pay for it in the most painful and difficult manner. We owe that to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to tell Senators what the lay of the land is and share my thoughts on how the afternoon will proceed. Senator MURRAY offered the first amendment. Then we turned to a Coburn amendment regarding the manufacture of films. That is pending. Next we turned to an amendment by Senator MIKULSKI regarding autos. That also is pending. Next we expect another Republican amendment. We have actually been going back and forth with some of the bigger amendments. Then the Republican amendments have been coming in, alternating back and forth. Next we expect an amendment by Senators BOXER and ENSIGN regarding repatriation, then a Republican amendment, then an amendment by Senators FEINGOLD and MCCAIN regarding earmarks. We hope to have several votes on these amendments today and will consult with leaders as to timing.

Once again, I urge Senators to let the managers know your intentions because we want to give Senators notice of what subjects are coming. If we don't have notice, it will delay us. Please give us as much notice as possible. There will likely be opportunity to vote on amendments, but we just need to know what is in those amendments. I thank Senators for their cooperation.

Just a word or two about the amendment offered by the Senator from Oklahoma. His amendment strikes a provision of the bill relating to the film industry. I might say to all my colleagues as well as to my good friend from Oklahoma, the provision he is referring to gives bonus depreciation to the film industry. The film industry is like any other. I don't see why it should be separated.

More importantly, the legislation before this body a year ago providing for bonus depreciation inadvertently, incorrectly omitted the film industry from all other industries. One might ask why that happened. Basically, I will not get into the personal reasons why it happened, but there was a certain House Member who personally decided he had an issue with the film industry, so he took it out for no good reason.

What I am saying is that this is not putting a new industry back in the bill that would be entitled to bonus depreciation. It corrects a mistake where the film industry was incorrectly taken out in the last bonus depreciation bill and was taken out for no good reason—taken out for a very personal reason, if I may be totally candid. It seems to me we should get back to a level playing field and treat all industries the same, not bring a vendetta against one industry, as was the case a year ago, but, rather, put this back in because it is only fair. That is an American industry too, and this bonus depreciation would apply only to films produced in the United States. It seems eminently fair to put back in a portion of the bonus depreciation bill that was incorrectly taken out a year ago. That is what this is. This is not adding an earmark; it is putting back something that was wrongly taken out.

At this point, I will include for the RECORD a letter from the Director of the Office of Management and Budget regarding the bill before us. Director Orszag lays out the urgency of passing this legislation.

We are losing jobs fast. As somebody pointed out the other day, the number of jobs lost on that day was the exact same number of people who were in the stadium watching the Super Bowl. That number of jobs was lost that day. That is that day. Then there is the next day and the next day. We are losing jobs.

This legislation is sorely needed. Is it perfect? No. Is anything around here perfect? No. But it is probably pretty good. The alternative is much worse. If we don't pass it, clearly many. more jobs will be lost. We will be in a much worse situation than we are today.

I ask unanimous consent to have the Director's letter printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, February 3, 2009.

Hon. MAX BAUCUS,

Chairman, Committee on Finance, United States Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS: The economy faces its most serious crisis since the Great

Depression, and the economic recovery package being considered on the floor of the Senate is an essential step in putting the economy back on a path to growth.

Last week, we learned that gross domestic product shrank by 3.8 percent in the fourth quarter of 2008, the largest decline in 26 years. According to the Bureau of Labor Statistics, more jobs were lost last year than were lost in any calendar year since 1945. If nothing is done, many outside experts estimate that the unemployment rate could reach double digits, and our economy would fall $1 trillion short of its capacity each year—a shortfall that translates into about $12,000 in lost income on average for a family of four. The American Recovery and Reinvestment Act is a well-crafted response to our economic difficulties since it will both jumpstart the economy in the near term (and thereby help to mitigate some of the job losses and income declines that would otherwise occur) and make key investments that will promote long-term growth.

As you consider the American Recovery and Reinvestment Act this week, I wanted to lay out the principles that guide the President as he considers the type of plan that the country needs—principles that both the House legislation and the legislation you are considering meet.

First, it is critical that we jumpstart job creation with a direct fiscal boost that will help to lift the nation out of this deep recession. The plan should bolster economic activity sufficiently to save or create three to four million jobs by the end of 2010. The plan you are considering is estimated to meet this standard.

Critically important to jumpstarting the economy is reviving the housing sector. That is why in the coming days, the President and Secretary Geithner will be releasing a comprehensive proposal to strengthen and reinvigorate this part of the economy. Their plan will build on the $50 billion to $100 billion commitment to the housing sector made by the Director of the National Economic Council in connection with the Senate's decision last month to permit additional TARP funding. By boosting economic activity in the short-term, the recovery package itself will have a significant and immediate impact on the housing and construction sectors. In addition, the recovery package also includes some promising ideas to create incentives for individuals to purchase homes which also will help the housing sector. The Administration supports these provisions, while believing that any major new housing measures should be considered only after the release of the Administration's comprehensive proposal.

Second, as the President has made clear, he is adamant that all of the spending must be made with unprecedented levels of transparency and accountability. He is deeply committed to making sure that every American is able to know what is in this plan, can be confident that it will accomplish the goals we set forth, and has the ability to hold Congress and the Administration accountable for their actions. The Administration will post information online about how this plan's money is being spent and where it's going. In addition, he is insistent that the bill not include any earmarks or special projects. While many such projects may be worthy, this emergency legislation is not the proper vehicle for those aspirations.

Third, we need to recognize that focusing only on the short term is part of why the economy is in such dire straits today. That is why as we address the pressing demands of lifting the economy out of a recession, we also must look to the future and begin the process of reinvesting in priorities like clean energy, education, health care, and infrastructure so that the United States can enhance its long-term growth and thrive in the 21st Century.

This begins with putting the nation in position to lead in the clean energy economy. The President wants to make investments that will double our renewable energy generating capacity, modernize and expand our nation's electrical grid, and undertake the largest program to weatherize homes in history.

On health care, the President believes that we need to move immediately to lower costs and expand coverage. That would entail not only protecting coverage for millions of Americans during these difficult times, but also modernizing our health care system for the future with a serious commitment to health care information technology systems and prevention efforts.

As the global economy becomes more competitive, the President believes that investing in education is the best way we can help our children succeed. He wants the recovery package to renovate and modernize 10,000 schools so our children have libraries and labs in which to learn; make college more affordable through finding the shortfall in Pell Grants and a new higher-education tax cut; and triple the number of fellowships in science to spur the next generation of innovation.

The President also believes that we need to rebuild and retrofit America for the demands of the 21st Century. This will entail repairing and modernizing roads and mass transit options across the country as well as expanding broadband access so that businesses all across our nation can compete with firms from all over the world.

Finally, 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 that is critical to keeping the United States strong in a global, interdependent economy. Although it is not feasible to avoid any spillover whatsoever of the recovery package on out-year spending, the Administration believes that the package should minimize such effects on out-year spending as much as possible. Furthermore, the President is committed to paying for any extension of the temporary tax cuts included in the recovery plan that he would like to make permanent, and will detail the manner of doing so in his budget submission.

Moving forward, we need to return to the fiscal responsibility and pay-as-you-go budgeting that we had in the 1990's for all non-emergency measures. The President and his economic team look forward to working with the Congress to develop budget enforcement rules that are based on the tools that helped create the surpluses of a decade ago. Putting the country back on the path of fiscal responsibility will mean tough choices and difficult trade-offs, but for the long-term health of our economy, the President believes that they must be made.

I look forward to working with you and your colleagues in the coming days to craft a recovery package that embodies these principles and achieves these goals.

PETER R. ORSZAG,
Director.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, a couple of comments on the McCain proposal that several people are putting together. I have looked at it. I still need to study it a little more. But on the surface, it is a responsible, balanced proposal. That group needs to be congratulated for putting such a proposal together.

I rise because the most deliberative body in the world is facing a moment of great challenge but also great possibility. We should all feel the grave responsibility weighing on each of us as we debate this bill. If we pass legislation that truly stimulates the economy, it could carry this Nation to new levels of growth and prosperity. Unfortunately, if we pass a bloated spending bill with little chance of jump-starting the economy, we could delay this country's financial recovery for many years to come.

While there isn't a crystal ball to show us what path will bring us to the ultimate goal, we are not without some guidance. Winston Churchill once said: Those who fail to learn from history are doomed to repeat it. We have several examples from which to learn. We will heed those lessons if we absolutely want to raise this Nation from the economic quicksand that is swallowing it up more and more each day.

The Great Depression is a chapter of history that fewer and fewer Americans can recall firsthand. Maybe that is why the circumstances are so widely misunderstood today. It has been said that today's economic crisis is the result of a perfect storm. Well, the Great Depression was many perfect storms.

Herbert Hoover, a Republican, did not sit on the side lines, as many people believe, when Black Thursday and Black Tuesday struck in 1929. He was actually a big government interventionist. Working with Congress, he raised taxes. He enacted protectionist laws by raising U.S. tariffs. Senator MCCAIN referred to these as the Smoot-Hawley Tariff Act. He pushed all levels of government to invest in infrastructure and expand public works projects.

When Franklin Roosevelt took office in 1932, he created great momentum by earning the confidence of the American people. But his New Deal sent this Nation into an even deeper economic depression. In the late 1930s, there was a ''Depression within the Depression.'' The stock market did not return to 1929 levels for 25 years.

While World War II pulled us out of the Great Depression, there were still tremendous sacrifices being made by all Americans. Some have argued that the spending of the New Deal was not aggressive enough. I couldn't disagree more. On some levels, we are still paying for the projects that began with the New Deal.

The single biggest failure of the response to the Great Depression is that the private sector was not encouraged to grow this country out of its financial crisis. In fact, by injecting so much money into the Government programs, FDR created a competitor to the private sector. This was a match between David, the private sector, and Goliath, the Government monster. This time, unfortunately, Goliath won. We know that the policies of the New Deal

actually prolonged the Nation's financial hardships. After all, the depression lasted 10 years. Do we want to be in this kind of an economic recession for 10 years?

More recently, we have learned from Japan's failed efforts to spend its way out of a recession. Japan passed stimulus bills for 10 straight years during the 1990s. They wasted money on unnecessary projects while letting insolvent banks be supported with Government money. Does that sound familiar? What did that get them? Unmanageable, debilitating debt, and a decade of rising unemployment.

We cannot afford to ignore the lessons of history. The responsibility facing us during this crisis cannot be overstated. We are bound by the Constitution that empowers us to collect taxes, borrow money, regulate commerce, and provide for the general welfare. We, however, are also bound by the responsibility to future generations of Americans. To burden our children and grandchildren with the kind of debt we are talking about today should give each of us reason to pause and consider the ramifications.

There is no doubt that the crisis facing the financial markets, the housing sector, and families will require extraordinary measures. There is perhaps no better illustration of the grave challenges facing the Nation than that of the State of Nevada. At one time, people thought we were recession proof. When Americans buckle down on spending, a vacation to Las Vegas is no longer in the cards. Jobs are lost, homes are foreclosed, and it becomes harder to ignore the half-finished construction projects across southern Nevada.

Here in the Senate, we are among the few Americans with at least some level of job security—that is, of course, until the next election. Most Americans are living day to day, waiting to hear what new massive layoff will be announced and if it will hit them or someone in their family. It is a terrible feeling to have that much uncertainty in your life.

The calls and e-mails I have received from constituents are heartbreaking. These are good citizens who have worked hard, saved well, and contributed to their communities. They now find themselves in a place of desperation.

Mrs. Louise Cutler has lived in Clark County, NV, for more than 17 years. Her husband and two grown children who have degrees are unemployed. Louise lost her job with a mortgage company more than a year ago. She is back at work now making about $20,000 less than before. She has student loans to pay, has lost $120,000 dollars in the value of her home, and she wants to know how we are going to help her.

My constituents—all of our constituents—are looking to us for leadership and solutions.

I believe we need to stimulate our economy immediately. Government has a role to play here. The question is, How do we leverage our resources-paid for on the backs of struggling taxpayers—as efficiently as possible in order to stabilize our economy and grow it in the future?

I believe we need to start with the root of the problem. My training in veterinary medicine taught me that you don't use a Band-Aid to treat a massive puncture wound. Ignoring that problem to treat superficial injuries does not help the patient survive. The economy is very much our collective patient. It would ensure greater catastrophe to put a Band-Aid on an initial wound that started this downward spiral—and that is the housing crisis. Unfortunately, the housing market is barely addressed in this so-called stimulus bill. Most Americans would say it is the first thing we need to heal. If we make mortgages more manageable, people can stay in their homes and our economy can begin to rebuild.

One proposal I have—a guaranteed 4-percent, 30-year fixed rate mortgage for Americans would go a long way to ease pressure on family budgets. On average, more than 40 million creditworthy homeowners would save more than $400 per month. That makes a huge difference to most families, and it would target the problem of oversupply in the housing market, something we cannot ignore. This is like a permanent tax cut which economists believe is the best stimulus for our economy, not just a 1-year tax rebate.

Another proposal that goes a long way to fixing the housing situation is one from Senator ISAKSON. It expands the current homeowner tax credit to $15,000 and covers all property and all home buyers, not just first-time home buyers. This would give a big boost to housing markets across the country.

So what else works? Limited spending that makes our economy more efficient as well as tax relief that provides businesses and companies the additional capital to retain and hire more employees. This will help to increase their output and compete into the future. That spending and tax relief needs to happen soon—not next year or two years down the road. American families cannot wait that long.

I think we all must be prepared to make a sizable investment in order to ensure a swift and successful recovery. Unfortunately, the bill before us does not do that. Instead, it spends money on programs that cannot and will not aid that recovery. While Pell grants, Head Start, and the National Endowment for the Arts may be worthwhile projects in their own right, putting billions of dollars into them will not stimulate the economy. I have fought for Head Start for years, but I do not think it should be considered immediate stimulus.

The bill before us simply does not qualify as an economic stimulus bill, and there is nothing immediate about it either. It is a laundry list of spending priorities with a token of tax relief. We need a true economic stimulus bill that efficiently spends money on projects that will make our highways and infrastructure better equipped as a conduit for business. We need meaningful tax relief that will spawn a new generation of growth and success in the private sector.

Instead, half of the so-called tax portion of this bill is just creative spending dressed up as tax relief. It gives tax relief to people who do not even pay income taxes. How are we relieving their tax burden if they do not have one?

In actuality, only $21 billion of this trillion-plus dollar spending bill goes to small businesses, the engine of our economy. That equals less than three percent of this monstrous bill. This is supposed to be an economic stimulus bill to create jobs and drive growth, but less than three percent is dedicated to tax relief for small businesses which is where 80 percent of the jobs in the United States are created. How do we expect to stimulate the economy that way? That goes to show you how little input Republicans actually had in this process. I hope that will change.

President Obama came to the Hill last week with a message of bipartisan cooperation. I have reached out to my Democratic colleagues on several tax relief measures that they agree would give a much needed boost to our economy. I hope these proposals have the opportunity to be voted on by all of my Senate colleagues so together we can witness an economic revival.

The first is a plan that I am very familiar with. I worked with Senator BARBARA BOXER to get it enacted into law several years ago. We called it the Invest in the USA Act, and it lived up to its name. It brought $360 billion back into the United States in 2005 and helped to retain or create more than 2 million jobs. It also produced more than $34 billion in various tax revenues. History has proven that reducing the tax rate U.S. businesses pay to return money they made overseas provides a tremendous return. One great example comes from California-based Oracle. They used repatriated earnings to defeat a German company in acquiring a U.S.-based retail software firm. This purchase allowed Oracle to keep those jobs and intellectual property in the United States. Oracle has since grown its facilities in Georgia and Minnesota by several hundred jobs.

Right now I am working with Senator BARBARA BOXER to add an updated version of this legislation to the stimulus package. Right now, the foreign subsidiaries of many U.S. companies are faring well overseas. Competitive tax structures make it beneficial for those companies to keep their money overseas. If they wanted to return the money to the United States, the companies would have to pay up to a 35-percent tax rate. That is not much of an incentive to bring income earned overseas back to the United States.

The proposal Senator BOXER and I have put forward gives businesses the

temporary relief they need. Instead of paying a 35-percent tax, they will only pay a 5.25 percent tax if they bring the money back in the next 12 months. These funds must be used for capital investment, job creation and training, research and development, or U.S. debt reduction. Some economists predict that this time around, the legislation would inject as much as $565 billion back into the United States economy.

This legislation is critical in order to get this country going again. It puts capital back into U.S. banks which can then loan that money to people and get the economy going again. Another proposal that I introduced—and I thank the chairman of the Finance Committee for working with us on a compromise—deals with the cancellation of indebtedness. My proposal would allow businesses to buy back their debt in 2009 or 2010 without high tax consequences. It would help firms deleverage and also give financial firms that hold debt more liquidity. Here is how my bill works. Under current law, if a company purchases its own debt at a discount, it is required to pay income tax on the amount of the discount. If a business owes $1 million but negotiates a discounted amount to its lender—say $750,000 so that it does not default—it would have to pay taxes on the $250,000 difference.

Well, a lot of companies are strapped for cash and have a large amount of debt. They cannot afford to pay taxes on the difference. Instead of paying that tax, we are going to delay that for 5 years. They would then have an additional 5 years to be able to pay the taxes. This is going to help small and large businesses across the United States. I believe this proposal is going to help improve the debt situation of many companies in the United States. I thank the chairman of the Finance Committee and Senator CONRAD for working on this proposal.

So let me conclude. If we pass this $1.3 trillion spending bill, which is what it started at, we are going to have trillion-dollar debts over the next several years. This does not include another $500 billion in TARP funds that Secretary Geithner may be asking for.

We still have an omnibus spending bill to come before us. We still have military supplemental bills. Unfortunately, they are not just military bills. Everything else gets Christmas-treed on top of it. We are talking trillions and trillions of dollars.

I am looking at our Senate pages; the next generation to lead our country. Don't we care about them? Don't we have a moral responsibility not to pass huge tax burdens on to them? Current calculations are, with the debt we are running up, plus Medicare, Medicaid, and Social Security, they are going to have to pay close to a 90-percent tax rate if things are not changed. I do not think that is fair to them. Here we just pass debts on. I believe as a generation we are morally corrupt because we take whatever we want.

President Roosevelt talked about ''the forgotten man.'' What he was talking about was this person who was forgotten during the depression. Unfortunately, we may be now dealing with a forgotten generation; a generation who does not have a voice in the Senate. We need to stand up and say, ''We cannot pass this kind of debt burden on to them.'' ''We cannot pass the kind of high taxes on to those who are going to be required to pay this debt.''

So, Mr. President, we need to act responsibly. We cannot put, as this bill does, $200 billion into new entitlement programs. We cannot raise the baseline as this bill will end up doing. We know programs do not stop around here, so we need to act in a much more responsibly manner than this bill does.

Yes, we want to act quickly, but there is a false deadline that has been put on this bill. There is still time. As we saw with TARP funds, when we do things too quickly around here, we make major mistakes. The false deadlines we put on this bill, I believe, are going to lead us down the wrong road. So let's slow down. We do not get any trial runs on this one. This bill is too big. Let's make sure we do this right. Let's join, not as Republicans and Democrats, but as Americans to get this right.

Mr. President, I yield the floor.

The PRESIDING OFFICER: The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 4:15 p.m. today, the Senate proceed to vote in relation to the Coburn amendment No. 109; that prior to the vote in relation to the Coburn amendment, there be 10 minutes equally divided and controlled between Senators COBURN and BAUCUS or their designees; provided further that the time until 4:05 p.m. be for debate with respect to the Mikulski amendment No. 104, with the time equally divided and controlled in the usual form; that no amendments be in order to either amendment in this agreement; that at 4:15 p.m. the Senate proceed to vote as specified above; that upon disposition of the Coburn amendment, and prior to the second vote, there be 2 minutes of debate, equally divided and controlled in the usual form; that upon the use of that time, the Senate proceed to vote in relation to the Mikulski amendment No. 104; with the second vote 10 minutes in duration; and that the next Democratic amendment be one offered by the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, I am not going to speak about the amendment I plan to offer in the next hour or so. But I really have to respond to my friend, Senator ENSIGN. Ironically, he and I are offering an amendment together.

I have heard now several of my Republican friends come to the floor with the same comments over and over and over again: Don't rush this bill. Well, if you came from my State—and I was a little shocked to hear Senator ENSIGN because his State is going through a terrible time—where we have a 9.2-percent unemployment rate and jobs being lost every minute, maybe you should look inside yourself and roll up your sleeves and get to work with us.

I find it extraordinary that after 8 long years of Republican rule around here, where we saw the debt go from $5 trillion to $10 trillion, and not a word from the other side about fiscal responsibility, with tax cut after tax cut to the wealthiest few, an unlimited checkbook for Iraq—no problem then. We did not hear speeches about the grandchildren and the great-grandchildren. Oh, no. All of a sudden, when the middle class is hurting, when the working poor are hurting, when people are losing their homes—not the richest of the rich; they are fine; they do not have mortgages—average families, suddenly my friends on the other side come out with their charts: Oh, my goodness, a trillion dollars of spending.

Well, we had a Presidential election about this issue, and I think it is safe to say the reason the results were as they were is because of this economy. I do not think there is any pundit or even anyone in the Senate who would argue otherwise. Remember the turning point, when the Republicans said: The fundamentals of our economy are strong? Well, maybe they still feel that way. Why don't they come out and say that? They do not want to say that because it is so obviously ridiculous when we are losing 500,000 jobs a month. We have lost more jobs in the last 2 months than there are people who live in the State of Delaware. This is where we are. So instead of working together, our friends on the other side come out, one after the other, with the same talking points: The Democrats are irresponsible. Well, I ask: Who is irresponsible? People who want to work to ease the pain of what is happening in our country or people who brought us to this point, giving tax cuts to the millionaires and the billionaires, and a war we never should have fought, and now they find their fiscal soul.

I am so disappointed. We have a President who has reached out to the other side, and all we get are speeches from talking points about why we shouldn't act now. I will tell my colleagues, if this gets away from us, if we can't get the votes we need—we just need a couple of our friends on the other side of the aisle—then this is going to be the party of Herbert Hoover over there all over again, and people will come out in the streets, as they did during the Great Depression and said things about Herbert Hoover that I can't repeat on this floor. People are hurting. They are two paychecks away from losing their homes. In some communities in my State, one in four homes is underwater and is being foreclosed.

Now, is this bill perfect? Absolutely not. There are things in this bill I

would vote to take out; there are a handful of things, a small percentage I would vote to take out. So if you want to work with us on that, fine. But to come down to this floor and suggest that we are rushing through an emergency bill and that is wrong—it seems to me to be coming from a list of talking points that don't mesh with reality. So I hope we can change the tone of this debate.

The American people spoke out in November, and my friends on the other side are becoming the party of no: No, we can't do anything. No. And what do they come up with? Tax cuts for the wealthy again. That is what got us in this fiscal mess in the first place. We want to give tax cuts, as we do in this bill, to the middle class, to the working poor.

At this point, I would just say to my friends, look into your heart, look into your soul, and look at reality.

I wish to say to my friend Senator MIKULSKI that I am proud to support her amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, a parliamentary inquiry before the Senator from Kansas speaks. Under the unanimous consent agreement, whose time is now being used?

The PRESIDING OFFICER. The time of the Senator from Maryland is being charged.

Ms. MIKULSKI. Did the Senator from California speak on my time as well?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 5½ minutes remaining.

Ms. MIKULSKI. I yield the time to Senator BROWNBACK to speak.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to speak in favor of the Mikulski-Brownback amendment in the limited amount of time we have.

There has been a lot of criticism on the overall bill from my side of the aisle. A lot of it is merited. I really do think this has been put together far too hurriedly, and it would be much better to follow the business of having committee hearings. In the Appropriations Committee, we had no hearings on this bill, and now we are moving forward with a $1 trillion bill. I don't think that makes much sense. I don't think it is wise. I don't think, looking at the economic problems we are looking at that could extend over a period of time, that it is wise to spend $1 trillion without having really thought about it.

Be that as it may, the amendment I am talking about and supporting with Senator MIKULSKI from Maryland is one of the sort of targeted pieces of the legislation that I believe really could deliver lead on the target, and that is why I am cosponsoring this amendment.

It would seem that one of the key things that has been emblematic of this recession we are in is the lack of purchasing of durable goods; i.e., things such as cars have just fallen off precipitously, and therefore the jobs supporting that industry have fallen off precipitously. Here is the situation, what we are seeing.

This very simple amendment would make interest payments on car loans and sales excise taxes on cars tax deductible for new cars purchased this year. So you make that interest payment tax deductible, the excise taxes tax deductible, just this year. On an average car selling for $25,000, this provision would save the purchaser about $1,500. That is the proverbial lead on the target, talking to the consumer and saying: If you are in the market for a car, you ought to do it this year because you have a one-time benefit of $1,500, which is significant, which is going to help you. We think this is an amendment which will actually end up moving car sales, helping that industry, helping the automobile manufacturers and the whole industry of dealerships move us forward.

This is the sort of spending we need to see taking place because the lack of economic activity is profound and widespread. We have seen it particularly in the auto industry, and the auto industry is spread out amongst a number of States. My State has a major GM plant and suppliers in it as well. They are not selling any cars. You can't operate a place very long that way.

This is a very targeted, time-specific provision. The provisions we have talked about need to be temporary, targeted, and really hit the measures, and this one does all of that.

I wish to also point out that in this amendment—I know some people on the Finance Committee are looking at it and saying this is not something, perhaps, that we have supported or put forward. I would ask people in this body to just look around at their own States and the car sales and the businesses they have and the auto plants they have and see if this is something that can really help those auto plants move forward and get some sales.

So I urge my colleagues to support this amendment.

I reserve the remainder of the time for my colleague who has put forward this amendment if she desires to speak any further for it while we have that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I was here when the Senator from California spoke. She didn't realize it was on my time, but the very gracious Senator from Mississippi has yielded me a few minutes of opposition time.

I think we all know the arguments, and I thank the Senator from Kansas for arguing because it shows that this amendment is a bipartisan amendment. What it does is actually create jobs or save jobs in the automobile industry.

The amendment is simple and it is targeted and it is timely. My amendment simply says if you buy a passenger car, minivan, or light truck between November of last year and December 31 of 2009, you will get a tax deduction for your State sales or excise tax and the interest on your loan. For the average consumer buying a vehicle of approximately $25,000, it would mean a $1,500 incentive.

Now, this is good for several reasons. First of all, No. 1, it really is prudent from a fiscal standpoint. The money does not leave the Federal checkbook or the Federal Treasury unless it goes to a person who has actually bought a vehicle. So no money is spent or put into the economy unless it is actually used in the economy to buy a car, minivan, or light truck.

It stimulates jobs because when you buy a car, it means, No. 1, somebody had to make it; No. 2, somebody had to sell it, service it, and process the paperwork to do it, and there had to be suppliers to also make sure that vehicle was fit for duty. We have in our automobile industry 3 million people who are dependent on it up and down the chain, from manufacturing to sales to maintenance.

In my own home State, let's take the automobile dealer. There are approximately 700 dealers, and there are close to 3,000 dealers nationwide. Each dealer employs about 50 people, again, from the people who sell them to the people who fix them. I have talked to people in my own State. The automobile dealers are, in some instances, the major employer in rural parts of my State. If you talk to someone such as the auto mechanic, as I did in Bethesda, and other automobile mechanics, they are proud of what they do. They fix those cars. They have them road-ready. They see it as helping the environment, making sure people are safe in their vehicles and getting value for their dollar. We want these small businesses to stay afloat.

That is why I think the Mikulski amendment is so specific. It only applies to the automobile industry.

No. 2, it is timely because it would immediately go into effect, and it is targeted and limited because it will only last until December 31, 2009. If you really want to get America back on its wheels again and really help America get rolling again, supporting the Mikulski amendment will go a long way to do that.

Now, there are those who say: How much will this cost the Treasury? I just wish to bring to their attention that doing nothing will cost our Treasury: more expenditures on unemployment; the possibility that one of our manufacturers could go bankrupt and throw this into pension guarantee,

which would be a disaster; and in our local communities, the heartbreak that would result from a shuttered dealership in a small town on the Eastern Shore or in western Maryland would really be devastating. It would hurt the consumer and hurt consumer confidence.

If you vote for the Mikulski amendment, supported by people on the other side of the aisle, I believe we can really get our economy going again.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no time is yielded, the time will be equally charged to both sides.

Mr. COCHRAN. 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. BAUCUS. 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. BAUCUS. Mr. President, parliamentary inquiry: Where are we?

The PRESIDING OFFICER. The only time remaining on the Mikulski amendment is under the control of the Republicans.

Mr. BAUCUS. Mr. President, might I ask the Senator from Mississippi for 2 minutes?

Mr. COCHRAN. Mr. President, if there is no one seeking recognition, I have no objection to yielding back the time, but I wouldn't want to do it without consulting the distinguished Senator from Maryland.

Mr. BAUCUS. I wish to speak for 2 minutes on the amendment.

Mr. COCHRAN. I have no objection.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I deeply appreciate the Senator from Maryland offering an amendment. Just a couple of points. I am not going to make a big deal out of it. This amendment will cost about $11 billion. It reminds me of several years ago when Congress eliminated the interest deduction, consumer interest deduction. Why? Because there is so much consumer debt that is building up at such a rapid rate. The total consumer debt now is about $2.5 trillion. As a percentage of GDP, it is about 18 percent. There is a concern that this method, this way to help a specific industry is one which is going to add a lot of additional consumer debt. It is also very costly debt at a time when debt is becoming a problem in this country, public debt as well as corporate debt, but also consumer debt.

There are also other provisions here which help the auto industry, which got about $13.4 billion in relief in the TARP legislation. Through that, the 30-percent investment tax credit in this legislation would help domestic auto companies in developing advanced technology. In the TARP provisions, GM gets $9.4 billion and Chrysler gets about $4 billion. Those are direct infusions into the industry. In addition, there is $2 billion in grants for the manufacture of advanced batteries and components, and there are other provisions as well.

I am not in favor of the amendment. I think there are better ways to help the auto industry. This is not the best way, particularly given the cost.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. I rise not for purposes of debate but to add a cosponsor to my amendment. I ask unanimous consent that Senator WEBB, the Senator from Virginia, be listed as a cosponsor.

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

Mr. BAUCUS. 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. BAUCUS. 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. BAUCUS. Mr. President, I ask unanimous consent to speak until Senator COBURN arrives. He is due to arrive in about a minute, at 4:05. When he arrives, I will turn it over to him.

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

Mr. BAUCUS. Mr. President, this is a letter from the Executive Office of the President, Peter Orszag, basically stating the economic need for this legislation. I will read it in part:

> Last week, we learned that domestic product shrank by 3.8 percent in the fourth quarter of 2008, the largest decline in 26 years. . . . more jobs were lost last year than were lost in any calendar year since 1945. . . . The American Recovery and Reinvestment Act is a well-crafted response to our economic difficulties.
>
> . . . it is critical that we jumpstart job creation with a direct fiscal boost that will help to lift the nation out of this deep recession. The plan should bolster economic activity sufficiently to save or create three to four million jobs by the end of 2010. The plan you are considering is estimated to meet this standard.

Mr. President, I will not ask unanimous consent to print the letter in the RECORD, because it has already been printed. I just wanted to read how many jobs were being lost.

Again, this is not the perfect solution. By definition, it is not. All 535 Members of Congress have a different idea on how to do it, but this is a good solution. The alternative is much worse. If this legislation is not passed, more jobs, millions more, will be lost. Congress is going—the economy is going to be closer to the Great Depression of the 1930s. For that basic reason, let's get this legislation passed at the appropriate time.

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. BAUCUS. 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. BAUCUS. I ask unanimous consent that the time during the quorum call be equally divided.

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

Mr. BAUCUS. 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. COBURN. Mr. 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. 109

Mr. COBURN. Mr. President, I wanted to respond to some comments by the chairman of the Finance Committee. The explanation of why we have a $250 million earmark for the movie industry was that when we attempted to give them this earmark before, somebody took it out, and now we are going to put it back. The consequence, however, belies the fact that we are only doing this for 1 year. If it is something they deserve and it should be equal, why wouldn't it be there every year?

The second point is that the movie industry gets to take advantage of every depreciation out there that every other business has. There was some debate in the House last year on whether they were truly manufacturers. But they also now have $15 million for every movie in direct writeoffs above their depreciation if they produce 75 percent of those costs in this country. If they do it in a low employment area, they get another $20 million. To say we are righting something that was wrong before doesn't fit with common sense. If we are righting it, let's put it in forever—if that is what we are trying to do. But in this bill we do it for 2009 only.

The second point I will make is that this bill is without any sacrifice. When President Obama was elected, one of the things he campaigned on was an item-by-item look at the Federal budget, to get rid of programs that don't work, get rid of lower priority programs that might work but are not efficient and are not a priority.

Nowhere in this bill is there an elimination of one Government program—not one. There is no line by line. There is no attempt to do what we are asking Americans to do every day. Here is

what we are asking them to do: We are in tough financial straits. Go through your budget, figure out what you cannot afford, and eliminate it.

We have not done that at all with this bill. There is no attempt to make the Federal Government more efficient. This bill is filled with bloating bureaucracies, further lessening liberty and freedom by way of having bureaucracies decide what we will have to follow.

I am not against the movie industry. I love the movies they produce—the vast majority; some I abhor. But I enjoy their entertainment and the fact that they are profitable and viable. They have been very successful this last year. They had the best January in their history. For us to put a quarter of a billion dollars into an earmarked tax benefit for the movie industry at a time when Americans are struggling belies the honor and integrity of this institution.

With that, I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, there have been several characterizations of this provision. It is not an earmark. It is treating all industries in America the same, giving bonus depreciation to all American industries. It is treating them all the same.

A few years ago, this industry was taken out for inexplicable reasons. This bill puts them back in, in an attempt to treat all industries the same. It makes no sense to take out one industry, when other industries get the benefit. It makes good sense to keep it in the bill so that all industries are treated the same.

The Senator said this is 1 year, or a short period of time. That is true for all industries in this bill. The bonus depreciation provision we are talking about treats all industries equally, all for the same length of time. He suggests that if we put it in, why isn't it permanent? He is probably right. A lot of it should be permanent, but we have to pay for some of this. That is why it is not made permanent, as other provisions in the bill are not made permanent. So if all industries are treated the same, the film industry is like the auto industry and the steel industry, and other manufacturing industries; they are all the same. That is why this provision is in here, to correct a measure taken out a while ago—wrongly—which singled out an industry unfairly. This puts it back in so everybody is treated the same.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I ask the Senator, if I am a manufacturer and I don't have $15 million that I can come up with in bonus depreciation, do I still get to write off $15 million?

Mr. BAUCUS. There is in this legislation—first, this is treating all industries the same. Some industries are in a loss position and some industries are in a profit position. If a company is in a loss position, there are other provisions in the Tax Code—which, again, all industries should be treated the same. If you have a loss 1 year, you can benefit from the provisions, with the loss carryback provisions, and the legislation has credits, carrybacks.

Mr. COBURN. Mr. President, let me reclaim my time. The fact is, this is a tremendous advantage to them compared to other businesses. They already have a program from which they get $15 million. Then they can add another $20 million. The average cost for a film is less than 100 million bucks. We are writing off $35 million out of the Tax Code immediately before this provision even begins, and we are going to add another quarter of a billion dollars this year for just 2009, which would say we are going to treat them differently than we treat everybody else in this country.

The PRESIDING OFFICER. Time has expired.

Mr. BAUCUS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana has 30 seconds remaining.

Mr. BAUCUS. Mr. President, a very quick point. This section in the bill does provide a $15 million writeoff, but that is for small films. Under the provisions of the bill, the bonus depreciation cannot be taken up at the same time as the expensing provision. You get one or the other.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to Coburn amendment No. 109. The yeas and nays have been ordered. 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 52, nays 45, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—52

Alexander	Chambliss	Graham
Barrasso	Coburn	Grassley
Bayh	Cochran	Hagan
Bennet	Collins	Hatch
Bennett	Corker	Hutchison
Bond	Cornyn	Inhofe
Brownback	Crapo	Isakson
Bunning	DeMint	Johanns
Burr	Dorgan	Johnson
Byrd	Ensign	Kyl
Carper	Enzi	Lieberman
Casey	Feingold	Lugar
Martinez	Risch	Thune
McCain	Roberts	Udall (CO)
McCaskill	Sessions	Webb
McConnell	Shelby	Wicker
Murkowski	Snowe	
Pryor	Specter	

NAYS—45

Akaka	Inouye	Nelson (NE)
Baucus	Kaufman	Reed
Begich	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown	Landrieu	Schumer
Burris	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Conrad	Lincoln	Udall (NM)
Dodd	Menendez	Vitter
Durbin	Merkley	Voinovich
Feinstein	Mikulski	Warner
Gillibrand	Murray	Whitehouse
Harkin	Nelson (FL)	Wyden

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 109) was agreed to.

AMENDMENT NO. 104

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate prior to the vote on the Mikulski amendment.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, the time has now come to vote on the Mikulski amendment that gives a tax break to people who go buy a car on which they can take a tax deduction on their interest and on their sales tax. It actually creates jobs by having people buy a car, sell a car, service a car, and make a car.

Three million jobs are at stake in the automobile industry, and I urge the adoption of my amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I know the Senator from Maryland always thinks things through very well, but I am going to rise in opposition. I don't do it easily. But this is a time when we are in a recession. I know the motivation is to help us get out of a recession, but we have a massive amount of increase in consumer debt, and this is going to just encourage more consumer debt.

We have other things in the Tax Code that help people who buy hybrid cars and electric cars, and we have incentives for the automobile industry within TARP. So I have to oppose this, and in opposing it, I will do it this way, by raising the point of order against the Mikulski amendment pursuant to section 201(a) of Senate Concurrent Resolution 21 of the 110th Congress.

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I move to waive the applicable sections 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 yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) was 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 71, nays 26, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—71

Alexander	Feinstein	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennett	Hagan	Nelson (FL)
Bond	Hatch	Nelson (NE)
Boxer	Hutchison	Pryor
Brown	Inhofe	Reed
Brownback	Inouye	Reid
Burr	Isakson	Risch
Burris	Johanns	Roberts
Byrd	Kaufman	Sanders
Cardin	Klobuchar	Schumer
Chambliss	Kohl	Shaheen
Coburn	Landrieu	Shelby
Cochran	Lautenberg	Snowe
Collins	Leahy	Specter
Corker	Levin	Stabenow
Cornyn	Lieberman	Tester
Crapo	Lincoln	Thune
Dodd	Lugar	Vitter
Dorgan	Martinez	Webb
Durbin	McCain	Whitehouse
Ensign	McCaskill	Wicker
Feingold	Menendez	

NAYS—26

Akaka	Conrad	Merkley
Barrasso	DeMint	Rockefeller
Baucus	Enzi	Sessions
Bennet	Grassley	Udall (CO)
Bingaman	Harkin	Udall (NM)
Bunning	Johnson	Voinovich
Cantwell	Kerry	Warner
Carper	Kyl	Wyden
Casey	McConnell	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DURBIN. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 104.

The amendment (No. 104) was agreed to.

The Senator from Arizona.

Mr. KYL. Mr. President, I am not going to be laying down an amendment at this time but, rather, speaking generally about the legislation while another amendment is being prepared. I wanted to share some data that we became aware of today, a new Gallup poll, which confirms what some of us thought, which is the more the American people see about this stimulus bill, the angrier they are getting and the more they believe it is both wasteful and ineffective. It is interesting that only 38 percent of the American people support this bill as written, while 54 percent say it needs major changes or should be scrapped entirely. In other words, 54 percent of the American people are in agreement that this bill should not move forward as it is, that it needs major changes. That is what Republicans are proposing with the better ideas that we want to present during this debate.

It is interesting as well that Independents, who were queried by even greater numbers, believe the bill either needs major changes or should be rejected outright. Fifty-six percent of Independents concur with that. Most Americans said they think the stimulus package either will not have any effect on their personal lives or will have a negative effect on their personal lives. A mere 12 percent said it would make their lives a lot better. That is the point that many of us have been making. People need something that will make their lives better. They are hurting all over this country. It is a shame, when we have an opportunity to do something about it, to waste a trillion dollars that we do not have and that our children and grandchildren are going to have to pay back for something that will not achieve its objectives.

What I would like to do is speak to some of the problems with the bill that we believe will not work, will not stimulate the economy, will not create jobs, and some of the areas that are simply wasteful Washington spending.

We have heard of some of these items. Again, many of these items the bill spends money on have an argument for them. But it is our view they should go to the Appropriations Committee, and they should present these programs to compete with all of the other programs which may also have degrees of worthiness. When the Appropriations Committee says: Here is the top line of the budget for each of our Government departments, then compete within that line for the program you want to spend your money on. If you are worthy enough, then you will get funded. If you are not, you won't. This bill simply takes all comers and says: Let's put it in a so-called stimulus bill, whether it has any stimulative effect or not. I will give a couple examples.

More cars for government employees; this is another bailout for the auto industry. We are going to do trail maintenance for ATVs. Maybe that is a good idea. But that should probably compete in the budget that ordinarily it would be funded from. I know one of my colleagues is very strongly committed to the idea that we should provide some funding for Filipino veterans of World War II who assisted our troops. That may be a very worthy objective, but nobody can argue it belongs in this bill. Those are folks in the Philippines. It is not going to create American jobs or stimulate the American economy. We could go on and on with other examples. The point is, this is more wasteful Washington spending.

American taxpayers are not against paying taxes, not against having the Government spend money if necessary, but they don't want us to waste the money. When we have a crisis on our hands, when they need help, to have us then just take the 8 years' worth of things we would love to do and haven't been able to get approval for yet and tuck them into this bill as spending and call it stimulus is bad policy.

Abraham Lincoln had a great saying: If you call a tail a leg, how many legs does a dog have? Of course, the answer is four. Calling it a leg doesn't make it a leg. That is the point. Calling these things stimulus doesn't make them stimulus. They should not be in this bill.

There are other things that suggest the bill would not work. We have had experience with this before. The centerpiece of the tax item in the bill is a tax rebate. Never mind that 26 percent of the people who receive this tax rebate don't pay Federal income taxes. The problem is, the same kind of tax rebate in the amount of $600 last year did very little to stimulate the economy, even though that is why it was done. All economists agree that somewhere between 10 and 20 percent of the money got spent, and the rest of it was plowed into savings. The reality is, that is a good thing because Americans' personal budgets are overleveraged just as our businesses are. People have far too much debt on their credit cards, for example. They need to be getting that debt paid down and begin saving a little more. So it is no wonder they would take these tax rebates and put them in the bank or pay off a credit card rather than going out and spending. That is a good thing for them personally, and it is what we have to have happen for the recession to finally end.

But in terms of stimulating spending, it is not a good thing. It obviously does not stimulate spending. Martin Feldstein, who actually testified before the Finance Committee in favor of the last stimulus, has now written that, of course, the experts who predicted it would not work were correct, it did not work. He is now very much of the view that we should not repeat that mistake in trying to stimulate the economy. The problem is, we are talking about well over $100 billion which, therefore, will not achieve the purpose of stimulation.

So these are why, when the American people see money being spent on things that have no business in this bill—it is more wasteful Washington spending—when they see huge amounts of money going toward an effort to create jobs that would not do that, they scratch their heads and say: Why are these politicians in Washington wasting an opportunity to help us? Why don't they really get to something that will help us?

There are things that can help. Republicans have some better ideas about how to craft this legislation so it will actually achieve the objective we want. The bottom line is, rather than spending $1.3 trillion on this bill, we should

be providing tax incentives that will create jobs. We should use the Tax Code to encourage beneficial behavior to encourage people to work and save and invest and create jobs. That leads me to the next subject.

Our colleagues on the other side of the aisle like to say that a significant percentage, maybe 36 percent, of this bill is taxes. Again, what is tax relief? I don't think you can call tax relief rebates when they are scored by the joint legislative committee as spending. So we have a difference of opinion. Even if only a quarter of it is tax policy, what kind of tax policy is that? Mr. President, 2.3 percent of the amount of the total bill is spent on tax incentives for businesses so they can write off their equipment purchases and so on that might conceivably enable them to hire more people. That is inadequate. One of our better ideas is to enhance those current provisions, expand them so that more businesses will be able to hire more people and produce more and thus help us to get out of the recession.

There are a variety of ideas that will be presented as amendments. One of them is an idea that some of our House colleagues have: by simply reducing by 7 percentage points the tax that small businesses pay, we believe significant new jobs will be created because small businesses create the jobs. Big businesses are trying to hold their own right now, but they are losing jobs, and they have not been the job creators. It is the small businesses that have historically created jobs. We believe that reducing their tax liability just by this modest 7 points—talking about businesses with 500 or fewer employees—you will have thousands and thousands of employers who will be able to buy the new equipment, be able to market their product or in some way be incented to hire additional people. That is how we create more jobs.

We think we ought to focus on where this problem started and where a significant part of the problem remains, and that is in housing. In fact, housing values are continuing to decline. We know the collapse in the housing market is what started all of this. But there is nothing that goes to the heart of that problem which remains.

In Arizona, we continue to see housing values decline. I talked to realtors and others last weekend. In some cases, over 50 percent of what they are doing is foreclosures and short sales in anticipation of foreclosure. So the market is in very bad shape. One of the Republican ideas—in fact, we have a couple of different approaches—is trying to provide a floor so housing values don't decline any more, so that people are incented to either refinance their existing mortgage or to be able to afford a new mortgage, and at the same time that this would help individuals put more money in their pockets. Because of the savings they would achieve with a lower interest rate mortgage over 30 years, it would also help to clear up the problem we have all heard about in the secondary market, the so-called toxic assets backed by mortgage-backed securities, the value of which nobody apparently can figure out.

If most of the people would refinance their existing mortgages at a lower rate, say, 4.2 percent, all of the holders of those mortgages would be paid off. They would all have cash. They could either reloan it or they could prop up their balance sheets. All of this would be very helpful, and we would then know exactly what is left.

What is left are the toxic mortgages, and there are other programs that will be dealing with that. I believe the President's Treasury Secretary, Secretary Geithner, is poised to talk about that next week. There are other plans the FDIC and others have. Certainly, the TARP funding that has been voted on is supposed to help go to those toxic assets, the people who are allegedly underwater; that is to say, the value of their home is less than the amount they owe on their mortgage.

It is really a two-part problem. The Republican ideas are designed to get at that problem, the problem that caused this whole collapse in the first place. Most experts believe it has to be solved before we can genuinely begin to work our way out.

There is another problem with the bill; that is, there is bad policy in this bill. For example, on the infrastructure, we have Davis-Bacon requirements. This adds to the cost of all of these projects. I remember a few years ago in the little town of Sierra Vista in southeast Arizona there was a facility to help women with dependent children or families that needed aid. If they had built the structure to do this, they couldn't afford it because of the additional cost that Davis-Bacon imposes on wages to construct a building. So they bought a mobile home instead, and because they were buying a mobile home, it wasn't a construction cost. They saved thousands of dollars on the facility.

Was it best to have a mobile home for this facility? No, it wasn't. They should have had an actual building. That is the problem with this particular policy. I forget the amount of money that it cost, but it is significant.

On health policy, there is the comparative effectiveness research which, in an op-ed in the Washington Post last Friday, George Will commented would dramatically advance Government control and rationing of health care. This is not good policy.

There is the neighborhood stabilization plan, $2.25 billion. This is the same kind of funding that could go to entities like ACORN, which we stopped when we dealt with this last June in the housing legislation. But it is tucked into this legislation, it is a lot of money, it is bad policy, and it ought to be taken out.

The Washington Post, last Friday, editorialized about the education expenditures here. They said: Ordinarily, we would support more money to support education, but this is a wasted opportunity to reform education so that we can actually use this new money to better benefit. Otherwise, we are simply throwing more money at the problem. Part of the quotation from the Washington post was we ''will be wasting more than money.'' What they meant was the opportunity. There is an opportunity here to really do some good, and rather than just throw more money at a problem, why don't we take advantage of the opportunity to really do something to reform it?

This gets me back to the point with regard to how these bills should compete in the appropriations process. We have a process—it is well established in the House and in the Senate—to deal with competing appropriations. They go over these bills very carefully. Ordinarily, they have to make some tough choices, to say: This program will go into the bill, and this one, unfortunately, is going to have to wait for another year or it is going to have to be reformed before we are going to spend the money. That regular-order process is what we should be using in this case.

This bill creates something like 34 new Government programs. Now, those two are the kinds of things that are scrubbed carefully in the regular appropriations process. Ronald Reagan once said: The closest thing to immortality in Washington is a new Government program. Once created, it is awfully hard to get rid of.

Of course, there is a lot more mandatory spending in the bill, spending that allegedly exists for only 2 years, but actually we know there is no way after 2 years Congress is going to come back and cut. In fact, going back to the so-called make work pay credit—this $500-per-taxpayer rebate—most of the experts agree this temporary tax rebate is not going to change behavior and stimulate spending.

So what is the answer? Well, of course—wink, wink, nod, nod—it is really going to be permanent. Now, nobody wants to put that on paper because the score, the cost, would be astronomical. This body would be embarrassed to pass it, and it would not pass it. But once it is in there for 2 years, do we think we are going to eliminate it? No. In fact, the authors of it justify it, saying: Well, it actually will work because it is not really going to be temporary. We are really going to make it permanent. That is what we have to be very careful of in this legislation—committing ourselves to hundreds of billions of new expenditures, ostensibly temporary—some not even ostensibly temporary; they are actually identified as mandatory spending for the next 10 years—but many of them ostensibly temporary but will, in fact, be a permanent program.

One of the reasons I believe the program will not work is because less than half of all the discretionary funding is spent by the year 2011. Now, I hope by

the year 2011 this recession is over. But you cannot call it a stimulus when more than half of the discretionary spending does not even begin to be spent until the year 2011.

So another one of the Republican ideas, that of my colleague, JOHN MCCAIN, is to say: Look, you have to spend this within this period of time. If you do not, then that authority lapses, and we are not going to spend that money. I think that is a very sensible way to look at it.

Just one other comment on the tax title. We talk about the extension of these energy tax credits. Apparently, windmills did not get enough in the way of tax credits, so we are going to extend their tax credit for another 3 years. You can argue whether that is good policy, but you cannot very well argue that extending it beyond 1 year is immediate spending. By definition, you are talking about the second and third year.

On this point, Dr. Christina Romer, who is President Obama's head of the Council of Economic Advisors, and, by the way, at last count, about 320 other economists, including some Nobel laureates, has made the point that tax cuts are far more effective in this environment than is additional Government spending. To this, I just have to say, this appears to be a new concept here in trickle-down economics, where the Government will spend close to a trillion dollars—just get it out there—and hopefully some of it will trickle down to regular people. That is not the best way to help people who are hurting in this economy.

So we have talked about things that will not work in the bill. We have talked about excess spending in the bill. We have talked about things that are not going to really stimulate the economy or create more jobs. In fact, the cost of the jobs, if you just take the cost of the bill and the number of jobs created, according to estimates of the sponsors of the bill, for each Government job created, it is $646,000. That is a lot of money to create a job; in the private sector, $242,000. This is not an efficient, effective program, and I do not believe we can afford a $1.3 trillion mistake, especially since we are playing with the money our children and grandchildren are going to have to pay back.

Let's eliminate the wasteful spending, and let's deal with the things that have to be dealt with first, such as the housing crisis, and create tax policy that will make sense long into the future and will actually help businesses create more jobs to help the people of our country today.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Pennsylvania.

AMENDMENT NO. 101, AS MODIFIED, TO AMENDMENT NO. 98

Mr. SPECTER. Madam President, I call up amendment No. 101 and send a modification to the desk.

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

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DURBIN, proposes an amendment numbered 101, as modified, to amendment No. 98.

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

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

The amendment, as modified, is as follows:

(Purpose: To provide an additional $6,500,000,000 to the National Institutes of Health for biomedical research)

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be 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 the amount under the heading 'STATE FISCAL STABILIZATION FUND' under the heading 'DEPARTMENT OF EDUCATION' in title XIV shall be decreased by $6,500,000,000.''.

Mr. SPECTER. The basic amendment calls for the addition of $6.5 billion to the National Institutes of Health, and the modification provides for an offset from the State Fiscal Stabilization Fund.

Before proceeding directly to the discussion on the amendment, a few observations about the bill generally: I believe an economic stimulus is necessary. We have seen the unemployment rate rise to 7.2 percent last month. Some 2.8 million people lost their jobs last year. Each day brings new reports of additional people losing their jobs. We know the safety net is failing. We know there is a need to liberalize bank credit, the foreclosure rate is very high, and there is a need to provide Government intervention to stop the foreclosures. In the midst of all of these issues, there is, admittedly, the need for a stimulus package.

I am concerned about the House bill in a number of respects. I believe, for example, there is insufficient money in infrastructure. Pennsylvania Governor Rendell has assured me that the spending on highways, bridges, and roads could begin within a period of some 6 months.

There needs to be more on the tax cut side, in my opinion. There are many programs in the stimulus package which are very good programs—programs which I have fought for during my tenure as chairman or ranking member of the Labor, Health and Human Services, and Education Subcommittee—but many of these belong, really, in the appropriations process as opposed to a stimulus.

It is my hope, as we work our way through the bill, that the bill will be improved. I would like to see a bill emerge from the Senate that would be really directed toward stimulus, a bill which I could enthusiastically support.

The amendment which is offered here today is for the National Institutes of Health, which has been starved recently. During the decade when I chaired the Subcommittee on Labor, Health and Human Services, and Education, with the support of the ranking member, Senator HARKIN—who is now chairman, and I am ranking member; and when Senator HARKIN and I shift chairmanship, it is a seamless transfer; we work together on a partnership, bipartisan basis—together we took the lead in increasing NIH funding from $12 billion to $30 billion. Some years, the increases were as high as $3 billion, $3.5 billion. Lately, with the budget crunch, that has been impossible to maintain.

The cost-of-living adjustments have not been made, and there have been across-the-board cuts, so there has been an actual decline of some $5.2 billion of NIH funding in the last 7 years. This $10 billion allocation, if enacted, would correct that. It would give a boost and would provide jobs, high-paying jobs, at a time when the passage of the amendment would kill two birds with one stone. It would stimulate the economy by producing good, high-paying jobs, and by reducing major illnesses, which I will specify in a few moments, it would cut the cost of health care. What better way to reduce health care costs than to prevent illness, prevent heart disease, reduce the time of Alzheimer's, and cut back on the incidence of cancer? The statistics show there would be good-paying jobs created by this $10 billion. According to NIH Acting Director Dr. Raynard Kington, the $10 billion would result in the creation of some 70,000 jobs over the next 2 years. These funds could go out in a range of 6 to 9 months, and certainly in less than a year, so it has the impact of being very promptly disseminated.

The benefits are statistically demonstrable by the high costs associated with diseases which these funds are designed to cure or to ameliorate. For example, the annual cost associated with cardiovascular disease amounts to $448.5 billion a year; cancer, $219 billion a year; Alzheimer's, $148 billion; and so it goes on down the line.

The recent statistics show significant improvements on these maladies, I think attributable, fairly, to the advances by NIH research.

For example, between 1994 and the year 2004, the number of deaths from coronary heart disease declined by 18 percent and the stroke death rate fell by 24 percent. Were it not for groundbreaking research on the causes and treatment of heart disease, supported in large part by NIH, heart attacks would most probably account for

an estimated 1.6 million deaths per year instead of the approximately 440,000 deaths experienced last year in 2008.

The absolute number of cancer deaths in the United States has declined 3 years in a row despite the growth and aging of our population, which is a truly unprecedented event in medical history. The 5-year survival rate for localized breast cancer has increased from 80 percent in the 1950s to 98 percent today. That is a pretty encouraging figure for people who have breast cancer or are fearful of getting breast cancer. For childhood cancers, the 5-year survival rate has improved from less than 50 percent in 1970 to 80 percent today. The 5-year survival rate for Hodgkin's lymphoma has increased from 40 percent in 1963 to more than 86 percent in the year 2003. For non-Hodgkin's lymphoma, the survival rate has increased from 31 percent in 1963 to 63.8 percent in 2003. Over the past 25 years, the 5-year survival rate for prostate cancer has increased from 69 percent to almost 99 percent. Now, if you take anybody who is in the category of breast cancer or prostate cancer or Hodgkins or non-Hodgkins, those survival figures are very encouraging. I didn't know—when I joined the Appropriations Committee and selected the Subcommittee on Labor, Health, Human Services and Education and led the fight with Senator HARKIN to increase NIH funding from $12 billion to $30 billion and to have the National Cancer Institute funded by $5 billion—I didn't know I would one day be standing on the floor of the Senate citing statistics which include me. When we talk about non-Hodgkins, that is ARLEN SPECTER. I was shocked in February of 2005 to find that I had non-Hodgkins; tough chemotherapy, recovery, lost all my hair, got it all back, and fine. Then, last year, I had a recurrence; more chemotherapy, more rehabilitation, maintained my Senate duties, was on the floor, presided over the confirmation hearings of two Supreme Court Justices in 2005, worked with Senator HARKIN, right down the line. So those are pretty important statistics if you are one of them—if you are one of them.

It is my opinion that it is scandalous in this country that we haven't done more by way of combating these illnesses. I requested an estimate from the cancer community of what it would take to make a major attack to virtually cure cancer. We can't talk about curing cancer, but the kind of a major attack which would reduce cancer very materially. We got back a figure of $335 billion over 15 years. Well, those are big numbers, but they would pay off in very substantial rewards when you consider the cost of cancer is over $200 billion a year. The cost of heart disease is almost $450 billion a year. There are ways and economies within the Federal budget to deal with those issues.

Today we are talking about a much lesser figure. We are talking about $10 billion. That would be a downpayment and a sign of a serious effort to go after these maladies. When you have a stimulus package of $819 billion in the House bill—it may go up higher than that—this is a relatively small sum. When we structured the original bill at $3.5 billion, we talked about what would be doable. We came up with $6.5 billion. I am not sure that we didn't make a mistake, that we ought to be looking for more of the $800 billion plus to deal with these maladies, but at any rate, that is where we are.

Senator HARKIN and I have a little difference of opinion on the funding as to whether there ought to be an offset. My view is it is a minor difference of opinion, but one which we are going to present to the body for a vote. In looking over the allocation of the entire budget, I found there is $79 billion in what is called a State fiscal stabilization fund. Well, I think there are limits as to how we ought to go on stabilizing the States' fiscal policy, but at any rate, included in that amount is $24.7 billion to be used for a wide range of public safety and other governmental services which may include education or may not include education. All of these funds are proposed to go out under a population-based formula, but are in no way targeted to States with the biggest economic problems or greatest budget shortfalls.

It is unclear what stimulating effect this funding would have, and the purposes of the funding are undefined. So when you have almost $25 billion with the purposes of the funding undefined, it seems to me it is a much better use of that money, about a quarter of it, to fund the $6.5 billion which is the subject of the amendment which I have just described.

Senator HARKIN and I have discussed this in an amiable way, as we always do. He is going to speak next and is going to propose a second-degree amendment so that there not be the offset. I have already stated my preference to have an offset because we are dealing with very serious deficit problems, and I thought that if it were possible to do this funding with an offset which was reasonable, it would be preferable than adding to the deficit. But if Senator HARKIN prevails on his second-degree amendment and there is no offset, so be it, and we will have reached the core principle of trying to get these funds into the National Institutes of Health.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, first, let me thank my friend and my colleague from Pennsylvania, Senator SPECTER, for his continued support of basic research, biomedical research in this country. Ever since I first got on this committee back in 1988, Senator SPECTER, of course, was chair and I was ranking member, and later I became chair and he became ranking member, and then he became chair and I became ranking member. It has passed back and forth a lot of times since 1988. But the one person who has always been consistent in his support of biomedical research and support for the National Institutes of Health has been my friend, ARLEN SPECTER of Pennsylvania.

I support his amendment, I wish to say right off the bat. Everything that is in it I support. We do have to bring NIH back up to its funding level. I say to my friend, one of my proudest achievements in the Senate was working with the Senator from Pennsylvania to double the funding of NIH over a 5-year period. To show my colleagues how bipartisan it was, it started under a Democratic President and ended under a Republican President. There was one change in there for a couple years when I was chair and the Senator from Pennsylvania was ranking member and then it went back and forth, but as the Senator said, that has always been kind of seamless in terms of passing the gavel back and forth. But doubling the funding for NIH over 5 years was a Herculean task and the Senator from Pennsylvania was a leader in that effort. We worked hard on that, and we got it done. That was in 2003.

Now, since 2003, we are 10 percent lower now in real funding for NIH than we were in 2003. I am sure my friend from Pennsylvania would agree that we did not work hard on both sides of the aisle and with two different administrations to get this done only to have it sort of sit there static, and then come back 10 years later or something, and then have to double it again. Our goal was to get NIH back up to a funding level so that the number of peer-reviewed grants that were funded would be closer to the 1-in-3, 1-in-2, 1-in-3 area that it had been in the earlier days of NIH. By the time we got to the point where we started the doubling—and that was in 1998, if I am not mistaken; it might have been 1999, 1998—we were down to where 1 in 10, 1 in 8 peer-reviewed grants were being funded. Sad to say, we are right back almost to that situation again. We are down to where maybe somewhere between 1 in 6 and 1 in 10 grants are being funded.

Now, what does that mean? That means researchers at NIH—let me back up here. That means that researchers at the University of Pennsylvania, at the University of Iowa, at the University of California, at universities in New York State, universities in Florida, universities in Illinois, universities in Wyoming, universities in Arizona, every State in the Nation gets funding through the NIH for research. These are universities, basically. So this funding goes all over the country.

So what does that mean, that we are now back at the level where 1 out of 6 to 1 out of 10 peer-reviewed grants are being funded? Well, what it means is that young researchers—and these are people who are at the top of their class; these are the brightest of the bright;

these are students who have gone through either medical school or genetics or biomedicine or biology, a lot of different disciplines involved here, and they have some ideas they want to pursue, some basic research they want to pursue. They are in their twenties. They spent a lot of money going to college. They want to pursue a field of inquiry. Now they are told that the average age for getting their first grant is 42 years of age.

Well, if you are a young person and you are just out of college, are you going to wait around until you are 42? No. You are probably going to go to work for the private sector, private industry some place.

So what we are doing is we are losing a lot of bright young researchers. When we doubled the funding for NIH, a lot of young researchers started there, and they are there now, but we are losing a whole other generation of these young researchers. So that is the effect of what has happened at NIH.

What it means also is that we are losing our preeminent role in the world as the leader in biomedical research. We have to maintain it. We have always been sort of—if you want to talk about a city on a hill, when it comes to biomedical research, we have always been that to the rest of the world. The rest of the world looks to NIH. Keep in mind it was through the NIH that we mapped and sequenced the entire human genome, mapped and sequenced the entire human gene. Guess what. It is out there for researchers all over the world. Any researcher anywhere in the world can tap into the database at NIH and find out all the information they want on the genetic structure and use that for their research. Guess what. It is free of charge. Free of charge. That was a great investment by the taxpayers of this country and already paying big dividends.

So it pains me, I know as it pains my friend from Pennsylvania, to now see NIH going back down again in terms of its support. As I said, right now, NIH funding has dropped more than 10 percent in real terms since 2003. That was at the end of the doubling period.

Some people might say, Well, what does this have to do with stimulus? Well, this does stimulate the economy, both in the short term and in the long term. As I have said many times about this stimulus bill, it is two things. One, it is to, yes, put people to work right away. That has to do with a lot of the construction projects that are in here. But there are a lot of other things in this bill that provide for a foundation for solid recovery down the pike—2 years, 5 years, 10 years from now. Now, every time in the short term, when we think about NIH in the short term, every time a researcher gets a grant, it supports an average of seven jobs. Let me repeat that. Every time a researcher gets a grant, on average, it supports seven jobs. So it is not just one researcher in a lab by himself or herself; it is lab technicians, postoperative fellows, research assistants, and on and on. So there is a great multiplier effect.

There is also a ripple effect from this research. Keep in mind this is basic research. These are asking the most fundamental of questions.

Well, maybe the grant has led to basic research that will lead to a new compound that a pharmaceutical company wants to develop into a new drug that helps save lives. Senator SPECTER talked about the research at NCI, National Cancer Institute, and the great strides they have made. The Senator is living proof of that. We watched the Senator go through a long hard period, and it is wonderful to see him here as healthy, vibrant, and determined as ever to make sure we fund NIH. He is living proof of the great strides we have made. So that has a ripple effect. If there is more money now in the economy, maybe an entrepreneur will use some breakthrough on research to form a spin-off company. That happens all the time, and that stimulates the economy.

As I said, this money goes to researchers all over the country, not just to Bethesda, MD, where the headquarters is. Very little of it goes there. It goes to every State—to 90 percent of all congressional districts. So it helps the entire country.

Now, that is in the short term. There is a longer term benefit, which is improving people's health. After all, that is the purpose of this research in the first place. It is called the National Institutes of Health, not the National Institutes of Biomedical Research. The goal is health. In the long term, it is going to be a healthier workforce, healthier people, cutting down on health care costs, making people more productive in their lives because of the research we do through NIH. We always say ''at,'' but it is ''through'' NIH. If our workers are healthier, they are going to be more productive.

Again, I support this amendment almost in its entirety—except for the way we are going to fund it. My friend spoke about that, and I have a small disagreement. The Senator's amendment would take the money as an offset out of what is called the State fiscal stabilization fund. Here is the problem as I see it.

The State fiscal stabilization fund provides critically needed funding for education. Just this afternoon, I had the presidents of most of the independent colleges in my State visiting me. A lot of this money will go to help them in their colleges. It will help our community colleges. A lot of money will go to community colleges to help retrain workers for the future. Our pre-K through 12th grade money comes from the stabilization fund. There is a lot of money in that stabilization fund that goes for public safety and other government services. We don't need to be laying off teachers. We need to keep our teachers hired.

That is what this money would go for. So I don't think we ought to be cutting into that fund. I strongly support Senator SPECTER's amendment—the main purpose of it—to increase funding for NIH. Again, I just have a slight difference on how it should be funded. Let's face it, this whole bill is emergency spending. We are up to about $900 billion right now. As I have said before, a lot of economists, both liberal and conservative, have said we are not doing enough. We had Milton Friedman, President Reagan's economist, a very conservative economist, who said we may not be doing enough; Alan Blinder, Mark Zandi—a broad spectrum of economists are saying this is one time when we should err on the upside not the downside.

If this whole bill is emergency spending, why, I ask, should the funding for NIH not be the same? Why would we want to take it out of education, take it out of public safety, out of other areas to pay for NIH. This whole bill is emergency spending. Quite frankly, I think it ought to be. We are in an emergency. Things are going downhill very rapidly in this country—in my State, and I know in every other State. Companies are shedding jobs every day—9,000 every day.

Since the whole bill is emergency spending, I think NIH ought to be right in there with everything else. It is that important. I think it ought to be emergency funding, so I have a second degree that I will be offering to the amendment by the Senator from Pennsylvania that would basically make the funding for the amendment the same as everything else in this bill. I hope we will get support for that. Why discriminate against NIH? Don't do that. Put it in with everything else.

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I thank my distinguished colleague for his kind remarks and comments and a reaffirmation of what I said about the working relationship we had, the partnership, and the seamless transfer of the gavel.

AMENDMENT NO. 178 TO AMENDMENT NO. 101

Mr. HARKIN. If the Senator will yield, I thought the Senator's amendment was not yet at the desk. I am informed it is.

I send my second-degree amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 178 to amendment No. 101.

Mr. HARKIN. 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 as follows:

On page 2, line 5, strike the following: ''Provided, further,'' through and including ''shall be decreased by $6,500,000,000''.

Mr. SPECTER. Madam President, to continue with the two amendments, perhaps we can have side-by-side votes. Is that satisfactory to the Senator?

Mr. HARKIN. I will check on that.

Mr. SPECTER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Madam President, just a very brief comment about the offset. The State fiscal stabilization fund does have substantial funding for education, as represented by the Senator from Iowa. But there is a portion of it—$24.7 billion—which is to be used for a wide range of governmental services, which may include education, or may not. In that $24.7 billion, there is wide discretion given to the States as to how they are going to handle it. Those funds go out under a population-based formula, in no way targeted to States with the biggest economic problems or the greatest budget shortfalls. The purposes of the funding are undefined, so there is a substantial amount of money which may not be used for what the Senator from Iowa has described, or education.

As I see it, it is a question of whether we are going to add to the deficit of $6.5 billion or whether we are going to establish a priority where the State has the discretion to use it with undefined purposes or use it for the three alternatives you have, which are to use the $6.5 billion for NIH, which we have described, or undefined purposes in the State fiscal stabilization fund, or add to the deficit. I think we ought not to add to the deficit. I think it is preferable to use them for NIH and not for the undefined purposes.

I thank the Chair and yield the floor.

AMENDMENT NO. 178, AS MODIFIED

Mr. HARKIN. Madam President, I ask unanimous consent that my amendment be modified with the changes I just sent to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 178), as modified, is as follows:

(Purpose: To provide an additional $6,500,000,000 to the National Institutes of Health for biomedical research).

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be 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.

Mr. HARKIN. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 179 TO AMENDMENT NO. 98

Mr. VITTER. Mr. President, I ask unanimous consent to call up the Vitter amendment which is at the desk.

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

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 179 to amendment No. 98.

Mr. VITTER. 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 eliminate unnecessary spending)

At the appropriate place, insert the following:

SEC. ___. ELIMINATE SPENDING AND PRIORITIZE INVESTMENTS.

(a) ELIMINATE SPENDING.—

(1) FISH BARRIERS.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Management under the heading ''Resource Management'', and the amount made available under such heading is reduced by $20,000,000.

(2) CENSUS BUREAU.—None of the funds appropriated or otherwise made available in title II of division A for Bureau of the Census under the heading ''Periodic Censuses and Programs'', and the amount made available under such heading is reduced by $1,000,000,000.

(3) FEDERAL VEHICLES.—None of the funds appropriated or otherwise made available in title V of division A for General Services Administration under the heading ''Energy-Efficient Federal Motor Vehicle Fleet Procurement'', and the amount made available under such heading is reduced by $600,000,000.

(4) FBI CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A construction for Federal Bureau of Investigation under the heading ''Construction'', and the amount made available under such heading is reduced by $400,000,000.

(5) NIST CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A for National Institute of Standards and Technology under the heading ''Construction of Research Facilities'', and the amount made available under such heading is reduced by $357,000,000.

(6) COMMERCE HEADQUARTERS.—None of the funds appropriated or otherwise made available in title II of division A for National Oceanic and Atmospheric Administration under the heading ''Departmental Management'', and the amount made available under such heading is reduced by $34,000,000.

(7) DHS CONSOLIDATION.—None of the funds appropriated or otherwise made available in title VI of division A for Department of Homeland Security under the heading ''Office of the Undersecretary of Management'', and the amount made available under such heading is reduced by $248,000,000.

(8) USDA MODERNIZATION.—None of the funds appropriated or otherwise made available in title I of division A for Department of Agriculture under the heading ''Office of the Secretary'', and the amount made available under such heading is reduced by $300,000,000.

(9) STATE DEPARTMENT TRAINING FACILITY.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Diplomatic and Consular program'', and the amount made available under such heading is reduced by $75,000,000.

(10) STATE DEPARTMENT CAPITAL INVESTMENT FUND.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Capital Investment Fund'', and the amount made available under such heading is reduced by $524,000,000.

(11) DC SEWER SYSTEM.—None of the funds appropriated or otherwise made available in title V of division A for District of Columbia under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'' and the amount made available under such heading is reduced by $125,000,000.

(12) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM.—None of the funds appropriated or otherwise made available in title II of division A for Economic Development Administration under the heading ''Economic Development Assistance Programs'' , and the amount made available under such heading is reduced by $150,000,000.

(13) AMTRAK.—None of the funds appropriated or otherwise made available in title XII of division A for Federal Railroad Administration under the heading ''Supplemental Grants to the National Passenger Railroad Corporations'', and the amount made available under such heading is reduced by $850,000,000.

(14) DOD HYBRID VEHICLES.—None of the funds appropriated or otherwise made available in title III of division A for Procurement under the heading ''Defense Production Act Purchases'', and the amount made available under such heading is reduced by $100,000,000.

(15) NASA CLIMATE CHANGE.—None of the funds appropriated or otherwise made available in title II of division A for National Aeronautics and Space Administration under the heading ''Science'', and the amount made available under such heading is reduced by $500,000,000.

(16) NEIGHBORHOOD STABILIZATION.—None of the funds appropriated or otherwise made available in title XII of division A for Public Housing Capital Fund under the heading ''Neighborhood Stabilization Program'', and the amount made available under such heading is reduced by $2,250,000,000.

(17) HISTORIC PRESERVATION FUND.—None of the funds appropriated or otherwise made available in title VII of division A for National Park Service under the heading ''Historic Preservation Fund'', and the amount made available under such heading is reduced by $55,000,000.

(18) FISH AND WILDLIFE RESOURCE CONSTRUCTION.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Service under the heading ''Construction'', and the amount made available under such heading is reduced by $60,000,000.

(b) UNDER PRIORITIZED SPENDING THAT SHOULD BE BUDGETED FOR.—

(1) COMPARATIVE RESEARCH.—None of the funds appropriated or otherwise made available in title VIII of division A for Healthcare

Research and Quality under the heading ''Agency for Healthcare Research and Quality'' may be available for comparative research, and the amount made available under such heading is reduced by $700,000,000.

(2) HEALTH IT.—Title XIII for Health Information Technology shall be null and void and none of the funds appropriated or otherwise made available in title VII of division A for Information Technology under the heading ''Office of the National Coordinator for Health Information Technology'' may be available for health information technology, and the amount made available under such heading is reduced by $5,000,000,000.

(3) PANDEMIC FLU.—None of the funds appropriated or otherwise made available in title VIII of division A for pandemic influenza under the heading ''Public Health and Social Services Emergency Fund'' may be available for pandemic flu and the amount made available under such heading is reduced by $870,000,000.

(4) SMART GRID.—None of the funds made available in this Act for Smart Grid shall be made available.

(5) BROAD BAND.—None of the funds appropriated or other made available in title II of division A for Broadband Technology Opportunities under the heading ''National Technology Opportunities Program'' may be available for broadband and the amount made available under such heading is reduced by $9,000,000,000.

(6) HIGH-SPEED RAIL CORRIDOR PROGRAM.—None of the funds appropriated or made available in title XII of division A for the High-Speed Rail Corridor projects under the heading High-Speed Rail Corridor Program may be available for the high-speed rail corridor and the amount made available under such heading is reduced by $2,000,000,000. Section 201 of title II of division A shall null and void.

(7) PRISON SYSTEM AND COURTHOUSES.—None of the funds appropriated or made available in title II of division A for prison buildings and facilities under the heading Federal Prison System may be available for buildings and facilities and the amount made available under such heading is reduced by $1,000,000,000.

(c) UNDER GENERAL PROVISIONS.—

(1) DAVIS-BACON ACT NOT APPLICABLE.—Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act.

(2) PROHIBITED USES.—None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or Mob Museum.

Mr. VITTER. Mr. President, this amendment is very simple and straightforward but basic and important. This would strike multiple cats and dogs, all-over spending provisions in the bill to try to begin to establish some spending discipline and get back to what this bill is supposed to be about: creating jobs, stimulating the economy, not just spending money and growing Government.

A lot of folks around the country have fundamental concerns about this bill, and the concerns are this is a huge amount of money and there is no real discipline and real focus in terms of spending that money. This amendment is one attempt to begin to correct that. It does not do everything we need to do, but it begins to correct it.

Let's start with the size of this bill. This bill is enormous. It is almost $1 trillion. As one of my colleagues has said, $1 trillion truly is a terrible thing to waste. We are in a crisis in terms of the economy, in terms of the budget, and in terms of the growth of the deficit and the debt, and we cannot waste $1 trillion.

This is so much money that if someone had begun spending $1 million a day—$1 million every day—when Christ was born, we would not yet be in 2009 to the full cost of this bill. That is how big this bill is. That is how much money we are talking about.

Of course, the argument is we face very dire economic times, we face a truly horrendous recession—and we do; I am not arguing against that fact—and that perhaps something that big and that dramatic is needed to help get us out of it. If that is true, let's look at what is in the bill and see exactly how focused it is on real job creation and real economic development and real stimulus. By that test, this bill fails. This bill is not focused. It is not focused on real job creation and real stimulus. It covers the waterfront. It is all about a traditional Washington-big-Government-spending program after program, touching virtually every part of the annual Federal budget rather than being disciplined and focused on items that can create jobs and pump up the economy immediately.

Why do I say that? Let's take some examples. Let's start with the truly ridiculous examples and then move on to other items that might be worthwhile spending programs but should be debated as traditional spending programs, not as job creation, economic stimulus, because they are not.

The truly ridiculous: How about fish barriers, because in this bill is $20 million for the removal of small and medium-sized fish passage barriers. I challenge anybody on this Senate floor to explain to us what this is. But certainly even if they can do that—and very few could—they could not explain how that is related to job creation and getting us out of this recession. We are not going to get out of this very serious recession by removing small and medium-sized fish passage barriers.

That is truly ridiculous, as it was ridiculous to have in this bill, until it was removed very recently, significant dollars for honeybee insurance. Again, I challenge this entire body, any Member, to come and explain what that provision was. But even if they could say what that provision was, what it represented, there is no way they could argue that is job creation, economic stimulus, getting us out of a very severe recession.

Or what about the $400 million that was in the bill until recently for the prevention of sexually transmitted diseases? We can all understand what that is, but we immediately know that is not job creation, that is not economic development or stimulus; it is not getting us out of this recession. Thankfully, that was taken out of the bill.

Let's move on. There are plenty of items that we can at least understand what they are, but they are not stimulus, they are not job creation. They are typical, run-of-the-mill, Washington-big-Government spending. They are items you find in the annual budget, and almost every major item you find in the annual budget is in this bill. It is like creating a new budget year and sticking it in between 2009 and 2010.

We are going to spend $1 billion in this bill on the census. Mind you, we appropriated $210 million as part of our emergency appropriations bill last summer—$210 million—but this is a bottomless pit. So in this bill, we are going to spend $1 billion more on the upcoming decennial census. We do censuses. They are important. We can debate it another day, another time, another bill if spending $1 billion, throwing that at the problem is going to solve the problem. But it should be beyond debate that is it not job creation, that it is not economic stimulus, that it is not getting us out of this recession. That is run-of-the-mill, Washington-big-Government spending. Of course, there is line after line of that. Almost every major item in any Federal budget is in this bill.

There are all sorts of categories of traditional Washington-big-Government spending. That is about building but not building highways or roads or bridges, not building jobs but building Government.

FBI construction, NIST construction—not many people know what NIST is. It is the National Institute of Standards and Technology. We are going to spend $357 million in this bill on construction at NIST.

Commerce headquarters: Construction for the Commerce headquarters is another $34 million.

Department of Homeland Security consolidation: We are going to consolidate and, in my mind, that means cut, save, and trim. But for some reason that consolidation is going to cost $248 million in this bill.

USDA modernization: Again, we are building Government, we are growing Government $300 million.

We are going to build a State Department training facility, $75 million, and more State Department capital investment, another half a billion dollars.

The DC sewer system: We are going to spend an extraordinary amount on that system—$125 million, again in the home of the Federal Government. Nowhere else are those dollars figured but in the home of the Federal Government. And on and on.

Again, we may be building. We seem to be building big Government and Government buildings in Washington, DC, not anything else.

There are all sorts of line items that, again, are Government Washington programs, traditional spending, not in any way focused on job creation, on real economic stimulus, on getting us out of this recession.

DOD hybrid vehicles, $100 million. NASA climate change research; neighborhood stabilization; the Historic Preservation Fund; comparative research; spending for the pandemic flu, $870 million; broadband and the smart grid, and on and on.

Again, we can debate another time another bill whether these are reasonable spending items, but it is obviously beyond debate whether it is job creation, economic stimulus, getting us out of the recession. It is not that in any focused, disciplined way. It is just using this $1 trillion opportunity to throw money at every cat-and-dog Government program to use the opportunity to plus up somebody's pet projects, to build what they have been waiting to build at the Commerce Department for 10 years and have not gotten the money. Oh, this is a trillion-dollar opportunity; let's do it now. This bill is a laundry list of those spending programs, of those big Government cats and dogs. No discipline, no focus, no demand that it be economic development, economic stimulus, job creation.

In addition, there is another provision that will cost a lot of money and not produce any additional economic stimulus, and that is the Davis-Bacon language. The Davis-Bacon requirements in this bill, mandates, would require Federal construction contractors to pay their workers a wage far above the market rate in most places, and that wage is basically the union wage which is above free market wages and rates in most parts of the country. That has been estimated to cost an additional $17 billion.

Mind you, that is not a cost out of the Federal Government contained in this bill, but it is a true cost and it should be added to the calculations of the cost of this bill. It is not included in the CBO score, but it is an actual cost, a true cost that should be added—$17 billion. It does not produce any additional project. It does not build another bridge. It does not build another highway. It does not employ anybody else. It drives up the cost of those construction projects and goes above the market rate in almost every labor market in the country. My amendment would also strike those provisions.

All told, Mr. President, my amendment would strike almost $35 billion of this miscellaneous, cats-and-dogs spending that covers a whole spectrum of traditional big government Washington programs. It would also take out that Davis-Bacon language and thus save us another $17 billion on top of the $35 billion, for a total savings of well over $50 billion.

Now, we are faced, as I said, with almost a $1 trillion bill. If we started spending $1 million a day on the day Jesus Christ was born, we would not yet be, at that spending rate today, in 2009, to the full cost of this bill. So $50 billion doesn't do the whole job, but it is a start. And I think the American people are watching and waiting to see if we are even willing to start, if we are really going to go to the core of this bill and change the core of this bill and say, no, we are going to maintain some discipline. We are not going to allow this to be another spending Christmas tree on which everybody gets to hang their ornament. This isn't just a laundry list of big government Washington spending programs. This is something much more disciplined, much more focused.

That is what the American people are waiting to see, if we are going to do that. They know the bill before us, just as the House-passed bill, has no discipline. It is a laundry list. They are waiting to see if we are going to get serious on the floor of the Senate and fundamentally change that laundry list of government spending, the idea of spending everything across the spectrum in this bill.

Obviously, Mr. President, I hope we take that important first step by adopting this Vitter amendment. Let's begin to enforce some discipline in this process. Let's begin to shave and cut those miscellaneous spending items, some of which are outright ridiculous, others of which may be good programs but aren't economic stimulus, aren't job creation, and aren't going to get us out of this recession in the next several months.

So with that, Mr. President, I urge all my colleagues, Republicans and Democrats, to join me in supporting this amendment and taking an important crucial first step—only a first step but a very important first step—to get back to what this bill was supposed to be about: real economic stimulus, real job creation, with real focus and discipline, not just a laundry list of spending items.

Mr. President, I reserve the remainder of my time.

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 bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. 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. 112 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I have an amendment at the desk, amendment No. 112, and I ask for its immediate consideration.

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

Hearing no objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER, proposes an amendment numbered 112 to amendment No. 98.

Mrs. BOXER. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow the deduction for dividends received from controlled foreign corporations for an additional year, and for other purposes)

On page 514, between lines 16 and 17, insert the following:

PART X—INVEST IN THE USA

SEC. 1291. ALLOWANCE OF DEDUCTION FOR DIVIDENDS RECEIVED FROM CONTROLLED FOREIGN CORPORATIONS FOR ADDITIONAL YEAR.

(a) IN GENERAL.—Section 965 (relating to temporary dividends received deduction) is amended by adding at the end the following new subsection:

''(g) ALLOWANCE FOR DEDUCTION FOR AN ADDITIONAL YEAR.—

''(1) IN GENERAL.—In the case of an election under this subsection, subsection (f)(1) shall be applied by substituting 'January 1, 2010,' for 'the date of the enactment of this section'.

''(2) SPECIAL RULES.—For purposes of paragraph (1)—

''(A) EXTRAORDINARY DIVIDENDS.—Subsection (b)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Subsection (b)(3)(B) shall be applied by substituting 'October 3, 2009' for 'October 3, 2004'.

''(C) APPLICABLE FINANCIAL STATEMENT.—Subsection (c)(1) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003' each place it occurs.

''(D) DETERMINATIONS RELATING TO BASE PERIOD.—Subsection (c)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(E) REQUIREMENTS FOR INVESTMENT IN UNITED STATES.—Subsection (b)(4) shall be applied—

''(i) by inserting 'deposited in 1 or more United States financial institutions and' after 'amount of the dividend', and

''(ii) by striking subparagraph (B) thereof and inserting the following:

'' '(B) provides for the reinvestment of such dividend in the United States (other than as payment for executive compensation) as a source of funding for only 1 or more of the following purposes:

'' '(i) worker hiring and training,

'' '(ii) research and development,

'' '(iii) capital improvements,

'' '(iv) acquisitions of business entities for the purpose of retaining or creating jobs in the United States, and

'' '(v) clean energy initiatives (such as clean energy research and development, energy efficiency, clean energy start ups, and clean energy jobs).

For any purpose described in clause (i), (ii), or (iii), funding shall qualify for purposes of this paragraph only if such funding supplements but does not supplant otherwise scheduled funding for either taxable year described in subsection (f) by the taxpayer for such purpose. Such scheduled funding shall be certified by the individual and entity approving the domestic reinvestment plan.'.

''(3) AUDIT.—Not later than 2 years after the date of the election under this subsection, the Internal Revenue Service shall conduct an audit of the taxpayer with respect to any reinvestment transaction arising from such election.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 2010.

Mrs. BOXER. Mr. President, I am pleased to offer this amendment on behalf of myself and Senator ENSIGN. We

have a number of cosponsors, so this is truly a bipartisan amendment, and I think it is worthy of everyone's consideration.

It is pretty simple what this amendment would accomplish. It provides an incentive for companies to bring back foreign earnings into the United States, and those foreign earnings must be invested in our U.S. economic recovery.

Right now there is about $800 billion sitting offshore because companies do not want to bring it in because it would be taxed at a 35-percent rate. This means, first and foremost, if you think about it, that our banks do not have any of these funds at a time when they are desperate for capital. This means that at a time that we want to inject dollars into this economy, those dollars are sitting offshore.

Now, we tried this once before. You are going to hear Senator LEVIN and others attack us for that last attempt. So to preempt that attack—I will have more to say about it later—I wish to show you what actually occurred last time that we did this.

We saw in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, before we passed our repatriation, all of these dollars, almost more than $350 billion, sitting offshore, not doing the American economy any good. When we passed this, those funds came back.

Now, what you are going to hear from some of my colleagues is that some of the companies did not live up to the spirit of the amendment. The spirit of the amendment was to bring the money home and invest it here at home in job-producing activity.

It is true. That is why, in this amendment we are offering, we have tightened the strings of what the companies can do, and we have required an audit of each and every company that takes this particular tax break. We have said that you only can use these funds to create or retain jobs, to make capital improvements in your business, to buy other businesses that will otherwise fail, to invest in clean technology.

We do not allow these companies to use any of these funds for golden parachutes or high CEO pay. We do not allow these funds to be used for dividends. We do not allow these funds to be used to buy stocks. Now, I can tell you a lot of the companies would like to see fewer strings. But Senator ENSIGN and I have agreed, in order to pass this, we are going to put some tough strings on it. That is what we have done.

Now, I do not have to go through the litany of job losses we have seen in our great Nation. Last month, there were 500,000 jobs lost. Laura Tyson, former Chairman of the Council of Economic Advisers under President Clinton, says:

> In the current crisis, even credit-worthy and profitable companies face liquidity and credit constraints.

And she said, in essence, that the repatriation policies provide a short-run stimulus.

People, if you vote against this, know you are voting against a stimulus because those funds will be available to support the domestic operations of U.S. companies. If you do not want to listen to Laura Tyson, listen to Robert Shapiro, chairman of Sonecon, former Under Secretary of Commerce for Economic Affairs under Bill Clinton. See what he says:

> $421 billion in foreign-sourced income currently held abroad could be repatriated. We project that nearly $97 billion of the $421 billion would go to retaining or creating employment.

And he goes on to say:

> Additional funds used for employment could save or create an estimated 2.6 million jobs, including 2.1 million jobs in manufacturing.

That is a Democratic economist. Now, last time, everyone said: Oh, nothing is going to come back in. No taxes will be paid to the Government. That was wrong. As a result of this repatriation in 2004, $18 billion in revenue was received by the U.S. Treasury, six times what some experts predicted.

Now, 62 percent of the funds were spent on worker hiring and training, R&D, and capital investments. You are going to hear horror stories, and I say to my cosponsor from Nevada, you are going to hear a litany of horror stories.

Well, I am going to tell some of the good stories. Oracle, a California high-tech company, used the funds repatriated in 2004 to outbid foreign competitors to acquire two U.S. companies—one in California, the other in Minnesota, and to keep the companies and their intellectual property in the United States. Oracle has increased jobs at both firms.

Intel, another California company, used repatriated funds to help build new fabrication plants. Now, some of the things you are going to hear I do not like to hear. I do not like that some companies did not act in the spirit of the amendment. But the amendment was not tightly drawn.

Let me say, loudly and clearly, if any company or any individual in the United States of America does not live up to the law, they should be gone after by the IRS and have to pay their back taxes. That is what is going to happen to companies that disobey this law. That is clear in our amendment.

I tell you what we do, we guarantee that there will be an audit of these companies. Now, I would say to any of my colleagues who oppose it, show another case where we pass a tax break and we require every company that takes advantage of it to get audited. As a matter of fact, I think it is a fantastic precedent to set around here, so maybe Chairman LEVIN does not have to hold hearings if the IRS did its job and go after the bad apples.

We address the issue of fungibility. We require that foreign funds must be spent in addition to the current spending level, not to displace money. We require that. We assure transparency and accountability.

I am proud that Senators ENSIGN, BAYH, SPECTER and INHOFE and I have come together across party lines. I am proud. This is a good amendment. I would ask my friends, where we have an opportunity such as this in the current environment, to inject $300, $400, $500, $600, up to $800 billion into this economy.

Now, people are going to say it costs money. Joint Tax says it is a few billion dollars over the first couple of years. Let me say, only in the Government would there be a cost of something that actually increases revenue. Those revenues were not coming in. We have proven it. These revenues sat out there all these years until we passed the bill. Then they came home and they paid their taxes.

I believe it brought in 16 billion—between 16 and 18 billion came into the Federal Government. So this amendment means job creation, it means funding for the banks that need capital injection. I am tired of voting for public money to fund banks. I did it. It was tough. Taxpayer money. I wish to see some of this money that is sitting out there get injected into the banks.

You are going to hear horror stories, you are going to hear populist arguments. I would put my populism to the test. I do not stand here every day and endorse tax breaks. I am very cautious. But common sense says, you have hundreds of billions of dollars sitting offshore, we are not being paid taxes on the money.

They will pay taxes on the money when it comes in. We have heavy strings attached. We require an audit. We have transparency attached. We have support from the National Taxpayers Union, from the U.S. Chamber of Commerce, we have support from industry. They very much would like to bring this back but do not want to bring it back in a circumstance where they are so heavily taxed.

So we have a choice: We can walk away from this amendment and we can let $800 billion sit offshore or we can learn from our experience the last time, where we did take in $18 billion into the Treasury.

But no question, we could have had some tighter strings. Senator ENSIGN, I have to thank him, because I am sure he had some other ideas for some of the uses, and I prevailed upon him. I said: Let's allow for a few uses.

I see that the Senator from New Hampshire is here. I wanted to close right now in this argument by telling you the uses that would be allowed because I think those are very important.

Here is the chart, folks. I ask Senator SHAHEEN to take a look at this: These are the sole permitted uses of repatriated funds. I hope my colleagues who stand and bash this tell me why these are not good.

Why is it not good to hire workers and train them? Why is it not good to do more research and development? Why is it not good to do capital improvements which will put people to

work? Why is it not good to acquire distressed businesses to avoid layoffs, shutdowns or bankruptcy? Why is not good to allow these funds to be used for clean energy initiatives?

Now, I ask that rhetorically. Maybe the answer comes back, we do not trust these companies. Well, let me tell you, we have added an audit. Every company that does this has to be audited by the IRS. It is automatic. So I am very pleased to present this admendment tonight. I am looking forward to hearing from Senator ENSIGN. I know we have a debate for which we will stick around, but at this point I will yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, I wish to congratulate and thank my colleague from California, Senator BOXER. A few years ago, we worked on an amendment together. Not a lot of people knew about it. The first time it was voted on in the Finance Committee, most of the Republicans in the Finance Committee voted against it. I remember talking to Senator Nickles at the time. He was leading the charge with the Republicans against the amendment, frankly, because a lot of people did not understand it.

It does not sound right that someone who invested overseas can bring the money back for less than what they pay in the United States. But the problem is that companies, if they have to pay a 35-percent tax on the money to bring it back, as Senator BOXER and I recognized it is common sense, they are not going to bring the money back.

The chart Senator BOXER had clearly showed that. Very small amounts each year of the profits that companies made overseas actually came back into the United States, until we passed what we called, at the time, the Invest in the USA Act.

The outside economists got it. They understood it. They projected—Allen Sinai, who was the economist at the time, did the studies. He predicted between $300 and $400 billion would come back to the United States and it would actually produce tax revenues, it would produce jobs.

Guess what happened, $360 billion came back to the United States. The Congressional Budget Office, Joint Tax, they said only about $135 billion would come back, and it would lose revenue to the Federal Government.

Well, a minimum of $16 to $20 billion was paid in taxes on the money that was repatriated, so it only increases revenues to the Federal Government. It did not hurt the deficit; it actually helped the deficit. The economists have studied the indirect and the direct revenue effects of the jobs that were saved and the jobs that were created. The estimates are closer to $34 billion of additional revenue, tax revenue to the Federal Government from the last repatriation.

So the Invest in the USA Act, which Senator BOXER and I worked on in a bipartisan fashion, passed 75 to 25 in the Senate. It turned out to be a great success. So we are trying to put a new version of this on this bill. To our amazement, the outside economists again are predicting that $565 billion this time is going to come back to the United States.

There is about $800 billion sitting overseas. The companies are not bringing it back. It creates jobs overseas. That helps the banks that are overseas with their capital. They are not bringing it back because they have to pay up to a 35-percent corporate tax rate.

We want to bring foreign earnings back one time. If they bring the money back in the next 12 months, we charge them a 5.25-percent tax. Well, is not 5.25 percent on $565 billion better than 35 percent of zero?

This is common sense. That is going to help the deficit. We have to get real about this and put some commonsense thinking into this.

I commend to my colleagues two studies: One is by Allen Sinai and the other by Robert Shapiro and Aparna Mathur. By the way, Robert Shapiro, former Clinton adviser, liberal economist; Allen Sinai, by any stretch of the imagination, at best a moderate economist. These are not rightwing radical economists. These are not neoclassical economists who are talking about this.

I ask unanimous consent to have their conclusions printed in the RECORD.

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

USING WHAT WE HAVE TO STIMULATE THE ECONOMY: THE BENEFITS OF TEMPORARY TAX RELIEF FOR U.S. CORPORATIONS TO REPATRIATE PROFITS EARNED BY FOREIGN SUBSIDIARIES

(By Robert J. Shapiro and Aparna Mathur, Jan. 2009)

CONCLUSION

In this analysis, we have evaluated the economic effects of the 2004 American Jobs Creation Act, which provided one-year of favorable tax treatment for repatriated profits from foreign subsidiaries of U.S. corporations. Using newly-released data from the Internal Revenue Service on repatriated earnings by industry under this program, we examined the range of stimulus-related effects, including significant positive effects on employment, domestic capital spending and wages associated with the use of repatriated profits for purposes assigned under the legislation, as well as significant revenue gains for the federal government.

This report extends this analysis to estimate the effects of a comparable one-year policy in 2009. We conclude that a one-year policy of taxing repatriated foreign-source profits at a 5.25 percent rate, as in 2004–2005, would have substantial stimulative effects on the current recession and expand capital flows in the currently-constrained financial system. We estimate that such a policy would result in the repatriation of nearly $421 billion in foreign-source income held abroad, including nearly $340 billion repatriated by U.S. manufacturers. Under the permitted purposes of the 2004 Act, this policy in 2009 would result in an additional $97 billion for job creation or retention, $101 billion for new capital spending, and $52 billion to pay down domestic debt. The additional funds used for employment could create or save an estimated 2.6 million jobs, and the additional funds used for capital investments could lead to long-term average wage increases of nearly 1.3 percent. The policy could produce more than $22 billion in direct corporate tax revenues and another $22 billion in individual income tax revenues on wage income stimulated by the job creation and job retention and by the wage increases associated with the additional capital spending. We further estimate that the policy could produce or free up $52 billion used to reduce the domestic debt of companies repatriating foreign-source income, providing an infusion of new capital into the financial system equivalent to 21 percent of the $250 billion provided in 2008 for bank equity infusions under the current TARP program.

This analysis shows that a temporary policy of sharply reducing the tax on profits held abroad by foreign subsidiaries of U.S. companies can play a meaningful role in stabilizing and restoring U.S. employment, capital spending and wages in the current deep recession, and provide additional liquidity to the U.S. financial system.

MACROECONOMIC EFFECTS OF REDUCING THE EFFECTIVE TAX RATE ON REPATRIATED FOREIGN SUBSIDIARY EARNINGS IN A CREDIT- AND LIQUIDITY-CONSTRAINED ENVIRONMENT

(By Allen Sinai)

CONCLUDING PERSPECTIVES

All-in-all, repatriation of foreign subsidiaries' funds via a program similar to the American Jobs Creation Act (AJCA) of 2004 that allows an 85% dividends-received-deduction and provides a lift to the U.S. business sector and significantly improves the financial position of nonfinancial corporations. The program works through providing an exogenous lift in business cash flow and then through the uses of the new cash flows by increasing corporate condition through the uses of new cash flows for capital spending, R&D, jobs, and strengthening of corporate balance sheets. The overall economy gains in growth, jobs, and the lower unemployment rate as a result.

Increased liquidity, less need for credit, and much greater cash flow to nonfinancial corporations stimulate business capital spending and capital formation, R&D, and hiring to raise the growth and levels of real economic activity. This comes at the cost of only a slight increase for inflation. The federal government budget deficit actually improves, benefiting from the taxation of funds that would otherwise be untaxed and left abroad and from increased tax receipts because of a stronger economy.

Depending upon assumptions made with regard to repatriated funds later in the period, there may be no cost to the federal government, with net, ex-post new higher tax receipts and a lower budget deficit than otherwise from the stronger economy.

Essentially repeating the AJCA in the current context of a credit- and liquidity-constrained environment appears to be a ''win-win'' event for all, the exception being those countries from which U.S. funds are repatriated. The other cost, which is arguable, is the possibility of an incentive to keep earnings abroad, awaiting another one-time tax break for repatriation.

This cost would appear to be minimal compared with the benefit of repatriation to the economy, businesses and in the credit- and liquidity-constrained situation that currently exists.

Mr. ENSIGN. What their studies are showing today, as they showed before we acted in 2004, is that money is going to come back. The Treasury actually

will be helped. Jobs will be created in the United States. And a side benefit is $565 billion comes into the banks in the United States to help capitalize the banks. What are we all talking about here? That our banks don't have enough capital. This, without a cost to the taxpayer, brings capital back.

But in the wisdom of Joint Tax, they actually say that this bill is going to cost money, that it is going to decrease revenues to the Federal Government, where all the evidence by outside economists as well as all the evidence by history shows otherwise. Look at this. Every year money being repatriated to the United States, pretty consistent down here, below $50 billion was brought back in each year. Guess what. We passed the Invest in USA Act in 2004. Repatriation shot up to $360 billion. Look what happened the next year. It went right back down, and it has been down since.

Mrs. BOXER. Will my colleague yield?

Mr. ENSIGN. I will.

Mrs. BOXER. I have been advised by my staff that Joint Tax today told us that in the first 2 years we will get revenues of $5 billion. Then they go off and speculate as to what is going to happen in 2017. So we can tell our friends here, in the first 2 years, Joint Tax tells us we are going to gain $5 billion. Obviously, they are off on that. We got $16 billion the last time. But even they are saying in the early years we gain revenue. I wanted to make sure my friend knew that.

Mr. ENSIGN. I was aware of the new numbers coming out of Joint Tax. But the outside economists say this will probably mean $45 billion in direct revenues, not including revenues produced when you actually have people in jobs and people paying taxes who are earning the money in those jobs. We have some great examples of what businesses did with that.

But let me quote Dr. Tyson, who was the chairman of President Clinton's Council of Economic Advisers. She recently wrote a report that said $565 billion would be repatriated. The money would be brought back to the United States. She believes it could raise $28 billion in investment in renewable energy projects alone, health care initiatives, and broadband deployment.

We have bipartisan economists saying this is going to work. The only people who don't seem to think this is going to work are the people somehow inside the walls here in Washington, DC who don't seem to get that if you have to pay a 35-percent tax, it is better to keep the money overseas.

One of the great American companies is Microsoft. Do you know that Microsoft has no exports from the United States. They have a lot of them from Ireland. Guess why. Ireland has a 12.5-percent corporate tax rate. If they pay that and they want to bring the profit back to the United States, they have to pay a lot of money, up to a 35-percent tax rate. So guess what they do. They keep the money in Ireland. They produce products in Ireland, and they export those products from Ireland instead of bringing the money back to the United States and creating jobs where they can have exports from the United States. From a commonsense perspective, it makes no sense to me to oppose this piece of legislation that will help capitalize our banks. It will help improve the capital structure of our businesses, because the money, as Senator BOXER so eloquently discussed, can only be used to hire and train workers. It can only be used for research and development, for capital improvements, for acquisition of businesses that may be distressed. That is certainly what Oracle did. Oracle bought two companies. They outbid a German company that was going to take 2,000 jobs outside the United States. Oracle buys them, keeps them in the United States, and then over the next few years increases employment at both places. Dell built a plant where they hired 1,800 workers. Those are good things to do with the money and more companies will do exactly this.

We look forward to the debate. I think it makes common sense. I thank my colleague from California, Senator BOXER, who has done great work this time as she did last time. I appreciate working with her.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this may sound like a good idea, but it isn't. There are a lot of reasons. First, it is a question of fairness, fairness to American companies that do their business in America compared with American companies that do their business in America and maybe significantly overseas. If you are an American company and you are doing business in America, let's say you are doing pretty well. You pay the standard 35-percent corporate rate; that is, if you are an American company. If you are an American company but you have significant overseas operations, subsidiaries and businesses in the Cayman Islands and other offshore entities, under this bill you don't pay that 35-percent rate that the American company pays that is doing business. You pay a much lower rate under this bill and basically pay 5 percent. I think that is about it.

So on the first level, this is totally unfair. Here we are, an American company doing business in America. We have to pay the full 35-percent corporate tax rate compared with companies that have significant revenues overseas. They bring it back to the United States, and they only pay 5 percent. These are companies that are taking advantage of the current tax laws by bringing it home, especially bringing back home repatriated income.

Under our tax laws, income by an American company earned overseas, active income, is not taxed unless it is brought home to the United States. But when it is brought home, then it is taxed at the basic 35-percent rate. There are some who claim that that revenue overseas is trapped. It is trapped overseas. Because they are bringing it back home, where they have to pay our rate. That is a totally unfair mischaracterization. It is not trapped. It would be trapped if they had to pay a penalty to bring it back, say a 70-percent rate. They bring it back at the ordinary rate, the rate the other companies have to pay. So it is not trapped. It is just that companies want to take advantage of this argument that they have to do it to create jobs.

Data shows that the last time we enacted something such as this, there were virtually no new jobs created in the United States. Why is that? Because companies use this money for other purposes. If there were provisions in the law that they had to use to it create jobs—money is fungible. So they say: OK, we will use some of this to make our payroll. Then we will use the money to pay dividends, go pay stockholders, go do something else. It is so easy to get around the nominal putative provisions in this amendment.

I must say also this is expensive. This costs $30 billion over 10 years for no good reason. Sure, if I am an American company with significant overseas operations and I parked a lot of my, say, patent development over in the Cayman Islands—and that is what they do, many of them, they develop a patent in the United States and park it over in the Cayman Islands, enjoy a very low tax rate, and then send the revenue generated by that patent back to the United States, that is what they want to do under this amendment—sure, I would like to do that, if I were an American company. I don't want to pay taxes, compared with the garden variety American company that does have to pay taxes.

There are a lot of reasons why this is a bad idea. It will not create new jobs. In fact, there is no job creation according to a study, which I can put in the RECORD, done on the last repatriation provision. We also know from the IRS that most of the dividends in 2004 came from tax havens such as Bermuda and the Cayman Islands and other low tax jurisdictions such as Ireland and Switzerland. These companies took advantage. It is not illegal, but they took advantage of the law by parking their operations over in those countries.

I do not think we should be rewarding bad conduct by enacting this amendment. This is an enabling kind of amendment. It encourages and enables future conduct. Where companies would say they developed a U.S. patent, they would sell the patent, put the cash in an overseas subsidiary in the Cayman Islands, and that sub then buys the patent and the money is then repatriated back. It is very much at the expense of good, solid American companies doing business in America.

This amendment will not encourage business to reinvest in America. The

last evidence shows it did not happen. Money is fungible. A lot of it went to stocks and dividend payments.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Before the distinguished chairman of the committee might leave the floor, he said some things that are not true, so I wish to point out to him that I am holding in my hand a report done by Robert J. Shapiro and Aparna Mathur. Robert Shapiro was a former Under Secretary of Commerce for Economic Affairs under Bill Clinton. He says that almost 2 million jobs were created the last time we brought the money home.

Let's take a look at that chart again, because I think it is worth looking at. He shows where they were created. Job creation or retention: 1.6 million manufacturing. They either retained it or created it. He goes through how many of them were food industry, paper, chemical.

I can tell you about Oracle, which was stated by my distinguished cosponsor, that Oracle went in and bought companies that were going downhill and were going to be bought up by a foreign company and saved those jobs. I can tell you, because we have the list of things that were done. We will take a look at Cisco.

And then my friend, the chairman of the committee, talks about these companies as if they are some terrible people. Cisco Systems, we should be proud of Cisco Systems. Intel, we should be proud of these companies. Cisco brought back $1.2 billion in 2004. They were right here. And it was used to create 1,200 R&D engineering jobs in the United States. Cisco says they have added 8,500 jobs in the United States, excluding employees added through acquisitions.

So my friends who are opposing this are going to stand up and throw out the horror stories and numbers. We have the studies. It doesn't take a degree—although I have one—in economics to understand that if money is sitting offshore and it isn't coming in in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, and then in 2005, it jumps up and comes in, gives $18 billion to the Treasury, and according to Robert Shapiro and Laura Tyson, we see millions of jobs saved, then you can stand up and demagog this thing to death. I could do it. They are going to demagog this to death. But I have the facts.

I also want to say that there were abuses the last time. The spirit of the law was not followed. The law was weak. That is why this is a very strong amendment. We tie down what they can spend. They have to have maintenance of effort. And any company that does this must be audited. It is in there. You show me another amendment that gives a tax break that does that kind of due diligence.

My friend can stand up there and say it didn't work the last time and it won't work this time. We have evidence to the contrary. We know what happened. Even Joint Tax says in the first 2 years we are going to make $5 billion. The whole notion that these companies are going to bring the money in out of the goodness of their hearts, I wish they would. Believe me, I wish they would. So you will hear more of this attack, and I hope you will put it into perspective, because the facts are otherwise.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Montana.

Mr. BAUCUS. Mr. President, I will speak briefly. I know others want to speak. I asked the Congressional Research Service to investigate this question, and I have a memorandum from them dated January of this year. It is from Jane Gravelle, senior specialist in economic policy. Jane Gravelle is a very respected analyst at the Congressional Research Service. This is an independent study. She has no ax to grind except to just get the facts.

Let me briefly indicate some of the findings they have. I will read here:

The following is a list of firms with repatriations and job reductions—

Not job additions, ''job reductions''—

along with the news source, in order of the size of the repatriations. The total in repatriations for these twelve firms is $140 billion, or one third of the total repatriations of $312 billion reported by the Internal Revenue Service.

First:

Pfizer repatriated [in that period] $37 billion. According to a New York Times Editorial . . . [and lots of other sources] Pfizer planned to lay off—

''Lay off,'' not add, ''lay off''—

10,000 employees.

I might say, according to Michelle Lederer, of Slate Magazine, in an article entitled ''The $104 Billion Refund,'' dated April 13, 2008, Pfizer had a 106,000 job loss in 2005.

Merck repatriated $15.9 billion and announced layoffs of 7,000 workers. . . .

Not additions—layoffs.

Hewlett-Packard repatriated $14.5 billion with a layoff of 14,500 jobs.

Procter and Gamble repatriated $10.7 billion . . . and cut jobs by an unspecified amount. . . .

We do not know what that number is.

IBM repatriated $9.5 billion; it added only 400 jobs worldwide out of 345,000 [jobs] but eliminated 5 million square feet located in the United States. . . .

Pepsi Co. repatriated $7.5 billion and laid off 200 to 250 Frito Lay workers. . . .

The list goes on in descending order. The other amounts are not as great.

So there is ample documentation that companies that have repatriated did not add; they laid off. Why? It makes sense because the money that comes back is fungible. They can use it for any purpose—any purpose—they want. It is not going to create jobs. They would like to have it come back and say it creates jobs, but it does not.

Now, my good friend from California said: Well, Joint Tax scores this positively in the first 2 years. That is right. But over 10 years, it is negative $30 billion, and a positive score does not mean jobs. A positive score just means there is more money for Uncle Sam because they are paying a lower tax rate. But that begs the question: What are they going to do with those dollars? I submit, based upon the evidence we have from the Congressional Research Service, they do not use it for new jobs. Past experience indicates, if anything, it is that these companies, in fact, took this money and cut jobs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, there is not fungibility this time. Senator BOXER and I worked very closely to make sure there were very tight uses of the money, and there is going to be IRS audits afterward to make sure they use the money exactly how the bill specifies.

The other thing is the distinguished chairman of the Finance Committee was trying to point out the companies repatriated money and then laid off workers, and he was trying to point out that was somehow a causative effect. It had nothing to do with it. Ford repatriated $1 billion almost and laid off 30,000 to 40,000 employees. OK. Ford had a lot of other problems. These companies had a lot of other problems.

Hewlett-Packard had huge problems going on, and the repatriation made it a lot better, so they ended up in a short period of time laying off some people, but in the long run they ended up increasing American employment over the next several years because they were in a better financial position. That is the way our companies are today. You could take a lot of other companies during that same period of time that did not repatriate a dollar and laid off people. So what did repatriation have to do with anything?

Now, the chairman of the Finance Committee brought up that it is a question of fairness, that U.S. companies doing business overseas would only have to pay at a 5.25-percent tax rate on the money they made overseas, while companies in the United States pay a 35-percent corporate tax rate. Well, I will join you right now in lowering the corporate tax rate in the United States. I will join you hand in hand to lower it. By the way, if you lower it, you do not have to do the repatriation amendment. As a matter of fact, they tell us that at somewhere between a 20-percent and 25-percent corporate tax rate, you do not have to do repatriation because then money can flow where money would be used most efficiently, and a lot of this money would come back on its own to the United States. The problem is, the way the tax structure is set up today, it encourages companies in the United States that have invested overseas to keep the money there because it is too prohibitive to bring the money back to the United States.

So I ask the rhetorical question, once again: Is 5.25 percent of $560 billion better than 35 percent of zero or 35 percent of a small number? That is really what we are dealing with here. So whether it is CRS, whether it is Joint Tax, they just do not seem to get it. The outside economists get it. They understand it. That is why their studies show 2 million jobs will be created this time, maybe more than that. Actually, Shapiro actually says it will be about 2.6 million jobs created or saved with this amendment. So I think the facts are clearly on our side on this issue. Whether it is a fairness issue or whatever, the bottom line is we want to help the United States of America.

The last point I will make is, if you did nothing with this money—absolutely zero—if we required nothing except for the money to come back to the United States and come in to our banks, wouldn't that be a good thing right now? Common sense: Our banks need capital. We need liquidity in the United States. Let's try to follow this simple formula: In order to have employees, you must first have employers. OK. Are you with me so far? In order to have employers, you have to have capital.

Mr. President, $560 billion in capital leads to a lot of employees. That is capitalism, folks. You need capital to have employees. It is a simple formula. Let's get this right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I have been listening to this debate and I am kind of, let's say, astounded by the arguments of the proponents that somehow or other you can cite the Joint Tax Committee for how much money will come into the Treasury for the next 2 years and then trash the Joint Tax Committee for everything else they say. They are not outside economists, we are told; they are inside economists. Yet the facts that the Joint Tax Committee give us for the years 2009 and 2010 are cited as supporting the proponents' argument because it shows that money comes into the Treasury during those 2 years, but in order to sustain their position, they have to ignore all the rest of the Joint Tax's position, which is that this costs almost $30 billion in 10 years.

Is it just that the outside economists take over the Joint Tax for the last 8 years? This argument about outside economists, inside economists—there are economists who differ on things. We rely on Joint Tax. These are independent, objective economists whom we have to rely on, and do rely on, not just for some of the things they say, as some of the proponents want to have it, but for what they tell us about this amendment.

This amendment will cost us over the first 5 years, $3 billion—that is Joint Tax—over the 10 years, $28.6 billion. That is a major loss to the Treasury, and we cannot afford it. This is a tax gift to those companies that move operations overseas, and then produce overseas, and then have no tax on their profits because those taxes are deferred until they bring those profits home. Our tax structure says when you bring them home, you should pay the same tax as your competitors pay in the United States. The companies in the United States that do not move operations overseas, they pay up to a 35-percent tax.

By the way, the Senator from Nevada has an argument. The basic problem is the size of the tax that we impose on corporations. That is the fundamental issue. But what the proponents are doing is creating a competitive advantage for those companies that move operations overseas because they do not pay the 35-percent tax if they do not bring back those profits.

Then, we were told 5 years ago: Let's just, one time—we were assured just once—let them bring back this money and only hit them for 5 percent. We were assured it would be a one-time-only deal. It would not be repeated, to use the words of the conference report. Lo and behold, now the proponents—the same proponents—want to repeat this. And what has happened—and this is not just me saying this; this is the CRS saying this—is the companies wait for this opportunity believing that once again we are going to allow this kind of repatriation at a much lower rate. They hold money overseas, awaiting the time when they can bring it back at a 5-percent rate instead of paying the same tax rate their domestic competitors pay, which is up to 35 percent. So this ends up—with this kind of repatriation, when we repeat it this way—being an incentive to keep the profits overseas, waiting for the time when they can be repatriated at the lower rate.

Now, I want to quote some other inside economists since the distinction seems to be important to the proponents, and they are in the CRS. What does the CRS say about the 2004 repatriation package that was passed? The chairman of the Finance Committee has quoted the CRS for some of the data, and I am not going to repeat that. It is pretty powerful as to the lack of impact in terms of jobs and in terms of investments from that repatriation. They are inside economists, yes, but objective economists, independent economists not paid by anybody else to make a study. You can get economists, I am sure, who are going to reach different conclusions on this issue. But these objective, independent economists, whom we rely upon—frankly, I rely on much more than outside economists who have all kinds of connections to all kinds of organizations, and no one knows exactly on whose payroll they are when they make studies—the Congressional Research Service, with independent, objective economists, what does it say about that 2004 bill?

They say: Imperial evidence is unable to show a corresponding increase in domestic investment or employment, that the repatriations did not increase domestic investment or employment. That is what they say. You cannot show any empirical evidence. Or put it this way—this is their conclusion, not mine—their conclusion: That empirical evidence does not show an increase in domestic investment or employment from what we did last time. Little evidence, they say, exists that new investment was spurred.

Some outside economists, Foley, Forbes, wrote the following: Repatriations—they are talking about in 2004—did not lead to an increase in investment, employment, or R&D, even for the firms that lobbied for the tax holiday stating those intentions. Instead, a one-dollar increase in repatriations was associated with an increase of approximately one dollar in payouts to shareholders.

Those are outside economists, for what that distinction is worth. When companies move jobs offshore and they make profits overseas, they have a competitive advantage frequently because labor might be cheaper, and that is something we should not encourage, that movement of jobs. Our Tax Code should not give an incentive to the movement of jobs overseas. It does right now because you defer the profit you make overseas and don't pay tax on it. That is already an incentive in the Tax Code which, frankly, I don't like, and there may be, hopefully, some effort to correct that with this administration and in this body. But at least when they bring back the profits, they ought to pay the same tax their competitors pay.

The argument is made that they are not going to bring back the profits, that we lose money to the Treasury. They, the proponents, cite a study—and I believe they are relying on a calculation from the Grant Thornton firm, although I am not sure; that name has not been used here. But I think this is the assessment that is being relied upon. Here is what Joint Tax said about that calculation:

> It ignored the fact that a significant part of the $18 billion in revenues that it attributed to that 2004 Act would have been collected by Treasury in any event as dividends were paid in the ordinary course of business over the 10-year budget window. Thus, the calculation—

And this is Joint Tax speaking—

> is not a revenue estimate at all.

When the Joint Committee on Taxation issued its revenue estimate in 2004 on the impacts of the 2004 repatriation—a projection of how much additional tax revenue would be generated or lost by that proposal—it projected $2.8 billion in additional revenue would be generated the first year, but the Joint Committee estimated that for the 5-year budget cycle, 2005 through 2009, the repatriation proposal would cost the Treasury money—a loss of $2 billion, to be exact. The revenue estimate for the 10-year budget cycle of 2005 through 2014 was estimated by the

Joint Committee on Taxation to be a loss of $3.3 billion.

We have to rely on these independent experts. They may be in-house, they may be ours, we appoint them, but we have to rely on them. This distinction between inside and outside economists, it seems to me, if anything, should work to the advantage of the independent, objective, inside economists on whom we rely. These are nonpartisan experts we put in place to give us the very projections which we have in front of us tonight. Those projections are mighty clear. Those projections show, yes, year 1 and 2, there is going to be additional money coming into the Treasury, but then we start losing money big time, and we cannot afford to do that.

Finally, a lot has been said here about the fact that there are going to be audits of this—and, indeed, the amendment does provide for audits—to try to determine whether the money which comes back into the treasuries of these companies is spent for the purposes that are stated in the amendment. But what the amendment does not do is require that those funds be spent. There is no time limit saying that the funds must be spent in year 1 or year 2. What it does say is that if they are spent, an auditor is going to try to determine that they are spent for the enumerated purposes. But what it doesn't do is provide the requirement that those funds be spent in years 1 and 2, and that is the purpose of the stimulus package. The purpose of the stimulus package is to try to get money spent on job creation, and the amendment fails in that very fundamental way. It does not require the funds that are brought back to be spent for the identified purposes. It says if they are spent, it must be for those purposes, but it doesn't require that they be spent in year 1 or year 2 or year 3 or year 4 or whenever. When they are spent, they will be audited. That is an effort on the part of the proponents to avoid the problems discovered the last time we did this, but it doesn't address the fundamental purpose of a stimulus package.

So it costs us money—that is Joint Tax. The last time we did this, which was supposed to be the last time we would do this, according to CRS, it did not stimulate the creation of jobs, and it fails to pass the fundamental test that it is not required to be spent for the enumerated purposes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, there has been a generous amount of discussion and debate. In fact, I was sitting listening to it and curious that my friend from California described those who would speak in opposition as being engaged in demagoguery before she heard the opposition. So there is a clairvoyance here, I guess, before we have an opportunity to speak on these issues. I will not engage in demagoguery, but I will not disappoint her in my opposition to this piece of legislation.

Let me describe what this piece of legislation is. If you like the notion that we want to encourage companies to move their jobs from our country to other countries, then this is the legislation for you. This is an acceleration of what we have done for far too long and what some of us have tried to correct for a long time. There is an unbelievably pernicious provision in our tax laws that says: If you have two businesses right across the street from each other and one of them decides they are going to fire all of their workers and move to China, and they both make the same product and sell the same product in the United States, the only thing that is different once they have moved those jobs to China is the company that left our country and fired their workers ended up with a lower tax bill. What an unbelievable thing to have in the middle of our Tax Code. I intend to try to correct that with another amendment, by the way. But this repatriation tax holiday amendment is kind of a cheerleader amendment for that proposition: Well, we like that; in fact, let's encourage more of it.

Let me straighten out a couple of things with facts. Everybody is entitled to their own opinion but not their own facts.

First of all, the corporate tax paid in this country is not 35 percent. That is a statutory rate. The effective tax rate paid by corporations in America is around 17 percent, not 35 percent. So when we talk about it, let's talk about what is real. All right. So big corporations on average pay 17 percent. But what we have in this piece of legislation is to say those corporations that have, in many cases, moved their plants overseas and made profits overseas with the full understanding in our tax laws that they will at some point repatriate those profits and then pay the corporate tax rate on those profits in our country, this amendment says no, that is not going to be the case. What we are going to try to do is say: If you bring them back, you get to pay a 5.25-percent tax rate—not a tax rate that ordinary folks pay, a tax rate that is almost one-half of the tax rate the lowest income folks pay. That is pretty unreasonable, in my judgment. Now, let me just say that in the ranks of bad ideas, the pantheon of bad ideas, this ranks way up there. It is tired, old, shopworn, and they try to slide it through here with a thick coat of legislative Vaseline, just sort of slip it all through here while we are debating how to promote economic recovery in this country.

Let me just turn to a few facts, if I might. This is the New York Times, Lynnley Browning talking about the one-time tax holiday—this isn't new; we have done this before—in 2004 that offered companies the chance to bring that money back at a reduced rate of 5.25 percent. Put another way, the tax break gave each company claiming it an average of $370 million in tax deductions.

So we are probably not at odds that the proposition is to give very big tax deductions to big companies. That is what this amendment is.

Now, the New York Times. The drugmakers were the biggest beneficiaries of the amnesty program—this is the 2004 program—repatriating about $100 billion in foreign profits and paying only minimal taxes. That is the purpose of this amendment. But the companies did not create many jobs in return. Instead, since 2005, the American drug industry has laid off tens of thousands of workers in this country.

I was part of that 2004 debate. I remember the claims that were made: Do this. Give a special deal to these companies. They will create jobs. Well, the biggest beneficiaries were the big drug companies. They didn't create jobs; they cut jobs in our country. A success or failure? It seems to me that is a failure, and now we have the same proposition back saying: Let's have another round of this.

Hewlett Packard: $14.5 billion in repatriated profits, 14,500 jobs cut. Colgate-Palmolive. Motorola. I could spend a lot of time, but I got rid of most of those charts, so just to show an example.

This is an editorial by the Chattanooga Times: It shouldn't escape Americans' attention—this is 2005—that U.S. companies have disclosed plans to repatriate some $206 billion in foreign profits—that is as a result of the 2004 legislation—under a one-time tax break allowed by Congress on the grounds—you guessed it—that such a big break would ignite a strong spurt in growth. The upshot, of course, is that no such job spurt appears to be materializing. Some have even announced plans to cut domestic operations and jobs.

Colgate-Palmolive repatriated $800 million in foreign profits and cut 4,450 jobs and shut a third of its plants over the next 4 years. Even the primary advocate—and I mention this because my colleague just mentioned Mr. Allen Sinai—even the primary advocate for the special one-time break, economist Allen Sinai, is now soft-pedaling his reduction of 660,000 new jobs over 5 years. He now says the efficacy of the tax break will be hard to prove.

Well, some other thoughts about this. Michael McIntyre, Wayne State University: There is no evidence that the tax amnesty added a single job to the U.S. economy.

Michael wrote a piece about this in December of 2008.

Again, Michael McIntyre: Most of the repatriated money was used to buy back corporate shares and for other expenditures favoring management. Not exactly something that fits very well in an economic recovery plan. One study found that repatriations did not

lead to an increase in investment, employment, or R&D. Instead, a $1 increase in repatriations was associated with an increase of approximately $1 in payouts for shareholders.

So much for new jobs.

Professors Clemons and Kinney, Texas A&M research study: On average, firms appear to have responded to the opportunity to reap tax savings provided by the act but did not use the funds to increase domestic investment.

Finally, Robert Willens, tax and accounting authority, New York Times article: It was basically worked out to be one big giveaway. The law never took into account the fact that money is fungible.

That is the most important point. Money is fungible. You can say it will create jobs; it doesn't mean anything. It doesn't mean a whit.

So here we are in February of 2009, 5 years after the last time the proposal was made to give a very big tax break by saying to some corporations: You know what, we have tax rates that we want you to pay, but if you are big enough and if some of you move jobs overseas from our country, we will give you a 5.25-percent tax rate.

Now, this is the Bismarck, ND, phone directory. We are not a metropolis and we don't have the largest city in the country, but I could go through this phone directory and read some names. We have a lot of Olsens, by the way, and a lot of Schultzes because we are a lot of Scandinavians and Germans and so on. But I could go through all of these names and ask the question: Do you think Mr. Copeler would like to pay 5.25 percent income tax? I think so. I hope so. How about Mr. Clause? Would he be able to pay 5.25 percent? I am sure he would like it if we just cold-called him and said: What do you think about this? But no person I am aware of will be invited by this Senate to say: We would like to give you a 5.25-percent income tax rate—just the biggest companies in America, many of which move their jobs overseas, and we say: We will give you a big fat reward. We will claim that you are going to create jobs, but we know better because the studies are clear.

As for the studies that have been done about the cost of this, we don't have to debate that. This loses $29 billion in 10 years. There is no debate about that. We only have one entity that makes those estimates. This costs $29 billion in losses over 10 years.

But the major point—which I assume causes the gritting of teeth by those who believe it is demagoguery—is we have been fighting for years to say to American employers: For God's sake, stay here in this country. Don't go in search of 30-cent labor in Shenzhen; keep your jobs here. And many of them said: Tough luck. Take a hike. We are leaving. We are going to go produce Radio Flyer little red wagons in Shenzhen, China. Yes, it was produced in Chicago for decades, years, but tough luck, we are firing all of those folks and we are producing the little red wagon in China.

We are doing the same thing with Huffy Bicycles and with Etch A Sketch. I could talk about a hundred products that are all in China. We gave them all a tax break to leave. Isn't that something?

This now says to American companies that own the product that is now going to be produced in China: If you bring your money back here, we will cut your tax rate by 85 percent.

There is an old country saying, ''There is no education in the second kick of a mule.'' We don't have to relearn what we knew in 2004. Some of us made the case in 2004 that this was an unbelievably bad idea, that it rewards exactly the wrong thing. I am all for tax breaks. I would like to see on this bill a 15-percent investment tax credit that has an end date to it, which says if companies—small businesses and large businesses—make these investments now, before July 1 next year, they will get that. I would like to see a big investment tax credit and require investments in the early period. I am all for big tax breaks for consumers to buy cars and homes. I would like to see people start buying homes and cars again. I think that would help the recovery. I am not opposed to tax breaks. I want us to do things that provide incentives to keep jobs in this country, to create jobs, and we know—we don't have to guess—this amendment does exactly the opposite. I have heard numbers and studies discussed. This is not rocket science. We have the definitive analysis of what happened in 2004. We have an estimate of what this will cost now.

We lost jobs in 2004 and forward, and this will cost us $29 billion in lost income now. It will say to any other company, if you ever think about moving jobs overseas, understand there are enough people in Congress who in 2004 and 2009 will come up with another idea in 2014 and 2019 that will cut your tax rate to 5¼ percent some day and you will never have to pay your full measure of income tax on profits as an American corporation. This rewards all of the wrong things.

I don't accuse my opponents of demagoging. I think they are wrong and they are using bad facts. We disagree about that. I agree that there are very different opinions on this issue. One is wrong and one is right. Ours happens to be right. There is only one public interest here. The public interest is demonstrable here, not even a close question. I hope if we are talking tonight, on a day when 20,000 Americans lost their jobs—every day somebody comes home and says, ''Honey, I lost my job''—when we are trying to create jobs and restore jobs by creating an economic recovery package, we don't have people coming to the well of the Senate and saying count me in for providing a 85-percent tax cut to big companies that moved overseas, that we know will not create jobs and we know will further deepen the Federal budget deficit.

Mr. President, having given full measure and vent to my concern and interest, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I love this debate and I love my colleague from North Dakota. I am going to start off by saying I have a 9.2-percent unemployment rate in my State. People are struggling and suffering. That is why I support this amendment, which I was proud to work on with Senator ENSIGN, Senator BAYH, and Senator SPECTER.

First, my friend has it wrong. He has it absolutely wrong. We are bringing money home to America. We are not sending money out. It is already gone. Look what happened the last time we did this. The money came home. Now, you can argue theoretically in any way you want, but we have the proof. Here it is. We passed a law in 2004 and this money came home. I say to my friend from Michigan, eloquent on the point of defending the Joint Tax Committee—and I ask my friend from Nevada to back me up on this point. I say to my friend from Michigan, if I can get his attention, that we can worship at the altar of the Joint Tax Committee. I don't. I don't because they were wrong. They were wrong. It is not a theoretical argument. They were wrong.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. Yes.

Mr. ENSIGN. The opponents of this measure are saying the Joint Tax seems to be the experts we should trust. Is my friend from California aware, I wonder, that in 2004 when we were doing this debate, the Joint Tax Committee estimated this measure would decrease revenue by $3 billion? But is my friend from California aware this actually produced to the Federal Government a net of $16 billion in tax revenue? We were not hurting the Government revenue but helping it? I further ask, through the Chair, is my friend from California aware that the Joint Tax Committee, last year, scored this same measure at $18 billion? This year, they scored it $29 billion. Was last year's estimate right, or was this year's right? They were so wrong in 2004 when, by the way, the outside economists were right. The inside economists were wrong. Was my friend from California aware of those facts?

Mrs. BOXER. I was aware. The Senator is absolutely right. They said it would cost $3 billion from the Treasury and, in essence, $16 billion was added to the Treasury, and even now they are saying over the first 2 years there will be $5 billion added to the Treasury. My friends don't talk about that; they talk about the long range.

I also say to my friends who oppose us so vociferously, on the other side of this, you will find very respected economists who believe that the Boxer-Ensign-Bayh-Specter amendment

makes sense. They are Alan Sinai—I don't know how my friend says he backtracked. He said this in December. Maybe he backtracked in the last 2 weeks. In December, he said that repatriation has spurred $280 billion in capital investments over a 5-year period, increased R&D development by $7 billion a year for 5 years, increased Federal revenue by $82 billion, and will create or save up to 425,000 jobs by 2012.

Mr. DORGAN. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DORGAN. The Senator asked me about backtracking. He made the same prediction in 2004 and then backtracked. I predict he will do the same thing.

Mrs. BOXER. Joint Tax ought to backtrack. They were flat wrong. They said maybe $200 billion will come back, and $360 billion came back. They said we would lose money. We wound up with $16 billion added to the Treasury. So it is very easy to demagog. It is very easy. But my friend has it wrong.

Then my friend says that effectively the corporate rate is only 17 percent. Well, if that is true, then this is less of a tax break than he is making it out to be. You cannot have it both ways and say, look at this giant tax break and then say the effective rate is 17 percent. I suggest to my friend, as he went through the phone book in his State, thank goodness, because of the work of this Congress, people in the $40,000 to $50,000 range don't pay any taxes.

I will tell you something. I am rarely standing up here and saying a tax cut to the business community is stimulative. But this one is, because it was stimulative. We have it right here from Robert Shapiro, who worked for Bill Clinton. He said that jobs saved or created were 1.6 million from the last tax break. So my friends come here and quote Joint Tax as if we have to say they are right, when they were wrong—just wrong—wrong on estimating what would come back, wrong on estimating what would come into the Treasury. If you read these economists, whom I have heard colleagues on this side quote constantly—Laura Tyson, Alan Sinai, and Robert Shapiro—they are saying how to stimulate the economy, and this is one way to do it. To stand up here and be against it is fine. I don't mind that one bit. But to stand up here and be against it because you were for the fact that there are corporations that have earnings offshore, I abhor that, too. I want to bring them home. No matter what my colleagues say, guess what. This is a free marketplace, and they don't have to and they won't unless they have an incentive. That is a fact. We may wish it to be another way.

Look at this chart. Year after year after year, very little came back. When we took action, all of this came back. The reports are in from these economists—and most happen to be Democrats—that it worked.

Mr. ENSIGN. Mr. President, I ask my friend from California this question. It was brought up earlier that the money is going to come back anyway. The Senator from California has a chart in front of her. I ask her if she could explain the chart and that the money wasn't coming back until we lowered the tax rate. And then it went right back up after we lowered the tax rate.

Mrs. BOXER. My friend is so right to ask that. Sometimes debates are difficult to follow. They are confusing and complicated. This is not complicated. We know the way the corporations were acting before, and we know what happened when we took this chance. We got arguments from people here that money won't come back and it will not be spent here. By the way, this is a tight bill. My friend from Michigan argues that we don't force the companies to spend the money. We don't force them to spend the money. I don't even think that is constitutional. But I have to tell you this: Even if the money sat in American banks, I say to my friend from Nevada, who is my pal on this one, wouldn't that be in and of itself a reason to do this? We are breaking the backs of taxpayers to take $770 billion, I think it is, through TARP to capitalize our banks. As my friend says, if they don't spend the money right away, they let it sit in these banks that need this capital and, hopefully, they will start lending, which we hope will happen so we can get back to an orderly market. It will make the banks healthier.

My view is that this year there is more of a reason to do it than ever before—the terrible recession. We have a tight bill that will only allow this tax break to be utilized if the money is used to create jobs, where they bring the money home. That is it. Otherwise, they cannot get the break. We have a forced audit in here, and I defy my friends to find another piece of legislation that has such an audit—a forced audit.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. I am happy to, yes.

Mr. ENSIGN. A big deal has been made of which economists we can trust. I ask my friend from California, when Joint Tax scored this last time, not only were they wrong on revenue estimates, but they estimated that about $100 billion or so would come back to the United States. The outside economists estimated between $300 billion and $400 billion would come back to the United States. According to CRS this time, according to the study the chairman of the Finance Committee quoted, $360 billion came back and $312 billion was used according to the measures we put in the bill. Was she aware that the Joint Tax Committee was that far off on their estimates, not only on revenues produced but on how much money could come back?

Mrs. BOXER. Mr. President, that is right. My understanding is they were way off by more than $100 billion. So for us to say: Oh, my God, don't vote for the Boxer-Ensign amendment because Joint Tax says A, B, and C, I say to my friend, Joint Tax has been so out to lunch on this. They didn't even come close to what happened.

We can have lots of arguments, but I can tell you this: Nobody gains in America when that money sits offshore. They did not gain in 1997, 1998, 1999, 2001, 2002, 2003, and 2004. We had Oracle buying companies that were failing. We had Cisco Systems expanding. Yes, we know there were job layoffs. Of course, we know that. If Pfizer has a problem—let's just say they have a drug on the market that is causing a problem, they are going to lay off people. They are going to have problems.

We do not allow funds to be used for dividends. We do not allow funds to be used for any kind of golden parachutes or CEO pay. We do not allow buybacks of stock. We tighten it up very much.

I hope we can get to the 60 votes. I am very confident we will get a majority. I hope we get to the 60 votes. It sends a good message. The message is we do not like money sitting offshore. We want to bring it home and help the banks. We want to bring it home and help the workers. We want to bring it home and invest it in America. That is why it is called repatriation. You can get up and you can make every argument in the book, but when you do, I think you have to explain to people why economists such as Laura Tyson, Allen Sinai, Robert Shapiro are very clear, why they say that Joint Tax was off, why they say that even the last bill that was not as strong as this actually created and saved jobs, and why they predict that if we do this, it will stimulate the economy.

I know my friends would like to have a time agreement. I have no problem with that whatsoever. If there is to be a time agreement, Senator ENSIGN and I are very happy to agree to it as long as we have full measure to respond to speakers.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time until 8:15 p.m. be for debate with respect to the Boxer-Ensign amendment No. 112, with the time equally divided and controlled by Senators BOXER and BAUCUS or their designees, and that no amendment be in order to the amendment prior to a vote in relation to the amendment; further, that the Vitter amendment No. 179 not be divisible.

Mr. LEVIN. Reserving the right to object, I believe a point of order lies against this amendment. Does that preclude——

Mr. BAUCUS. No.

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

Mr. BAUCUS. Mr. President, I might add, I ask unanimous consent that provided further, at 8:15 p.m., the Senate proceed to vote in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I don't understand what we are doing.

Mr. BAUCUS. We are going to vote at 8:15 p.m. and the time is equally divided.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I would agree to that, happily, if we can have 1 minute prior to the vote to restate.

Mr. BAUCUS. The Senator controls time so she can get that 1 minute. That is a gentleman's agreement, or gentlelady.

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

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, part of this discussion has been what message does this amendment send. I will tell you what message it would send to me if we adopt this amendment. It sends a message to all corporations that do business overseas that they are never going to have to pay the regular corporate tax in this country on any earnings overseas. They are going to have to pay those on earnings in this country. If they keep a plant here and keep hiring people here, they are going to have to pay the regular corporate tax rate. But if they move those operations overseas, then they will be assured, with pretty good certainty, that every 4 or 5 years, Congress is going to come along and give them a 5.25-percent tax rate that they can bring those profits back with. I think that is a terrible message for us to be sending to U.S. corporations.

Part of the discussion has also been that U.S. corporations have to pay too much in taxes. I know Senator DORGAN said the effective tax rate, in his view, was 17 percent. I asked research to be done, and I want to show this chart so people can know what it says. The source for this information is the Organization for Economic Cooperation and Development, OECD. What this shows is that the effective corporate tax rate in this country—this is on profits generated in this country—the effective corporate tax rate is 13.4 percent. The average OECD corporate tax rate is 16.1 percent. We are way down on the list compared to most other industrial countries we compete against as far as the level of corporate tax we impose.

This amendment would say that this 13.4 percent is too high. What we need to do is say if you are going to generate your profits overseas, we are going to give you a special deal. As an incentive to put more of your operations overseas, we are going to give you a 5.25-percent tax rate on the profits you generate over there. To me that is just contrary to exactly what we are trying to do with this underlying legislation. The purpose of this legislation should be to stimulate job creation in this country. This amendment, to my mind, has the opposite effect. It promotes and incentivizes companies to move their jobs overseas.

I strongly oppose the amendment. I hope my colleagues will vote against it. I am one of those who voted for it the first time we did it because I believed what was said at that time, which was it was a one-time tax holiday. I did not realize that every 4 or 5 years we were going to be faced with another proposal to do the same thing.

If we want to redo the corporate tax rate, that is a good debate. We ought to have that debate. We ought to have it in the Finance Committee. But we should not be in a de facto way providing for a 5.25-percent corporate tax rate for anyone who is willing to earn their profits overseas.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield to Senator ENSIGN for as much time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I wish to make a couple points. Once again, I wish to get back to some common sense. Is it better for the money to be overseas, or is it better for the money to be in the United States? If it is overseas, it creates jobs. If it is in the United States, it can create jobs in the United States. That is the bottom line.

On the chart my friend from California showed earlier, the money was not coming back to the United States in any significant amounts until we passed the 2004 ''Invest in the USA Act.'' And then the next year, $360 billion came back to the United States. After that, it went back down as far as the money coming back into the United States.

By common sense, we have to know that the money is not going to come back to the United States. By doing this, we are not encouraging companies to go overseas. Quite frankly—and I said to my friend, the chairman of the Finance Committee—if he wants to lower the corporate tax rate, I would join him right now. As a matter of fact, I may be offering an amendment to do that because I believe that our corporate tax rate, being the second highest in the industrialized world, is too high, and it encourages other companies to go overseas. But we cannot do that. We do not have enough bipartisan support to do that.

Here we have a bipartisan measure. Very few things happen on this bill in a bipartisan way. This is truly bipartisan. The four sponsors of this amendment—two Democrats, two Republicans—are working together. The last time this bill passed the Senate was a 75-to-25 bipartisan vote. That should show us right now a lot of people looked at this and said it was a good idea, and a lot of people are looking at this again. It is a good idea because it makes common sense to bring money back into the United States to create jobs in the United States.

I will just say, if Joint Tax was wrong a few years ago, they are probably wrong again. As a matter of fact, I cannot even believe the last year they scored a repatriation bill with a larger scope at around $15.9 billion. This year they are scoring a more narrowly tailored version at almost $29 billion. In one year, they are that far off, and they were totally wrong back in 2004.

The outside economists are saying this is going to save or create over 2 million jobs. Isn't that what we are about, trying to create and save jobs in this bill? This particular amendment, even if it did cost the money Joint Tax is saying, creates more jobs for the dollar than anything else in this entire stimulus package.

We ought to adopt this amendment. It is common sense, and we ought to put common sense to work when we are trying to save the U.S economy.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Finance Committee chairman. Let me suggest to colleagues why this is not common sense, and I think experience tells us it is not common sense on this bill at this time, where the purpose is to create jobs and to try to get the maximum return on our investment of the American taxpayers' dollar.

The fact is, I voted for this, too, back in 2004. This was the America Jobs Creation Act of 2004. At the time, it was argued that this was going to create jobs. I, personally, believe in macro tax policy. If we were reforming tax policy, it might make sense to suggest that repatriated profits ought to be taxed at a lower rate as part of a broader tax reform and that policy of deferral ought to be revisited but not as part of this legislation.

The reason for that is very simple. During the 1-year period during which U.S. multinational corporations were able to bring profits back at a lower rate, the result was simply not what was promised by the supporters. Yes, it did result in a substantial increase in the repatriation, but it did not increase domestic investment or employment, and that is the measure by which we ought to be making a judgment.

The 2004 provision resulted in $312 billion being repatriated. In fact, one-third of all offshore earnings was repatriated. Ten firms accounted for about 42 percent of that repatriation.

The fact is that many of the firms that benefited from this during that period of time laid off workers after they brought that money back. They passed on the benefits to their shareholders. Pfizer repatriated approximately $37 billion and cut 3,500 jobs in 2005. Another company that benefited cut 7,000 jobs.

So the bottom line is, common sense tells you, if you tried something once

and it didn't work, don't repeat the same mistake.

Secondly, with respect to what the Senator from New Mexico said, don't repeat a mistake so soon after you have already made it so that the message to everybody is: Oh, you can go overseas, you can create any company you want and, eventually, Congress is going to fold and wind up giving you a much lower tax rate when you bring it home.

Moreover, the provisions in here that suggest there is some limitation on how the money is going to be spent do not get the job done. One of the limitations is that you put it into research and development. You have an existing research and development entity that doesn't create a job, certainly not in the near term. You also can do acquisitions of a business entity for the purpose of retaining and creating jobs. That could be just about anything. You can argue that is the purpose, but it doesn't necessarily have the impact and there is absolutely no enforcement mechanism and no way to measure it.

At a time when we are fighting over diminished resources and what we are going to do, it seems to me this provision is simply not going to guarantee us the kind of provision of jobs we need. Past history shows that very few companies actually benefit.

I think having this tax holiday again so soon without broader tax reform is not the way we ought to be approaching this issue.

By almost every measurement, I suggest to my colleagues that common sense says this is not the time, this is not the piece of legislation, and this is not the plan to put people to work.

I yield back whatever time I have to the chairman.

Mrs. BOXER. Mr. President, can you tell me how much time remains on each side?

The PRESIDING OFFICER. The Senator from California has 10 minutes 6 seconds. The Senator from Montana has 5 minutes 34 seconds.

Mrs. BOXER. Mr. President, if you could tell me when I use 5 minutes, please.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. BOXER. Mr. President, people stand and argue against this amendment, and they say things that are not factual. They have every right to say it. I protect and defend their right to say it, but they are not factual.

Now, Senator KERRY said there is no proof that any jobs were created. Well, Allen Sinai, Robert Schapiro, and Laura Tyson have all said jobs were created and jobs will be created. Senator KERRY said, in his forceful argument against this amendment, that companies simply didn't do anything, and now if they do R&D it will simply replace what R&D they were going to do. We don't allow this to happen. It has to be new spending, maintenance of effort must continue.

I want to call to my colleagues' attention to the report that was issued by Robert Schapiro, Under Secretary of Commerce under Bill Clinton, in which he points out that 1.6 million jobs were in fact created or retained, just in manufacturing; 102,000 jobs in wholesale and retail; in transportation he goes on and shows all the different jobs that were created for a total of 2.1 million jobs. Now, does that mean every company added jobs? No, some didn't, but it has nothing to do with this.

So the fact is, when my colleagues stand up and say, why are we doing this when it was such an utter failure, well, take your argument to Laura Tyson, take your argument to Allen Sinai, take your argument to Robert Schapiro and show them where they are wrong.

Then we are told Joint Tax has to be paid attention to. They were dead wrong the last time. I mean, they said maybe we would have $100 billion come in, maybe up to $200 billion. Well, $360 billion came in. They were way off on the revenues. The revenues they said would come in—it was $16 billion that came into Treasury. They said it would cost $3 billion. So they were wrong. So how can we stand here and try to defeat this measure?

Now, my friend from Massachusetts says this isn't the time or the place or the bill and so forth. This is a moment we can respond to this recession. We are going to do it in many other ways, and I will be supporting things and opposing things, but let me just read to you from Robert Schapiro's report—remember, a Bill Clinton Commerce Under Secretary.

> As President Obama and Congress expand the catalogue of measures to help stabilize the financial system and address the economic decline, a major untapped resource sits on the balance sheets of the foreign subsidiaries of U.S. multinational corporations. These subsidiaries hold up to $1 trillion in past earnings because current U.S. law defers U.S. corporate tax on those profits until they repatriate. If those earnings were transferred to the parent companies in the United States, they could find substantial new capital investment and employment and provide additional liquidity to the strapped U.S. financial system as companies reduce their domestic debt. In principal, the earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for designated purposes.

So my friends stand here and make an argument about how horrible it is that these companies have money abroad, and I agree. I am upset about it. I was upset in 1997 about it. I was upset in 1998 about it. I was upset in 1999, 2000, 2001, 2002, and 2003. Finally, in 2004, Senator ENSIGN and I got together and we said: Let's see if we can get that money home. So for my colleagues who are lamenting the fact that this money is abroad, we say: Join with us; bring it home.

If you are saying the effective rate is 17 percent, if we can bring it in at 5.25 percent, that is less of a loss to the Treasury.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I will take 1 more minute. Then I will retain.

So I love a debate, but I would like to debate on the facts. The facts are that this is what happened until we had the tax holiday. Now there is a new hue and cry: You did it in 2004; never do it again. Well, I think it is a good thing that Oracle bought up two or three companies that were going to go belly up and that were going to be bought out by a foreign competitor. I think that was good. I think it was good that Cisco Systems added so many jobs—more than 1,000 new jobs.

So when my friends stand and they lament the loss of jobs, I lament every job loss in this country. And I say to Cisco Systems: Good for you. You brought the money in and you did the right thing. Did every company do that? No. That is why we have tightened up this bill.

I thank the Chair, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I don't know what people are to think when they watch this or hear this debate—he said, she said, they said, we said. At the end, the question is, What is real? What are the facts? So let me see if I can uncomplicate this.

This isn't like trying to connect two plates of spaghetti. This is a place of public interest about what should we do to try to create jobs in this country. My colleagues say we are worried because there is so much foreign income overseas. That is not our worry. Our worry is that they have decided to take hundreds and hundreds of billions of overseas income that is required to pay an income tax when it comes back to this country and have said let's give those companies an 85-percent tax cut if they do what they had previously promised they were going to have to do anyway, and that is repatriate this income. That is what we are concerned about.

So let me see if I can put it in the frame of a company—Huffy bicycles. A lot of people worked at Huffy bicycles for a long time. They made $11 an hour making Huffy bicycles, sold in Wal-Mart, Sears, and Kmart, capturing 20 percent of the American bicycle market. But they all got fired. They all lost their job because that company moved to China in search of 30-cent labor in Shenzhen, China. The last day of work at the Huffy plant in Ohio, the workers, as they left their jobs and pulled out of their parking space, left a pair of empty shoes where their car used to park. Their jobs were gone, but it was the only way they could say to their employer, who moved their jobs to China: You can ship our jobs overseas, but, by God, you are not going to fill our shoes. That was the plaintiff

cry of all the folks who lost their jobs who loved to make bicycles.

Guess what. Our Tax Code gives a tax break for shipping those jobs overseas. This amendment continues that very approach and says: By the way, if you ship your jobs overseas and then repatriate the income from what you have earned overseas, we will give you an 85-percent tax break.

I am telling you, it makes no sense. There is no evidence anywhere, no matter what charts you put up, that this created jobs in 2004. It did not. It cost jobs. Allen Sinai, noted economist, yes, he made the same claims then, and then backpedaled. He makes the same claims now. But let's talk a year or so from now, and he will backpedal again.

The fact is, this is a giant tax break to some of the largest companies that cut their tax bill by 85 percent without any evidence they will create jobs. In fact, exactly the opposite evidence exists because we have experienced it, and we lost jobs as a result. This also will cost the American taxpayers $29 billion in lost tax revenue at a time when we are up to our neck in debt.

So you know, let's think of what we are debating. We are debating an economic recovery program. We are going to promote recovery by dragging out a shop-worn, tired old argument that the way to do that is to give an 85-percent tax cut to companies that have earned income overseas, many of whom have fired their American workers and shipped the jobs overseas. I don't think that makes any sense at all.

In fact, if this happens—it happened 5 years ago—if it happens now and it happens 5 years from now, every company will understand, you can move jobs overseas and you will never ever have to pay the corporate tax rate when you bring foreign earnings back. You will always have somebody standing up to say we have a sweetheart deal for you.

Oh, it doesn't apply to the Joneses or the Olsens or the Larsons or the Christiansens, it just applies to the big companies that decided to park that income overseas. I say this: How about a 5.25-percent income tax rate for every American, rather than just a few of the biggest companies? How about all of us get a chance to get some of this 5.25 percent income tax rate? I don't think that is being proposed. Let me propose that.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mrs. BOXER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 3 minutes 59 seconds remaining.

Mrs. BOXER. We will call it 4, and I will take 2 and yield 2 to my friend, and we will close.

First of all, this isn't a shop-worn argument. This is an argument that is going to create jobs, if we win it. Who says it? Laura Tyson:

> Repatriation policy provides a short-run stimulus and would make funds available to support the domestic operations of U.S. companies quickly.

Robert Schapiro, Under Secretary of Commerce under Bill Clinton:

> The earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for certain purposes.

You know, here it is. If you want to get the break, these are the things you have to do. You have to hire workers. You have to use it for research and development, for capital improvements. You have to acquire distressed companies and clean energy investments.

Look, my friends. The world is the way the world is. I think Senator ENSIGN and I, Senator BAYH, and Senator SPECTER are realists. Yes, in many ways I would like to think I am an idealist. I don't like the fact that these companies are keeping their money abroad. But guess what. They are not going to bring the money back because BYRON DORGAN or BARBARA BOXER comes on the floor of the Senate and says: Please be good. Please be good. We need the capital in our banks. We need the capital to create jobs.

We need to make it profitable for them, and that is what we are doing. We did it before.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart that was done by Mr. Schapiro proving that 2.1 million jobs the last time were either created or saved.

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

TABLE 3: EMPLOYMENT EFFECTS OF REPATRIATED FUNDS UNDER THE 2004 ACT

	Average annual wage	Job creation or retention
Manufacturing	$34,241	1,694,372
Food Manufacturing	26,497	153,100
Paper Manufacturing	39,215	36,284
Chemical Manufacturing	42,626	648,585
Basic Chemical	53,873	20,507
Pharmaceutical & Medicine	46,383	489,820
Plastic & Rubber Products	30,683	5,969
Primary Metal	41,589	2,648
Fabricated Metal Product	32,698	33,832
Machinery	36,371	33,851
Computer & Electronic Equipment	36,290	364,339
Computer & Peripheral Equipment	43,713	179,944
Semiconductor & Electronic Component	33,987	91,830
Electrical Equipment, Appliance & Component	31,564	29,880
Transportation Equipment	47,453	49,647
Wholesale and Retail Trade	28,857	102,504
Wholesale trade, Durables	36,496	29,261
Wholesale trade, Nondurables	30,775	29,226
Retail Trade	19,299	51,328
Transportation & Warehousing	31,971	6,605
Information	40,417	75,130
Software Publishers	69,782	27,213
Finance, Insurance, Real Estate, Rental & Leasing	29,620	92,524
Insurance & Related Activities	39,309	16,021
Professional, Scientific & Technical Services	31,073	20,281
Management of Companies	42,785	37,758
Other Services and Industries	22,679	115,747
Total	$32,705	2,144,921

Mrs. BOXER. Mr. President, I yield the remainder of my time to my colleague, Senator ENSIGN.

Mr. ENSIGN. Mr. President, how much time is on the opposition side?

The PRESIDING OFFICER. The opposition has 1½ minutes remaining.

Mr. BAUCUS. I will take it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, there is a parade of repentant sinners here. The Senator from New Mexico said he voted for it last time; it is a bad idea, and he is going to vote against it this time. I think the Senator from Massachusetts said the same thing: He voted for it last time, he learned it is a bad idea, it didn't work, and he is voting against it this time. I confess, Mr. President, I am in that same situation. I voted for this last time, it is a bad idea, it didn't work, and I am very much opposed to it this time.

Both the Senators from North Dakota and New Mexico have stated the fact that this amendment is going to encourage companies to go overseas. That is true. But the effect is even more pernicious than that. This amendment encourages companies to go to low-tax jurisdiction countries, such as the Cayman Islands and the Bahamas. Why? Because, currently, an American company that has operations overseas, say the U.K., it pays the U.K.

tax. It does not pay the American tax until it is brought back, with the U.K. tax offsetting the American tax. That is standard law. Under this amendment, because the income coming back will be at a very low rate—5 percent—there is no incentive for these companies to go to a higher jurisdiction country because there is no need to offset. Rather, there is an incentive to go to the lower jurisdiction country—a low-tax jurisdiction country—because the tax rate is so low, such as the Cayman Islands or the Bahamas, and all that.

So not only does it encourage companies to go overseas, it encourages them to go to low income tax countries such as the Cayman Islands and the Bahamas. This is a bad amendment, and I urge its defeat.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, first of all, to set the record straight, Senators BINGAMAN and KERRY both voted no the last time.

Several other things. The Senator from North Dakota said he would like all Americans to pay a 5-percent income tax, such as in this bill. Well, that means that he would raise taxes on 40 million Americans who pay no income tax today. Let's get the facts clear. Last time, $360 billion came back into the country and created about 2 million jobs. This time, more money is going to come back. Almost double, about $565 billion the estimates are, is going to come back this time. We have to ask ourselves this commonsense question.

The opponents would argue the money came back last time and no jobs were created. From a commonsense perspective, if the companies did not do anything that they said they were going to do last time, if money is in the United States—you need capital to create jobs. Right now we have a banking system that does not have capital. Capital markets are shut down. Guess what? Jobs are not being created because there is no capital to invest to create jobs.

If $360 billion came back last time and $565 billion is going to come back this time, doesn't anybody with any kind of common sense know jobs are going to be created with that? We have to get real. Put your thinking caps on. I don't care what Joint Tax says. I don't care what the CRS says. Put your commonsense thinking cap on, and we are going to have a good piece of legislation if we adopt this amendment.

I encourage all of us to vote in a bipartisan fashion for this bipartisan amendment. I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Michigan wishes to enter something in the RECORD.

Mr. LEVIN. Mr. President, I commend to the attention of my colleagues the Congressional Research Service report R40178, ''Tax Cuts on Repatriation Earnings as Economic Stimulus: An Economic Analysis,'' that indicates what little evidence there was about new investments from the 2004 decision, which is available at www.crs.gov.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending amendment violates the pay-as-you-go section of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mrs. BOXER. Mr. President, I move to waive the relevant section and ask for the yeas and nays.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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 42, nays 55, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—42

Akaka	Crapo	McCain
Alexander	DeMint	McConnell
Bayh	Ensign	Nelson (NE)
Bennett	Feinstein	Pryor
Bond	Graham	Reid
Boxer	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Shelby
Burr	Isakson	Specter
Chambliss	Johanns	Thune
Coburn	Kyl	Vitter
Cochran	Lieberman	Voinovich
Corker	Lugar	Warner
Cornyn	Martinez	Wicker

NAYS—55

Barrasso	Gillibrand	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Reed
Bingaman	Inouye	Rockefeller
Brown	Johnson	Sanders
Burris	Kaufman	Schumer
Byrd	Kerry	Sessions
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Enzi	Merkley	
Feingold	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the ayes are 42, the nays are 55. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. 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. SPECTER. Mr. President, the status of the pending amendments offered by the Senator from Iowa and myself is a procedural snarl. I want to get the $6.5 billion appropriated for NIH. I am going to withdraw my amendment and join with Senator HARKIN on the amendment for $6.5 billion for NIH without an offset.

AMENDMENT NO. 101 WITHDRAWN

The PRESIDING OFFICER. Is the Senator seeking to withdraw his amendment at this time?

Mr. SPECTER. I am.

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

The Senator from Nevada.

Mr. ENSIGN. Mr. President, what is the regular order?

AMENDMENT NO. 178

The PRESIDING OFFICER. The question is on agreeing to amendment No. 178, offered by Senator HARKIN of Iowa.

Mr. ENSIGN. Is it subject to a point of order? I believe it is, and I make a budget point of order.

The PRESIDING OFFICER. The current version, as modified, does contain the element the Senator asked about.

Mr. ENSIGN. I raise a point of order on this amendment.

Mr. HARKIN. Mr. President, I move to waive the relevant parts of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. I ask unanimous consent that the order for the yeas and nays be vitiated.

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

Mr. REID. I ask unanimous consent that the point of order be vitiated.

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

The question is on agreeing to amendment No. 178, as modified.

The amendment (No. 178), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, that was the last rollcall vote tonight. There will be a number of amendments offered tonight. In fact, it is my understanding that Senator FEINGOLD has an amendment he wants to offer regarding earmarks. The next Republican amendment will be an Isakson amendment regarding housing.

Tomorrow, we are going to be in session at 10:30 with no morning business. We will be in full operation. As some know, we have an appointment downtown. We will have the floor manned. There are a number of amendments already lined up to be offered tomorrow. We hope Senators will come aboard.

We have had a very good day. There have been some very good debates on various amendments. I hope tomorrow will be the same. We will work into tomorrow night. We are going to work Thursday, and, with a little bit of luck, we might be able to finish this bill this week.

I know there is a lot to do, but I hope people will understand where the votes are lined up. We have had a number of votes that have been not dominated by Republicans or Democrats, a lot of mixture. We hope that as the debate continues, people will only offer those amendments they think will really help the bill and will help us work toward finishing this legislation.

Remember, we have another big step. At this stage, unless something goes untoward, Senator MCCONNELL and I think this matter should move to conference. We have two choices that we have done before. The House can send us a message, but that has created problems in the past. We hope we do have a conference. At this stage, unless something goes awry, that is what the Republican leader and I hope to do. We would appoint conferees when the bill is passed. We have to complete this legislation, including the conference, before we leave here for the Presidents Day recess. The mere fact we have a conference doesn't mean it is finished like that. This will be a conference where Democrats and Republicans will work toward what needs to be done.

I hope everyone will come tomorrow invigorated to proceed on this legislation. This legislation is extremely important. People have differing views as to what should be in it and what should not. That is what is going on now, to try to make that determination. The only ones who can decide that are us, the Senate. I would hope everyone would look toward when they want to get out of here, having done a decent job in completing this most important legislation.

AMENDMENT NO. 106 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. I ask unanimous consent to set aside the pending amendment for the purposes of calling up amendment No. 106.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 106 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases)

Strike section 1006 of title I of Division B 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 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 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 taxable years beginning after December 31, 2008.

AMENDMENT NO. 140 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Wisconsin.

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

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

Mr. FEINGOLD. I have an amendment, No. 140, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, and Mr. COBURN, proposes an amendment numbered 140 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To provide greater accountability of taxpayers' dollars by curtailing congressional earmarking and requiring disclosure of lobbying by recipients of Federal funds)

At the appropriate place, insert the following:

SEC. _____. CURTAILING CONGRESSIONAL EARMARKS AND LOBBYING DISCLOSURE.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''CONGRESSIONAL EARMARKS

''SEC. 316. (a) IN GENERAL.—On a point of order made by any Senator:

''(1) No unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b) POINT OF ORDER NEW LEGISLATION.—

''(1) SENATE MEASURE.—If a point of order under subsection (a)(1) against a Senate bill or amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) HOUSE MEASURE.—If a point of order under subsection (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT.—If the point of order against an amendment under subsection (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT BETWEEN THE HOUSES.—

''(1) SENATE.—If a point of order under subsection (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) HOUSE.—If a point of order under subsection (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) OTHER POINTS OF ORDER.—The disposition of a point of order made under any other rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subsection (a) with respect to the same matter.

''(f) SUPERMAJORITY.—A point of order under subsection (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) FORM OF POINT OF ORDER, MULTIPLE PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subsection (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

''(2) SUSTAINED POINT OF ORDER.—If the Presiding Officer sustains the point of order under paragraph (1) as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph.

''(3) MOTION TO WAIVE.—Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subsection (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

''(4) APPEAL.—After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) DEFINITION.—For purposes of this section, the term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV of the Standing Rule of the Senator—

''(1) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(2) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(i) CONFERENCE REPORTS.—

''(1) IN GENERAL.—On a point of order made by any Senator, no unauthorized appropriation may be included in any conference report on a general appropriation bill.

''(2) POINT OF ORDER SUSTAINED.—If the point of order against a conference report under paragraph (1) is sustained—

''(A) the unauthorized appropriation in such conference report shall be deemed to have been struck;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(C) when all other points of order under this subsection have been disposed of—

''(i) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the

House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(ii) the question shall be debatable; and

''(iii) no further amendment shall be in order; and

''(D) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(3) FURTHER POINTS OF ORDER.—The disposition of a point of order made under any other provision of this section, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under paragraph (1) with respect to the same matter.

''(4) SUPERMAJORITY.—A point of order under paragraph (1) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(5) SINGLE POINT OF ORDER.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate paragraph (1). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this subsection. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with paragraph (4), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.''.

(b) LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

Mr. FEINGOLD. I am pleased to be joined by the Senator from Arizona, Mr. MCCAIN; the Senator from Missouri, Mrs. MCCASKILL; the Senator from South Carolina, Mr. GRAHAM; the Senator from Connecticut, Mr. LIEBERMAN; and the Senator from North Carolina, Mr. BURR, as cosponsors of this amendment.

I now ask unanimous consent that the Senator from Oklahoma, Mr. COBURN, be added as a cosponsor.

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

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

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

Mr. COBURN. Mr. President, one of the things the American people have not heard about is everything that is in this bill. I want to spend some time tonight outlining the situation we are in as a nation, the fact that we have never had a bill this large at any time, in any way, shape, or form.

I want to first start out by noting my experience as a physician. The greatest mistake physicians make is when they don't listen to the patient. One of the things we know is, if we don't listen to patients when they are sick, we end up making a lot of mistakes. The other thing we know as physicians is that if we treat just the symptoms of a disease, what we oftentimes do is worsen the disease. I want to use an example of pneumonia. I will relate to this example throughout the time I talk.

If you come to me as a physician and you have a cough, a pain in your chest, a fever, and you are ill, I can make your symptoms go away, but I won't cure the underlying pneumonia you have as a patient. I can give you a cough medicine to suppress your cough. I can give you an antipyretic to control your temperature. I can give you, with that cough medicine, something to control the pain in your chest. I can do all those things. But if I fail to diagnose your real problem, which is pneumonia, all I am doing is covering up the symptoms of the real disease.

I would contend with my colleagues and the American public that the bill we have before us is a bill that covers up the symptoms of the real disease. The real disease we have is the fact that housing and mortgages are in trouble. Everything we do that does not address that disease first, that does not attempt to solve that problem, everything we do that does not address the real disease we have is going to be wasted effort. It is not going to accomplish its purpose. As a matter of fact, there is not an economist out there right now who says if we pass this bill without fixing the mortgage problem, without fixing the housing problem—none of them agree that what we are going to do is going to have a significant impact. There is not one. You can't get one to come and testify unless you fix the real problem.

We as American citizens are on the hook for 31 million mortgages.

We have 31 million we now own—Fannie Mae and Freddie Mac—so whatever happens to those mortgages, the American people are going to pay for them. If they are upside down and they get worse or if they go worse underwater, if they get foreclosed upon, the American taxpayers are going to have to pay for them. Now, who is that American taxpayer? It is not us. We are going to be dead and gone when it comes time to pay off the massive amounts of borrowing we are putting forward in this bill. That American taxpayer is our kids and our grandkids. So we dare not make the mistake of treating just symptoms.

My contention is we are way too early with a stimulus bill. We can spend this $1.12 trillion by the time you add in the interest plus the six point some billion dollars we just added on top of it without paying for it. We can pass this bill. But we run the risk of doing exactly what the Japanese did in the 1990s. They passed eight separate stimulus bills, none of which addressed the real underlying disease of the Japanese economy. That is why it is called the ''lost decade'' in Japan. They now have a debt to GDP ratio of 150 percent of their GDP.

So what are we to do? Are we to continue down this path with a bill that is going to spend over $1 trillion or should we be about fixing the real disease, which is the housing and the mortgage problems this country faces?

Now, it is not easy to fix that. I know that. And I am not putting forward a definitive plan tonight to do that, although I think my side of the aisle is going to be offering one in the next few days that will address the real disease: housing and mortgages in this country.

We got here—and it is important to remember how we got here, how we got the ''pneumonia''—we got the ''pneumonia'' because we said we were going to socialize the risk on mortgages so people in this country could buy a home who really could not afford a home, and we were going to put that risk on the rest of the American taxpayers.

Well, that bill has come home. That bill now—besides the cost of actually being responsible for the 31-some million failed mortgages, of which probably 30 or 40 percent we are going to end up owning as American taxpayers; besides that cost, the cost in terms of lost jobs, the cost in terms of true, real pain to American citizens who are having trouble feeding their families, paying their bills, the real cost of that is enormous on our society.

What I want the American people to know is we caused that. We did that. We created Fannie Mae and Freddie Mac, and then we did not do the regulatory work we should have done. We encouraged them to be irresponsible. We encouraged them to have bonuses, by making more and more and more of the loans and guaranteeing them and packaging them and selling them throughout the world. We did that. The

Congress did that. No President did that—not President Clinton, not President Bush, and not President Obama. We did it. So we ought to be about fixing the real problem.

Until we fix this problem, we are going to stay in a recession. We can pass a bill that spends $1.12 trillion, and we are still going to be in a recession because what the economists tell us this year is that home prices are going to decline another 11 to 12 percent, which is going to put millions more Americans and their mortgages in trouble. So we can pass a bill that spends $1.12 trillion or we can say maybe we ought to address the real problem.

It is not going to be long until the Obama administration comes to this body and asks for $500 billion more to solve the problem with bank loans and mortgages. We ought to be doing that first. That is the real disease. There is not anybody in this body who will deny that the real disease is the housing and the mortgage failure in this country.

We are going to spend a week on this legislation. It is going to go to conference. It is going to come back. Most of the stuff we are able to take back is going to be added in conference because the power to do that is there, and it is incumbent on the other side of the aisle that they are going to take care of those who are on their team.

I want to make another point. In this bill we are talking about, we are making a fatal mistake. Let me tell you what that fatal mistake is. We are transferring the irresponsibility we have had over the last 6 years in this Congress—or last 8 years in this Congress—to the States because what we are telling them is: You do not have to be fiscally responsible. You do not have to live within your means because Uncle Sam is going to bail you out. That is what this bill says. We are going to bail them out.

So for the States, such as my State, that were smart enough and wise enough to create a rainy day fund and live within their means, we are going to ask all the taxpayers of all the States that have done that to pay for the exorbitant spending and growth in Government in all the rest of the States.

What is that going to do in the future? What is the signal that sends to the rest of the States? Here is what the signal says. Do not worry about it because if you get in trouble again, the Federal Government is going to bail you out.

Remember when New York City was going bankrupt? What did we do? Did we just pay for everything? Did we just send Federal money? No. We created an environment where they made the changes. We helped them. And I am not opposed to helping the States make the changes to put them back on a fiscal course to live within their means.

The other thing that is bad about this bill is every American family out there today—I do not care what their income is—they are reassessing every day what they need to do in terms of how to get by in the economic situation in which we find ourselves. They are making tough choices. There is not one tough choice in this bill. Let me explain what I mean by that.

President Obama campaigned on the fact that we ought to live within our means; that every program ought to be reviewed; that those that are not effective, those that have waste, those that have high fraud rates, those that are low priority ought to be eliminated. There is not one penny of effort placed in this bill that will get rid of less important Federal programs today.

We know there is at least $300 billion a year that is inefficiently, erroneously, and fraudulently spent by the Federal Government. We ask our children and our grandchildren to choke down $1.1 trillion more of debt when we have not done anything—not one thing—to lessen the waste, fraud, and abuse, the inefficiency, and to make choices on what is more important. What we are saying is everything we are doing now is important, everything we are doing is efficient, everything is working fine, and, by the way, we are going to add another $1.1 trillion.

I have this chart to show how we got in trouble—because we were spending money we did not have on things we do not need. That is how we got in trouble. This chart shows the deficits of the Federal Government from 2004, plus what CBO expects, without interest costs, by the way, as to what is going to happen to us.

We know, last year, under real accounting, accounting for the Social Security money we stole—and that is the only way you can say it; we stole about $160 billion out of the Social Security system—the real deficit, last year, set a record we have never seen. It was $609 billion. That is as of September 30. The estimate of CBO for this year is we are going to have—before we even talk about stimulus, before we do anything on stimulus, and before we account for the interest costs on stimulus—we are going to have a $1.2 trillion deficit.

Now, divide that out by 300 million Americans, and what you see is we are going to have a deficit of about $16,000 per family. For every family in this country, we are going to borrow $16,000 against their kids' future before we do this, before we even approach doing this. It does not get a lot better. Note these numbers: $1.4 trillion, if we add what the CBO expects to come out of this stimulus package, and only one-fourth of it is going to get spent this year.

Now, what do we know about stimulus packages in the past? Here is what we know. Only two times in our history—only two times in our history—have we ever had a stimulus package that was effective. Two times. John Fitzgerald Kennedy created a stimulus package that was effective, and Ronald Reagan, in the early 1980s, created a stimulus package that was effective. All of the others have been ineffective to fix what was ailing us.

If we do not fix the mortgage problem in this country, and housing, this money will be to no avail other than to shackle our children and our grandchildren for years to come. What does that mean when I say ''shackle''? It means stealing their future. Right now the average American has a 30-percent higher standard of living than the average European and the average Japanese. What we are about to do—and we have been doing—is to guarantee that 30-percent advantage in standard of living is going to go away.

Other people say: Well, you have to fix the finance, you have to fix the credit markets, you have to fix the liquidity markets. You cannot fix the credit markets, you cannot fix the liquidity problems we have by spending money. We have already spent $400 billion of the TARP money, and other than pulling us back from the precipice of an absolute collapse of our financial markets, we still have the credit markets tied up and frozen in this country.

I want to give you an example. I have a farmer friend who has been banking with a bank for 15 years. He has never missed a payment. He has been 100 percent on his payments every time. He has assets far in excess of what his loans are—far in excess—15, 20 times what his loans are. He was told this last week by his bank: We don't want your business anymore.

Now, this is a guy who is a premium credit risk. Why do they not want his business? Because they want the money in the bank rather than to have even a good loan outstanding.

Our credit problems are not getting better. They are getting worse. We have not solved the problem by putting money on the equity side of the balance sheets of the banks. The reason we have not solved the problem is because we have not approached and fixed the real disease, which is the mortgage markets and the mortgages that are underwater and the housing crisis in this country.

I want to spend a moment on another issue. A lot of the rhetoric we have heard in the last 3 or 4 months in this country goes after markets and capitalism. Market forces and capitalism in this country created the greatest country that has ever been or ever will be. When we hear market forces and capitalism criticized as the cause of all of our problems, we need to do a gut check.

Market forces and capitalism didn't cause this problem. Congress caused this problem, by our short-term thinking, by thinking, How do I look good politically, how do I do something that isn't based on markets? That is what Fannie Mae and Freddie Mac were all about. We were actually giving loans to people who couldn't afford them. It wasn't market capitalism that got us in trouble, it was short-term, politically expedient thinking that got us in trouble. So the next time you hear

somebody attacking the very thing that generated liberty, that very thing that generated freedom, the very thing that generated the greatest standard of living in the world, you ought to ask the question: Is that true? Did market capitalism get us in this trouble?

What got us in this trouble was creating a socialized risk that abandoned the market principles and created a system of loans to people who could not afford the loans.

One of the questions I think we ought to ask—at least the American taxpayer ought to be asking every Member of Congress—is what guarantee do you have that passing this $1.12 trillion spending bill is going to solve the problem? You know what. There is not a guarantee out there. No Member of Congress can tell them that. We are going to treat the symptoms with this bill. We are going to solve some of the short-term problems. We are going to create dependency from the States. We are going to outline and do things we have no business doing. We are going to expand Federal bureaucracies. We are going to raise the baseline to $300 billion that will never go away. That is what we are going to do with this bill. We are going to emphasize and fund the most inefficient bureaucracies in the world, not on the basis of what is the best thing to do but because we will look good and we will help out somebody who needs our help right now.

I am not opposed to us helping people who are unemployed. I am not opposed to giving extra food stamps to people who find themselves, through no fault of their own, in a predicament they can't change, but that is not what this bill does. What this bill does is take a list of policy options that have been on the table for years and funds them in enormous, extravagant amounts, that will have no impact—zero impact—in terms of getting us out of a recession, and will have a 100-percent impact in guaranteeing we are going to lower the standard of living in this country and we are going to steal opportunity from our children.

Let's look at where we are right now as a nation. At the end of this year, we will have an $11.6 trillion debt, probably an $11.8 trillion debt, very close to our total GDP. We have $95 billion in unfunded liabilities we are going to place on the backs of our children and our grandchildren through Medicare, Social Security, Medicaid, and Medicare Part D—things we are going to give people that they have not paid for or we have stolen the money that was there to pay for them, and we are going to transfer that to our children.

Last year, we paid, as Americans, $230 billion in interest. Do you know what it is going to be 2 years from now? It is going to be $450 billion. How many people think the interest rates we are seeing today are going to be stable and the same 5 years from now? All of the economists tell us they are not. As the world looks toward us and we continue to borrow—we have increased our debt by $5 trillion by the time you take what the Federal Reserve has done and what the Treasury has done—how many people think we are going to be able to borrow money for 10 years for 2.6 percent? No economist thinks that. They know it is going to rise 2 or 3 percent. So we are going to go from about 16 percent of our budget for interest payments to about 40 percent of our budget for interest payments. What are we going to do then? The very real important things we need to do—not the superfluous stuff; the important things the Constitution says we should be doing—what are we going to do then? Are we going to borrow more?

What happens when we borrow more? What happens when we borrow more is interest rates go up, inflation goes up, and we have one of two choices: We can file bankruptcy as a nation or we can have hyperinflation and a marked devaluation of the value of the dollar. What does that mean? That means you won't be able to keep up with your payments, you won't be able to buy a home, the cost of any good that is imported in here will rise astronomically. This is Armageddon for us. While we are in this shape, how dare we think we can spend money we don't have now on things we don't need now and get out of a problem that was caused by the very same philosophy: It cannot happen and it will not happen.

Let me outline what we have done so far in terms of this ''economic downturn.'' Last April, we borrowed $160 billion from our grandkids and we gave everybody a tax credit under $75,000 a year or $150,000 for families. We didn't pay for a penny of it. We didn't get rid of one wasteful program. We didn't make one hard choice. What do the economists tell us we did with that? What was the net effect? The net effect was that 12 percent of it had an effect. Twelve percent. Now, crank that up to $1.1 trillion at 12 percent, which is what the estimate is of this bill in terms of what kind of effect it is going to have. We are going to have about $120 billion that is going to have a positive effect, and then we are going to have another $850 billion or $860 billion that is going to have no effect whatsoever except to steal the future from our kids and our grandkids.

We are going in exactly the wrong direction. We ought to be standing on the principles that made this country great. There ought to be a review of every program in the Federal Government that is not effective, that is not efficient, that is wasteful or fraudulent, and we ought to get rid of it right now. We ought to say, Gone, to be able to pay for a real stimulus plan that might, in fact, have some impact.

I would be remiss if I didn't remind everybody that next week we are going to hear from the Obama administration wanting another $500 billion. Outside of this, they are going to want another $500 billion to handle the banking system. Still not fixing the real disease—the pneumonia—we are going to treat the fever or treat the cough, but we are not going to treat the real disease. Until we treat the real disease, this is pure waste. It is worse than pure waste. It is morally reprehensible, because it steals the future of the next two generations.

I am going to wind up here and finish, but I wanted to spend some time to make sure the American people know what is in this bill. I think once they know what is in this bill, they are going to reject it out of hand. Let me read for my colleagues some of the things that are in this bill. The biggest earmark in history is in this bill. There is $2 billion in this bill to build a coal plant with zero emissions. That would be great, maybe, if we had the technology, but the greatest brains in the world sitting at MIT say we don't have the technology yet to do that. Why would we build a $2 billion powerplant we don't have the technology for that we know will come back and ask for another $2 billion and another $2 billion and another $2 billion when we could build a demonstration project that might cost $150 million or $200 million? There is nothing wrong with having coal-fired plants that don't produce pollution; I am not against that. Even the Washington Post said the technology isn't there. It is a boondoggle. Why would we do that?

We eliminated tonight a $246 million payback for the large movie studios in Hollywood.

We are going to spend $88 million to study whether we ought to buy a new ice breaker for the Coast Guard. You know what. The Coast Guard needs a new ice breaker. Why do we need to spend $88 million? They have two ice breakers now that they could retrofit and fix and come up with equivalent to what they needed to and not spend the $1 billion they are going to come back and ask for, for another ice breaker, so why would we spend $88 million doing that?

We are going to spend $448 million to build the Department of Homeland Security a new building. We have $1.3 trillion worth of empty buildings right now, and because it has been blocked in Congress we can't sell them, we can't raze them, we can't do anything, but we are going to spend money on a new building here in Washington. We are going to spend another $248 million for new furniture for that building; a quarter of a billion dollars for new furniture. What about the furniture the Department of Homeland Security has now? These are tough times. Should we be buying new furniture? How about using what we have? That is what a family would do. They would use what they have. They wouldn't go out and spend $248 million on furniture.

How about buying $600 million worth of hybrid vehicles? Do you know what I would say? Right now times are tough; I would rather Americans have new cars than Federal employees have new cars. What is wrong with the cars we have? Dumping $600 million worth

of used vehicles on the used vehicle market right now is one of the worst things we could do. Instead, we are going to spend $600 million buying new cars for Federal employees.

There is $400 million in here to prevent STDs. I have a lot of experience on that. I have delivered 4,000 babies. We don't need to spend $400 million on STDs. What we need to do is properly educate about the infection rates and the effectiveness of methods of prevention. That doesn't take a penny more. You can write that on one piece of paper and teach every kid in this country, but we don't need to spend $400 million on it. It is not a priority.

How about $1.4 billion for rural waste disposal programs? That might even be somewhat stimulative. New sewers. That might create jobs.

How about $150 million for a Smithsonian museum? Tell me how that helps get us out of a recession. Tell me how that is a priority. Would the average American think that is a priority that we ought to be mortgaging our kids' future to spend another $150 million at the Smithsonian?

How about $1 billion for the 2010 census? So everybody knows, the census is so poorly managed that the census this year is going to cost twice—in 2010 is going to cost twice what it cost 10 years ago, and we wasted $800 million on a contract because it was no-bid that didn't perform. Nobody got fired, no competitive bidding, and we blew $800 million.

We have $75 million for smoking cessation activities, which probably is a great idea, but we just passed a bill—the SCHIP bill—that we need to get 21 million more Americans smoking to be able to pay for that bill. That doesn't make sense.

How about $200 million for public computer centers at community colleges? Since when is a community college in my State a recipient of Federal largesse? Is that our responsibility? I mean, did we talk with Dell and Hewlett-Packard and say, How do we make you all do better? Is there not a market force that could make that better? Will we actually buy on a true competitive bid? No, because there is nothing that requires competitive bidding in anything in this bill. There is nothing that requires it. It is one of the things President Obama said he was going to mandate at the Federal Government, but there is no competitive bidding in this bill at all.

We have $10 million to inspect canals in urban areas. Well, that will put 10 or 15 people to work. Is that a priority for us right now?

There is $6 billion to turn Federal buildings into green buildings. That is a priority, versus somebody getting a job outside of Washington, a job that actually produces something, that actually increases wealth?

How about $500 million for State and local fire stations? Where do you find in the Constitution us paying for local fire stations within our realm of prerogatives? None of it is competitively bid—not a grant program.

Next is $1.2 billion for youth activities. Who does that employ? What does that mean?

How about $88 million for renovating the public health service building? You know, if we could sell half of the $1.3 trillion worth of properties we have, we could take care of every Federal building requirement and backlog we have.

Then there's $412 million for CDC buildings and property. We spent billions on a new center and headquarters for CDC. Is that a priority? Building another Government building instead of—if we are going to spend $412 million on building buildings, let's build one that will produce something, one that will give us something.

How about $850 million for that most ''efficient'' Amtrak that hasn't made any money since 1976 and continues to have $2 billion or $3 billion a year in subsidies?

Here is one of my favorites: $75 million to construct a new ''security training'' facility for State Department security officers, and we have four other facilities already available to train them. But it is not theirs. They want theirs. By the way, it is going to be in West Virginia. I wonder how that got there. So we are going to build a new training facility that duplicates four others that we already have that could easily do what we need to do. But because we have a stimulus package, we are going to add in oink pork.

How about $200 million in funding for a lease—not buying, but a lease of alternative energy vehicles on military installations? We are going to bail out the States on Medicaid. Total all of the health programs in this, and we are going to transfer $150 billion out of the private sector and we are going to move it to the Federal Government. You talk about backdooring national health care. Henry Waxman has to be smiling big today. He wants a single-payer Government-run health care system. We are going to move another $150 billion to the Federal Government from the private sector.

We are going to eliminate fees on loans from the Small Business Administration. You know what that does? That pushes productive capital to unproductive projects. It is exactly the wrong thing to do.

Then there is $160 million to the Job Corps Program—but not for jobs and not to put more people in the Job Corps but to construct or repair buildings.

We are going to spend $524 million for information technology upgrades that the Appropriations Committee claims will create 388 jobs. If you do the math on that, that is $1.5 million a job. Don't you love the efficiency of Washington thinking?

We are going to create $79 billion in additional money for the States, a ''slush fund,'' to bail out States and provide millions of dollars for education costs. How many of you think that will ever go away? Once the State education programs get $79 billion over 2 years, do you think that will ever go away? The cry and hue of taking our money away—even though it was a stimulus and supposed to be limited, it will never go away. So we will continue putting that forward until our kids have grandkids of their own.

There is about $47 billion for a variety of energy programs that are primarily focused on renewable energy. I am fine with spending that. But we ought to get something for it. There ought to be metrics. There are no metrics. It is pie in the sky, saying we will throw some money at it. Let me conclude by saying we are at a seminal moment in our country. We will either start living within the confines of realism and responsibility or we will blow it and we will create the downfall of the greatest Nation that ever lived. This bill is the start of that downfall. To abandon a market-oriented society and transfer it to a Soviet-style, government-centered, bureaucratic-run and mandated program, that is the thing that will put the stake in the heart of freedom in this country.

I hope the American people know what is in this bill. I am doing everything I can to make sure they know. But more important, I hope somebody is listening who will treat the ''pneumonia'' we are faced with today, which is the housing and mortgage markets. It doesn't matter how much money we spend in this bill. It is doomed to failure unless we fix that problem first. Failing that, we will go down in history as the Congress that undermined the future and vitality of this country. Let it not be so.

Mr. President, I appreciate the indulgence of you and the staff. With that, I yield the floor.

Mr. LEAHY. Mr. President, this week, the Senate is considering critical legislation to renew our economy and to renew America's promise of prosperity and security for all of its citizens. I have long held the view that American innovation can and should play a vital role in revitalizing our economy and in improving our Nation's health care system. I commend the lead sponsors of this legislation for making sure that the economic recovery package includes an investment in health information technology that also takes meaningful steps to protect the privacy of American consumers.

The privacy protections for electronic health records in the economic recovery package are essential to a successful national health IT system, and these safeguards should not be weakened. In America today, if you have a health record, you have a health privacy problem. The explosion of electronic health records, digital databases, and the Internet is fueling a growing supply of and demand for Americans' health information. The ability to easily access this information electronically—often by the click

of a mouse or a few keystrokes on a computer can be very useful in providing more cost-effective health care. But the use of advancing technologies to access and share health information can also lead to a loss of personal privacy.

Without adequate safeguards to protect health privacy, many Americans will simply not seek the medical treatment that they need for fear that their sensitive health information will be disclosed without their consent. And those who do seek medical treatment assume the risk of data security breaches and other privacy violations. Likewise, health care providers who perceive the privacy risks associated with health IT systems as inconsistent with their professional obligations will avoid participating in a national health IT system.

The economic recovery package takes several important steps to avoid these pitfalls and to protect Americans' health information privacy. First, the provisions give each individual the right to access his or her own electronic health records and the right to timely notice of data breaches involving their health information. The economic recovery bill also places critical restrictions on the sale of sensitive health data and requires that the Department of Health and Human Services educates and conducts outreach to American consumers and businesses regarding their privacy rights and obligations. Lastly, the bill enhances the enforcement tools available to the States, as well as to Federal authorities, to deter lax health information privacy. These key privacy safeguards must not be weakened as the Senate considers the economic recovery bill.

Of course, more can—and should—be done in the weeks and months ahead to further improve health information privacy, such as strengthening the rights of consumers to control their own electronic health records. In Vermont, we have formed a public-private partnership that is charged with developing Vermont's statewide electronic health information system, including a policy on privacy. I believe that in order for a national health IT system to succeed, we in Congress should follow Vermont's good example and work together for the long term with public and private stakeholders to ensure the privacy and security of electronic health records.

As the Senate considers the economic recovery package, we face many difficult challenges in our Nation. The challenge of finding the right balance between privacy and efficiency for a national health IT system is just one, but it is an important test that we must meet head on. Without meaningful privacy safeguards, our Nation's health IT system will fail its citizens. In his inaugural address, President Obama eloquently noted that in our new era of responsibility ''there is nothing so satisfying to the spirit, so defining of our character than giving our all to a difficult task.'' The privacy safeguards in the economic recovery package take an important step toward tackling the difficult but essential task of ensuring meaningful health information privacy for all Americans.

Again, I commend the lead sponsors of the economic recovery bill and President Obama for their commitment to include meaningful health privacy protections in the bill. I also commend the many stakeholders, including the Center for Democracy & Technology, Consumers Unions, the American Civil Liberties Union, and Microsoft, that have advocated tirelessly for meaningful health IT privacy protections in this legislation. I urge all Members to support the health IT privacy protections in the bill, so that our national health care system will have the support and confidence of the American people.

I ask to have a copy of a February 1, 2009, editorial from the New York Times in support of funding protections for patients' privacy entitled, ''Your E-Health Records,'' printed in the RECORD following my full statement.

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

[From the New York Times, Feb. 1, 2009]

YOUR E-HEALTH RECORDS

As part of the stimulus package, $20 billion will be pumped into the health care system to accelerate the use of electronic health records. The goal is both to improve the quality and lower the costs of care by replacing cumbersome paper records with electronic records that can be easily stored and swiftly transmitted.

The idea is sound, but it also raises important questions about how to ensure the privacy of patients. Fortunately, the legislation would impose sensible privacy protections despite attempts by business lobbyists to weaken the safeguards.

With paper records the opportunities for breaches are limited to over-the-shoulder glimpses or the occasional lost or stolen files. But when records are kept and transferred electronically, the potential for abuse can become as vast as the Internet.

Electronic health records that can be linked to individual patients are already protected by laws that apply primarily to hospitals, doctors, nursing homes, pharmacists, laboratories and insurance plans. The stimulus bill that has passed in the House, and a similar bill awaiting approval in the Senate, would strengthen the privacy requirements and apply them more directly to ''business associates'' of the providers, like billing and collection services or pharmacy benefit managers, that have access to sensitive data but are not readily held accountable for any misuse.

The potential for harm was spelled out by the American Civil Liberties Union in a recent letter to Congress. Employers who obtain medical records inappropriately might reject a job candidate who looks expensive to insure. Drug companies with access to pharmaceutical records might try to pressure patients to switch to their products. Data brokers might buy medical and pharmaceutical records and sell them to marketers. Unscrupulous employees with access to electronic records might snoop on the health of their colleagues or neighbors.

The bills pending in Congress would go a long way toward preventing such abuses. They would outlaw the sale of any personal health information without the patient's permission, mandate audit trails to help detect inappropriate access, and require that patients be notified whenever their records are lost or used for an unauthorized purpose. They would also beef up the penalties for noncompliance and allow state attorneys general to help enforce the rules—a useful backup in case the federal government falls down on the job. The House version would also encourage the use of protective technologies, like encryption, to protect personal medical information that will be transmitted.

Health insurance plans and some disease management groups are complaining that the new requirements would impose administrative burdens that could actually impede the use of electronic records and interfere with coordination of care. They want to ease the marketing restrictions, notify patients only if security breaches are harmful, and keep the attorneys general out of the enforcement role.

It should be possible through implementing regulations to fine-tune the privacy requirements so that they do not disrupt patient care. Congress must make every effort to ensure that patients' privacy is protected.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

THE STIMULUS BILL

Mr. DURBIN. Mr. President, my colleague and friend Senator COBURN of Oklahoma spoke at length about our Nation's deficit. I share his concern about the impact of debt on future generations. It is an interesting moment in time when many of my friends from that side of the aisle are raising the issue of deficits and debt. We are in one of the most serious economic crises of our time—maybe the most serious since the Great Depression. This President, recently inaugurated, 2 weeks ago, inherited the worst economic situation since Franklin Roosevelt in the Great Depression in 1933. He inherited a debt that was unimaginable 8 years ago when the previous President began his administration. When President Bush came to office, our national debt was in the range of $5 trillion. When he left office, he doubled that national debt to more than $10 trillion—in an 8-year period of time. The accumulated debt of the United States of America,

from its inception to that moment, was $5 trillion; in 8 years President Bush doubled the national debt.

Many people believe it is going to continue to grow because of some of the decisions he made. One was to wage a war and not pay for it, adding almost $1 trillion to our national debt in the process. Many other decisions, such as cutting taxes at a time when our country couldn't afford it, and it turned out to be foolhardy and with little positive impact on our economy, President Obama inherited that. Now he is faced with not only that debt, which my colleague from Oklahoma has aptly described, but also an economic crisis that cannot be ignored.

We were told a week ago that the gross domestic product of the United States of America had declined precipitously for the first time in 25 years. It is an indication that our sense of economic decline has been borne out by the numbers and statistics. We see it in every State with increased unemployment. So President Obama is faced with a terrible situation: the largest deficit and debt in the history of the United States, left by the previous President, and the worst economic crisis in 75 years.

Well, my colleague who spoke is a medical doctor. He knows the first thing you have to do in the most serious trauma cases is to try to stabilize the patient, and that is what President Obama is trying to do, stabilize the economy. Every economist—virtually every one—liberal and conservative, agrees that you cannot stabilizes the economy by cutting spending. You have to do the opposite. You have to encourage economic activity, economic growth, business, jobs. Those are the things that have to be done, and the Government must spend money, even if it is in debt. Failing to do that will cause our economy to decline even further, and more suffering will be borne by the families and businesses across America.

So when the Senator from Oklahoma comes to the floor and says this is the wrong time to spend money, I have to tell him that there is no recourse but to try to get this economy moving forward by creating good-paying jobs in America, investing in our future, making sure we are moving toward energy independence, trying to prepare our educational resources for the 21st century by modernizing labs and libraries and classrooms, trying to bring the kind of changes to health care where technology will make health care more affordable and safer for patients across America. These are investments that will not only help us through the current recession but will pay off for decades to come.

We are clearly spending this money in a deficit situation because we have no choice. Across the Rotunda in the House of Representatives, when President Obama's recovery and reinvestment bill came forward, not a single Republican Representative would vote for it. That is unfortunate. The President reached out to them personally and asked them to join him in a bipartisan effort, both political parties cooperating and working together. Sadly, it didn't occur.

I hope that is not the case in the Senate. I trust that some Republican Senators will come forward and realize that we are making a good-faith effort to accommodate any reasonable change they want to make to the program. If they want to reduce spending in some areas, we are open to it. If they have ideas that are better than ours, we are open to them as well. I tried to make that clear. I think my colleagues on this side and the White House have tried to make that clear.

At the end of the day, we are going to have to face reality. We will be spending money now to try to stop this economic tailspin. Once we get the economy stabilized and start investing toward growth again so people have peace of mind about their jobs and businesses, savings, and the future, then we can address responsibly, as we must, the deficit and debt situation. I look forward to working with the Senator from Oklahoma when that day arrives. Right now, we have to stabilize the patient.

I say to my friend, Dr. COBURN, join us in this important effort, and then we can join hands together and try to find the way through the fiscal problems we are currently facing.

SITUATION IN SRI LANKA

Mr. LEAHY. Mr. President, The ethnic conflict in Sri Lanka that has waxed and waned for decades costing the lives of tens of thousands of people has exploded into a full scale war, and it is civilians who are bearing the brunt of the carnage.

The origins of the conflict arise from decades of the Sinhalese majority's systematic discrimination against the Tamil minority and its denial of the Tamils' meaningful participation in the political process. The Sri Lankan army is almost exclusively Sinhalese. Successive Sinhalese-dominated governments have failed to effectively address these longstanding injustices.

Over the years, peaceful demonstrations by Tamils have been met with violence by Sinhalese extremists, which has in turn fostered violent extremism on the Tamil side.

In recent weeks, as the Sri Lankan army has seized control of most of the northern strongholds of the Tamil Tigers, or LTTE as they are otherwise known, the situation has gone from dire to the verge of catastrophe for the estimated 250,000 vulnerable civilians who are trapped in a so-called ''safe zone.''

The LTTE has a history of suicide bombings and other indiscriminate attacks against civilians, using civilians as shields, and preventing civilians under their control from escaping to government areas. Several hundred local staff of the United Nations and international humanitarian organizations are reportedly trapped because the LTTE refuses to allow them to leave. The LTTE has been designated a foreign terrorist organization by the United States.

For its part, the Sri Lankan army insists it is targeting the LTTE, not civilians. But the army has also acted in ways that have blurred any meaningful distinction between itself and the LTTE. It has reportedly shelled areas populated by civilians, including hospitals, causing hundreds of casualties, summarily executed suspected LTTE sympathizers, and detained those who have fled LTTE areas, including women and children, in militarized camps where they are exposed to great hardship and danger.

The United Nations says a compound sheltering U.N. national staff inside the safety zone was shelled on January 24 and 25, killing at least 9 civilians and wounding more than 20. On January 26, another artillery attack reportedly narrowly missed UN local staff working in the safety zone but caused dozens of civilian deaths. The International Committee of the Red Cross has said that ''[h]undreds of patients need emergency treatment and evacuation to [a] hospital in the government-controlled area.''

In the past 2 days, another hospital was reportedly shelled multiple times, resulting in more civilian deaths and injuries.

Human Rights Watch reports that since last September, when the Sri Lankan government ordered the withdrawal of most UN and nongovernmental humanitarian organizations, as well as journalists, from the conflicted area, a grave humanitarian crisis has developed with acute shortages of food, shelter, medicine, and other humanitarian supplies.

The Sri Lankan government has a duty to respect the rights and protect the safety of all Sri Lankan citizens, whatever their ethnic origin or political views. Instead, the government has embarked on a strategy to defeat the LTTE militarily and in doing so has shown disregard for the laws of war. Rather than protecting the Tamil people, the government has often contributed to their suffering. Its strategy has been to cordon off the area and blame everything, including its own violations, on the LTTE.

Since 1984, successive peace talks have failed, as both the LTTE and the Sri Lankan government have reneged on their agreements, and the government has failed to provide the vision and leadership necessary to build a multi-ethnic consensus. Both sides' extreme ethnic nationalist agendas have caused widespread human suffering. Both sides are accountable.

I have no sympathy for the LTTE, which has brought misery upon the Tamil people it professes to represent. But while the LTTE has been severely weakened, it is unlikely to disappear,

and the cycle of violence may continue.

It is imperative that the government and the LTTE agree to an immediate cease-fire to avoid further loss of life, permit access to U.N. monitors and humanitarian organizations, and permit civilians to leave for areas of safety. The Obama administration, the British, Indian and other concerned governments, should be publicly urging the same.

Over the longer term, if lasting peace is to come to Sri Lanka, the government must effectively address, in negotiations which include all the main Tamil and Muslim parties, the core issues that have fueled the conflict including laws and policies that unfairly discriminate against Sri Lanka's minorities.

There is a related issue that needs to be mentioned, and that is the imprisonment for the past ten months of J.S. Tissainayagam, a journalist, and N. Jashiharan, a publisher, and his wife, V. Valamathy. They were arrested for articles critical of the government, and are being held in violation of their right to freedom of expression. Another of Sri Lankan's most respected journalists, Lasantha Wickrematunga, was gunned down in broad daylight a few weeks ago. According to Navi Pillay, the U.N. High Commissioner for Human Rights, ''[t]he killing of . . . Wickrematunge . . . was the latest blow to the free expression of dissent in Sri Lanka. The searing article he wrote prophesying his own murder is an extraordinary indictment of a system corrupted by more than two decades of bloody internal conflict.'' The High Commissioner noted that there have not been any prosecutions of political killings, disappearances and other violations committed in recent years. That in itself speaks volumes about the Sri Lankan government's credibility.

For many years, the United States and Sri Lanka have enjoyed good relations. A close friend of mine, James Spain, was our Ambassador there years ago. He often told me of his deep affection for the Sri Lankan people, and of the country's extraordinary natural beauty.

When the tsunami crashed ashore in December 2004, a member of my staff was on the island. The American people responded generously to help Sri Lanka rebuild.

It has therefore been difficult for me to watch the conflict intensify, the LTTE abuse civilians and fail to live up to its commitments, and the government threaten to expel foreign diplomats, aid agencies and journalists, and refuse appeals to permit independent observers and aid workers access to areas where Tamil civilians are trapped. And as reputable, courageous journalists have been arrested on transparently political charges or assassinated.

The Sri Lanka government will one day want the respect and support of the United States. The same can be said of the LTTE, if and when it renounces violence and becomes a legitimate political party. How they respond to today's humanitarian appeals will weigh heavily on how the United States responds when that day comes.

60TH ANNIVERSARY OF THE IDAHO NATIONAL LAB

MR. CRAPO. Mr. President, today I wish to acknowledge a milestone of singular significance for Idaho and for the Nation. This month marks the 60th anniversary of the Idaho National Laboratory.

In February 1949, the Federal Government settled on a site in east central Idaho to host the National Reactor Testing Station—a place where scientists and engineers could come together to develop and test new ways to put the power of the atom to productive use for society. In short order, Experimental Breeder Reactor-I was designed, built and operating—producing the world's first usable amount of electricity from nuclear power and later, proving that reactors could produce, or breed, more fuel than they consume.

Breakthrough after breakthrough followed in the ensuing years, including significant contributions to national security with the development of the nuclear propulsion systems for U.S. Navy submarines and aircraft carriers. The Idaho testing station was the genesis of American civilian nuclear power, responsible for powering an American city for the first time with nuclear-generated electricity, as well as the design and construction of 52 pioneering nuclear reactors. The Idaho testing station was responsible for the development of world leading reactor safety codes and the operation of the Nation's premier materials testing device—the Advanced Test Reactor.

Building on its unsurpassed nuclear energy expertise and in recognition of its broader capabilities and unique assets, our Idaho ''testing station'' was formally designated a national laboratory in 1974. And the pace of innovation has only accelerated since. The lab's researchers have received dozens of R&D 100, Bright Light, Federal Laboratory Consortium and related awards for the development of technologies as diverse as concealed weapons detection systems and novel electrolyte batteries. The lab's central location within the Western Inland Energy Corridor—a band stretching from western Canada down through our nation's Intermountain and Rocky Mountain West—place it in a remarkable position to identify, assess and integrate the corridor's unmatched wind, biomass, hydropower, geothermal, conventional and unconventional fossil and uranium resources.

At 60, the Idaho National Lab's relevance to the Nation could not be greater. Its mission to ''Ensure the nation's energy security with safe, competitive, and sustainable energy systems and unique national and homeland security capabilities,'' represents a pledge to serve by each of the lab's nearly 4,000 employees, as well as the management team and partners from institutions of higher education in Idaho and nationwide.

I congratulate the employees, management team and community partners of the Idaho National Lab on the occasion of its 60th anniversary and look forward to many more years of success, built on this matchless legacy of science and engineering innovation.

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:

First of all I appreciate all your efforts in this manner and hopefully some relief will become of them. Secondly this letter may be a bit different than most of the others you have received. I, like many others feel the burden of increasing fuel prices and wonder ''why'' prices have risen so much in the past few months. I also have deep concerns for the dependence of foreign oil this country is a slave to. However, we Americans are for the most part, myself included, are selfish, wasteful and will not give up our conveniences. Therefore I personally do not mind the higher price of fuel (but hopefully the prices will drop) in the aspect that hopefully it will encourage people to be a bit more conservative. I am fortunate that my wife and I live less than three miles from where we work (separate business) in the past we both have driven our vehicles. My personal vehicle is a Ford F250 that gets 10 mpg. I have been driving for the convenience, but recently we have begun riding together (we also have a Ford Escape at 25 mpg), walking that takes about 45 minutes, riding bicycles at about 15 minutes and I also have a motorcycle that gets 55 mpg that I have dusted off and begun to ride. So it is not all bad. I also realize most people are not that fortunate. The things that bother me the most are that in the land of plenty, our auto manufacturers are still producing vehicles that get under 15 mpg; it is way past time for that to change. Domestic oil production needs to be increased, but please do it sensibly. Consider

the environmental impact and make sure U.S. oil stays in the U.S., and the fact that oil companies are reported to be making record profits. Everyone is entitled to make a profit, but profiteering is unacceptable.

Sorry for rambling on but as you hopefully can see, I feel the higher fuel prices are an opportunity for the American ingenuity to kick in with more fuel efficient vehicles, commuter options i.e., walking, carpooling, alternate transportation, and alternative fuels so we as Americans can reduce our dependence on oil and still satisfy our selfish lust for independence.

GREG HOSMAN, *Bellevue.*

There are many folks on the edge of losing jobs simply because they cannot afford the fuel to drive to work. Pairing job opportunities and increasing availability of affordable fuel makes sense. One tenth of one percent in a wilderness of 19 million acres is a smaller percentage per acre than a person leaves on one camping trip. It is a small price to pay. Please continue to support President Bush's desire to restore reasonable economics to our country. Thanks for standing up.

DELPHA BUSH, *Boise.*

I am strongly opposed to lifting the ban on off-shore drilling and strongly against drilling in our wild areas. I am also against the use of food crops for ethanol or any policy that reduces the availability of food to the world poor. I am very supportive of alternative energy and government funded research in these areas. I am strongly in favor of increased mileage requirements on vehicles. If Europe can get 50 miles to the gallon, we should be able to do so also. Thank you for your interest in this area.

LAURA and BILL ASBELL, *Post Falls.*

I moved to Idaho to go camping fishing day trips etc. . . . now because of the gas prices I stay in Nampa most of the time. I have a family and I work hard . . . I want to enjoy life in Idaho again. Please if you can do anything to help get life back the way it was that would be great. Thanks again.

ELBIE SEIBERT, *Nampa.*

Everytime I pass the gas station the price rises. Granted myself and my husband chose to have the vehicles that we drive, he drives a Chevrolet Duramax and I drive a Chevrolet Surburban, but these are the vehicles that accommodate our lifestyle of kids, dogs and camping. But when I see the oil companies making unheard-of profits in the first quarter of 2008 it infuriates me! I would not be as upset if the oil companies would be upfront with the price increase if they were only breaking even in their numbers. But making over a thirty billion dollar profit in the first three months of this year is just wrong. Family trips to Eastern Idaho to visit family has been cut back from monthly visits to once every couple of months. We are lucky that we are not in the situation of having to choose groceries over gas but if the cost of fuel keeps climbing we will also be in the same boat as other lower income families. I have worked too hard to have the lifestyle that my family has for it to be sucked away by greedy executives!!! My husband, my stepfather and I all serve in the Idaho Army National Guard and we have soldiers that are having a hard time getting to their units due to the cost of fuel. Something must be done and I would not be taking ''no'' for an answer. $4.00 a gallon of fuel is insane. Nothing has been changed to the fuel to have our vehicles preform better and no one is getting a cost of living increase for this.

HEATHER.

I recently received an email from you requesting stories of how the rising gas prices are effecting Idaho families. We are a family of five trying to make ends meet on one income. The gas prices have made this virtually impossible. We are now looking at my husband either taking a second job or my going to work part time to make ends meet. My husband's commute to work is about 30 minutes and I drive the same distance to take my children to activities four days per week. We have a van and a truck and spend about $400 a month on gas. Buying other vehicles is not an option because they are paid for and we cannot afford a monthly car payment. Moving closer to work is also not an option given the current housing market. The other issue we have seen is the rising cost of groceries as a direct result of the rise in gas prices. It is getting harder to feed our family with the rising cost of groceries and we are having to change the way we eat as a result. We are now looking at cutting the extra-curricular activities for our kids to save on gas.

We are very encouraged by your desire to persuade Congress to start using the resources we have in our own country. It is time for a change towards becoming more independent as a country. We will continue to pray for success in your efforts.

MICHELLE ESQUIVEL, *Nampa.*

My 60-year-old daughter spent 23 years as an ''at will'' employee and was fired for no reason. She was a Medical Transcriptionist. After so many years the requirements changed and when looking for a new position, found she was no longer qualified. Longevity did not seem to matter. She drove 40 miles round trip from Caldwell at night to work in a small hospital in Boise. This did not last very long as another person got her job and worked at home, something that she would have done had she been aware that her employer would have agreed to it. Their sorry did not help. She then lived off of her retirement at the same time supporting her daughter and grandson. When she left her original job she lost her insurance benefits and has not been able to afford any. After her savings were exhausted she found a job delivering the Statesman newspaper. She is required to furnish her own car and gas. It so happens that her route is rural and covers over 35 miles per night. I help out with the gas as much as I can. As gas prices continue to rise she can hardly afford to go to work and the wear and tear on her car with all the stops and starts becomes another expense.

I am 86 years old. My family came to Boise in 1861. I am signing my name to this message but request it never be used.

UNSIGNED.

I want to encourage you to not support drilling in ANWR or any currently protected Alaska lands. The high gas prices and our dependence on foreign oil have been hard to stomach, but I believe there are necessary lessons learned for the public. We must decrease our insatiable thirst for natural resources in this country. High gas and fuel prices have made people think hard about changing their driving habits and some of their domestic habits as well. Idaho Power has been encouraging conservation for a few years now, much to their merit, but I do not know how successful their campaign has been. There have not been any great heating/cooling crises yet such as brown or black outs to push people to change.

Personally, I carpool to work with my husband just about every day, unless I am on call (I work in a hospital). Even though I work eight hour days and my husband works nine hour days, I either walk over to his office and wait for him to finish, I bring my running gear and take a run while waiting for him, or I find something else to keep me busy for that extra hour. Sure it's a little inconvenient. I have animals to feed, pastures, a yard, and a garden to water and tend to, and the usual chores one has waiting for them at the end of a work day. However, I believe this small sacrifice is one I can shoulder. Additionally, this means that I only have to fill my small truck once a month. On other days, I try to ride my bike to the store, post office, etc., rather than making an extra car trip. If I have errands to run in my car, I will combine trips into one big loop, on one day, to minimize the amount and time I need to be driving. As far as our consumption of energy at home, we are fortunate enough to have lots of shade trees, a well insulated house, blinds on all of our windows, and an efficient attic fan to keep our house relatively cool on hot days. Last summer during the extensive heat wave we experienced here in SW Idaho I charted the high temperature for the day and the time our AC came on for about 6 weeks. We keep our thermostat set at 79 degrees while we are at work and decrease it to 76 or 77 for the 6 pm to 10 pm time period. We were able to keep our house cool enough 99 percent of those over 100 degree days that the AC didn't come on until after 6 pm and ran only one to two cycles before we were able to open up our windows to cool to outside temps, which by 10 pm were usually below 77 degrees. Our energy bill remained low for the whole summer due to our conservation methods. I am doing the same this summer.

I would like to add that, although I oppose drilling in our last wilderness areas, I fully support conservation incentives and ramping up research and support for alternative energy sources, including nuclear. I hope the proposed nuclear plant in Elmore County receives enough positive support from the public to go ahead. Nuclear energy technologies have advanced a lot since the 70's. I believe with some education for the general public about its increased safety nuclear energy can greatly reduce our dependency on hydrocarbon sources of energy.

ANGELA CALLAHAN, *Eagle.*

Fortunately, we have 2 Toyotas that get good gas mileage and last fall I was transferred to work at St. Als, which is very close to my home. So gas expenses for me have not been as much of an issue as for others. However, in my work at the outpatient pharmacy we have many customers who come from Nampa, Caldwell, even Mountain Home, and for them to make that drive is quite a hardship. Usually, it is specifically to come to the doctor and/or pharmacy only; if they were not coming for that they would not be coming to Boise at all. We have had some prescriptions transferred out to pharmacies in those communities because people cannot afford to drive into Boise. So, it is hurting our business.

I would like to see a better Treasure Valley-wide transportation system to help people get to where they need to go without having to spend a fortune. For some of these people the choice is between medicine or food, and this is not some exaggerated sob story. It is fact. I would also like to see more being done to encourage and fund alternative energy sources, more emphasis on hybrid cars, or even those that run on no gasoline, but on something else that is less expensive, less polluting, and easier to produce. The initial cost of such a changeover would be enormous, but the long term benefits would more than make up for this total makeover of our energy sources.

CHERYL ESSARY, *Boise.*

First, I express my appreciation for your willingness to be in Washington to not only represent Idaho but to help ensure that we

have men of high moral integrity making decisions about the future of our beloved United States of America.

With respect to high energy prices, I am very disappointed that our Federal Congress has shamefully neglected their responsibility to find a way to develop a national energy policy before we arrived at this rather extreme condition. Having worked as an oil and gas geologist in Houston, Texas before returning to Idaho, I know that it has never been a secret that our addiction to oil and natural gas was leading us into trouble as the opportunities to explore for large reserves continued to decline.

As a nation, we have been so negligent about seeing past the next election that our policies do not seem capable of meeting the challenges of a world that is now interdependent in so many ways. It has been and still is ridiculous to remove so many regions of offshore from oil and gas exploration and development. ANWR, in my opinion should be developed and if we are successful in finding additional resources there, use that for strategic reserves because we all understand that it is not likely to be significantly large in and by itself. Why is it so hard to communicate to those who are extreme (including John McCain) in their environmentalist/preservationist theologies that oil companies can explore and develop resources with such a small footprint that the ecological impacts are essentially negligible?

At the same time that I hear many in Congress calling for the rights to explore in additional areas, I really have not heard anything addressing the need to increase our refinery capacity or to deal with the myriad of gasoline blends that are required by EPA that reduce efficiencies in refining, nor does there seem to be anything coming to rural America to help with public transportation initiatives.

The Federal Government's overzealous effort to promote biofuels at the expense of food production seems to have been a huge mistake. Why was a similar effort of support not provided for oil shale or coal gasification etc.? With new EPA regulations governing carbon output it seems that we have added so much uncertainty into the business side of developing alternative resources that the risks may outweigh the potential successes.

Also, information I have received from the American Geologic Institute indicates that if the value of the dollar had kept pace with the Euro and other world currencies, oil prices would be in the $60 to $70 dollar range instead of the >$130 level. It seems clear that we must find a way to stop the declining value of the American dollar!

You have an incredibly difficult job ahead of you as you try to find a path that will lead to lower energy costs and improved economic prosperity for all of the citizens of our country. Our prayers are with you.

MARK D. LOVELL, *Rexburg.*

ADDITIONAL STATEMENTS

SIOUX FALLS COUGARS

● Mr. THUNE. Mr. President, I wish to recognize the University of Sioux Falls Cougars men's football team for winning the 2008 National Association of Intercollegiate Athletics, NAIA, National Championship and for finishing at the top of the NAIA Coaches' Top 25 Postseason Poll. This was USFs third consecutive trip to the National Championship and second championship victory in that time.

The University of Sioux Falls men's football team has a long history of success, including 3 National Championships from 1996 to 2008 and 16 Great Plains Athletic Conference titles. This season proved to be yet another outstanding performance by the Cougars, as they finished with a perfect record of 14 to 0 and defeated Carroll College, 23 to 7, in the NAIA National Championship game. Their excellent performance throughout the season was awarded by receiving all 18 possible first place votes in the NAIA Coaches' Top 25 Postseason Poll.

The 2008 Cougars were led to the championship thanks to the combination of a powerful offense and a dominating defense. The Cougars averaged nearly 37 points per game while giving up only 6. The defense ranked first in the Nation in numerous statistical categories, including scoring defense and total defense. The team effort displayed each week by this group of men is a tribute to the countless hours of training and preparation that preceded this great accomplishment.

Certainly this season would not have been possible without the coaches and players themselves. The coaching staff, in alphabetical order, is as follows: Ross Cimpl, Al Christensen, Kalen DeBoer, Jeff Fitzgerald, Ryan Grubb, Al Hansen, Eric Inama, Dan Moe, and Kurtiss Riggs.

The team, in alphabetical order, is as follows: Blake Andersen, Brandon Andersen, Alex Anderson, Drew Anderson, Eric Anderson, Anthony Baldassari, Jeremy Barnes, Bret Beachner, Travis Beaver, Nick Benedetto, Tony Benedetto, Dustin Bergmeier, Quintin Biermann, Brandon Boe, Lorenzo Brown, Tyson Brown, Doug Carlson, Jordan Carlson, Cody Cavender, Erik Cimpl, Jacob Crowl, Kyle Cummings, Drew DeGroot, Josh Dorr, Dane Driscoll, Trevor Engelson, Nathan Everett, Eric Fjeldheim, Shawn Flanagan, Dylan Fritz, Stanley Green, Jake Hahne, Adam Halseth, Mike Hartley, Brad Hartzler, Michael Hill, Trevor Holleman, Lavell Jackson, Eric James, Maxon Keating, Taylor Klein, Brandon Koolstra, Kyle Lancaster, Jade Larson, Scott LeBrun, Landon Leveranz, Matt Lindgren, Marlon Lobban, Adam Lopez, Ryan Lowmiller, Mitch Lupkes, Brad Maag, Justin Meidinger, Joe Moen, Tyler Mousel, Tyler Newman, Eric Page, Mike Patterson, Tony Pedri, Casey Peters, Kristian Porter, Nick Ramstad, Jim Rawhouser, Jared Redding, T.J. Ross, Jon Ryan, Spencer Sailors, Sean Santiago, Mark Sayler, Mark Schaffer, Dan Schmeichel, Shawn Schnabel, Andrew Schoenfelder, Ryan Schuler, Ismael Small, Eric Smith, Kyle Staudt, Dominic Studzinski, Rene Velasquez, Jared Vlotho, Tim Voegeli, Demetrius Washington, Kyle Wasson, and T.J. Wendt.

While the Cougars' success was truly a team effort, I would like to recognize the team's head coach Kalen DeBoer for being honored as the 2008 American Football Coaches Association NAIA Coach of the Year. This is the second time that he has received this honor since taking the helm for the Cougars in 2005. In only 4 years of Cougar leadership, Coach DeBoer has amassed a daunting record of 52 to 3. He has led the Cougars to the NAIA Championship game three times. The Cougars' continued success is a testament to Coach DeBoer's ability to motivate his players to perform and succeed at a high level of competition.

The coaching staff and student-athletes of the University of Sioux Falls men's football team should be very proud of all of their accomplishments this season. On behalf of the Sioux Falls community and the State of South Dakota, I am pleased to say congratulations to the Cougars on another remarkable season. You have made us all very proud.●

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. GRASSLEY (for himself and Mr. KOHL):

S. 364. A bill to provide for the review of agricultural mergers and acquisitions by the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. 365. A bill to establish in the Department of Justice the Nationwide Mortgage Fraud Task Force to address mortgage fraud in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY:

S. 366. A bill to amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries; to the Committee on Finance.

By Mr. LEVIN:

S. 367. A bill for the relief of Perlat Binaj, Almida Binaj, Erina Binaj, and Anxhela Binaj; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 368. A bill for the relief of Alemseghed Mussie Tesfamical; to the Committee on the Judiciary.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. DURBIN, and Mr. BROWN):

S. 369. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mr. DEMINT, Mr. THUNE, Mr. ROBERTS, and Mr. COBURN):

S. 370. A bill to prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes; to the Committee on Armed Services.

By Mr. THUNE (for himself and Mr. VITTER):

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; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LEAHY, Mr. KENNEDY, Mr. CARPER, Mr. PRYOR, and Ms. MIKULSKI):

S. 372. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 373. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. Res. 26. A resolution recognizing and honoring Ralph Wilson, Jr. and Bruce Smith on being selected to the 2009 Pro Football Hall of Fame class; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself, Mr. VOINOVICH, Mr. BAYH, Mr. MARTINEZ, Mr. KYL, and Mr. MENENDEZ):

S. Con. Res. 4. A concurrent resolution calling on the President and the allies of the United States to raise the case of Robert Levinson with officials of the Government of Iran at every level and opportunity, and urging officials of the Government of Iran to fulfill their promises of assistance to the family of Robert Levinson and to share information on the investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 117

At the request of Mr. KOHL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 117, a bill to protect the property and security of homeowners who are subject to foreclosure proceedings, and for other purposes.

S. 162

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 162, a bill to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes.

S. 234

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 234, a bill to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the ''Colonel John H. Wilson, Jr. Post Office Building''.

S. 249

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless youth who are students for purposes of low income tax credit.

S. 295

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 295, a bill to amend title XVIII of the Social Security Act to improve the quality and efficiency of the Medicare program through measurement of readmission rates and resource use and to develop a pilot program to provide episodic payments to organized groups of multispecialty and multilevel providers of services and suppliers for hospitalization episodes associated with select, high cost diagnoses.

S. 325

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 325, a bill to amend section 845 of title 18, United States Code, relating to explosives, to grant the Attorney General exemption authority.

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 333

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 333, a bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles.

AMENDMENT NO. 101

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 101 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. 102

At the request of Ms. LANDRIEU, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 102 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. 104

At the request of Ms. MIKULSKI, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Michigan (Ms. STABENOW), the Senator from Ohio (Mr. BROWN), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 104 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. KERRY:

S. 366. A bill to amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries; to the Committee on Finance.

Mr. KERRY. Mr. President, each year an estimated 500,000 people are treated for burn injuries, with 40,000 requiring hospitalization. It is time that we do more to aid those who suffer from disabling burns, which is why I am introducing the Social Security and Medicare Improved Burn Injury Treatment Access Act of 2009. I am pleased to join my colleague from Massachusetts, Congressman RICHARD NEAL, who introduced similar legislation in the House of Representatives.

This legislation provides a waiver of the 24-month waiting period now required before an uninsured individual becomes eligible for Medicare coverage for disabling burn injuries. It also provides a waiver for the five-month waiting period for Social Security disability benefits. This will help provide greater assistance to those who suffer from burn injuries and much needed support for the burn centers that treat them. Burn care is highly specialized and expensive. Since approximately 40 percent of burn victims are uninsured, this places a great financial strain on burn centers, causing some of them to close.

At a time when we are asking burn centers to be prepared to deal with catastrophic cases, and expand their capacity, we also must provide the support they need. Chemical fires, explosions, terrorist attacks, and major accidents are scenarios where burn centers play a critical role in public health. Over one-third of those hospitalized in New York following the September 11 terrorist attacks had severe burn injuries.

This legislation will provide immediate Medicare coverage for uninsured patients suffering serious, disabling burn injuries. It follows an approach already taken with other conditions such as End Stage Renal Disease, ESRD, and amyotrophic lateral sclerosis ALS or Lou Gehrig's disease, both of which result in waivers of the 24-month waiting period for Medicare eligibility.

This legislation has important cost containment measures. To prevent shifting the burden of care, no one with public or private insurance at the time of their burn injury will be eligible for the 24-month waiver, and state public insurance programs will not be allowed to restrict coverage for burn patients as a way to shift the responsibility to Medicare. Each individual's disability status is required to be reevaluated at least once every three years to ensure that those who have made a full recovery are not allowed to stay on Medicare indefinitely.

We cannot allow our Nation's burn centers to continue closing due to a lack of financial resources. They are a vital resource and through them, we have the opportunity to give burn victims the best possible chance at recovery. I ask all my colleagues to support this legislation.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. DURBIN, and Mr. BROWN):

S. 369. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce, with Senators GRASSLEY, FEINGOLD, DURBIN and BROWN, the Preserve Access to Affordable Generics Act. Our legislation will prevent one of the most egregious tactics used to keep generic competitors off the market, leaving consumers with unnecessarily high drug prices. The way it is done is simple—a drug company that holds a patent on a brand-name drug pays a generic drug maker to not sell a competing product. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company. The only losers are the American people, who continue to pay unnecessarily high drug prices for years to come.

Our legislation is basically very simple it will make these anti-competitive, anti-consumer patent payoffs illegal. We will thereby end a practice seriously impeding generic drug competition, competition that could save consumers literally billions of dollars in health care costs. When we first introduced this legislation to ban these pay-off settlements in 2007, it had broad support from those concerned with rising health care costs, including the AARP. The New York Times editorialized in January 2007 in support of legislation to ban the pay-off settlements, pointing out that the settlements ''are a costly legal loophole that needs to be plugged by Congressional legislation.''

Despite the opposition of the Federal Trade Commission to these anti-competitive patent settlements, two 2005 appellate court decisions have permitted these backroom payoffs. And the effect of these court decisions has been stark. In the two years after these two decisions, the FTC has found, half of all patent settlements involved payments from the brand name from the generic manufacturer in return for an agreement by the generic to keep its drug off the market. In the year before these decisions, not a single patent settlement reported to the FTC contained such an agreement.

When brand name drugs lose their patent monopoly, this opens the door for consumers, employers, third-party payers, and other purchasers to save billions—30 percent to 80 percent on average—by using generic versions of these drugs. A recent study released by the Pharmaceutical Care Management Association showed that health plans and consumers could save $26.4 billion over 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

The urgency of the need for this legislation was highlighted just yesterday, when the FTC filed an antitrust case challenging the latest ''pay for delay'' settlement. The FTC's Complaint alleges that Solvay, the brand name manufacturer of a hormone-boosting drug, entered into an agreement with two generic companies to delay the entry of their generic version of the drug for nine years. The FTC alleged that Solvay agreed in 2006 to share its profits with the generic competitors as long as they did not launch their generic versions until 2015. If these allegations are true, this is exactly the anti-consumer, anti-competition agreement that would be rendered illegal by our bill.

We introduced this bill in the last Congress and it passed out of the Judiciary Committee without a dissenting vote. Nonetheless, we heard from some in the generic drug industry that on occasion these patent settlements may not harm competition. That is why this year's version of the legislation includes a new provision not contained in the bill introduced in the last Congress. This new provision would permit the Federal Trade Commission the guardians of competition in this industry to exempt from this amendment's ban certain agreements if the FTC determines such agreements would benefit consumers. This provision will ensure that our amendment does not prevent any agreements which will truly benefit consumers.

It is also important to note that—contrary to the arguments made by some—our amendment will not ban all patent settlements. In fact, our bill will not ban any settlement which does not involve an exchange of money. This legislation will do nothing to prevent parties from settling patent litigation with an agreement that a generic will delay entry for some period of time in return for ending its challenge to the validity of the patent. Only the egregious pay-off settlements in which the brand name company also pays the generic company a sum of money to do so will be banned.

In closing, we cannot profess to care about the high cost of prescription drugs while turning a blind eye to anti-competitive backroom deals between brand and generic drug companies. It is time to stop these drug company pay-offs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort by supporting 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. 369

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 ''Preserve Access to Affordable Generics Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) prescription drugs make up 10 percent of the national health care spending but for the past decade have been 1 of the fastest growing segments of health care expenditures.

(2) 67 percent of all prescriptions dispensed in the United States are generic drugs, yet they account for only 20 percent of all expenditures;

(3) generic drugs, on average, cost 30 to 80 percent less than their brand-name counterparts;

(4) consumers and the health care system would benefit from free and open competition in the pharmaceutical market and the removal of obstacles to the introduction of generic drugs;

(5) full and free competition in the pharmaceutical industry, and the full enforcement of antitrust law to prevent anti-competitive practices in this industry, will lead to lower prices, greater innovation, and inure to the general benefit of consumers.

(6) the Federal Trade Commission has determined that some brand name pharmaceutical manufacturers collude with generic drug manufacturers to delay the marketing of competing, low-cost, generic drugs;

(7) collusion by pharmaceutical manufacturers is contrary to free competition, to the interests of consumers, and to the principles underlying antitrust law;

(8) in 2005, 2 appellate court decisions reversed the Federal Trade Commission's long-standing position, and upheld settlements that include pay-offs by brand name pharmaceutical manufacturers to generic manufacturers designed to keep generic competition off the market;

(9) in the 6 months following the March 2005 court decisions, the Federal Trade Commission found there were three settlement agreements in which the generic received compensation and agreed to a restriction on its ability to market the product;

(10) the FTC found that ½ of the settlements made in 2006 and 2007 between brand name and generic companies, and over ⅔ of the settlements with generic companies with exclusivity rights that blocked other generic drug applicants, included a pay-off from the brand name manufacturer in exchange for a promise from the generic company to delay entry into the market; and

(11) settlements which include a payment from a brand name manufacturer to a generic manufacturer to delay entry by generic drugs are anti-competitive and contrary to the interests of consumers.

(b) PURPOSES.—The purposes of this Act are—

(1) to enhance competition in the pharmaceutical market by prohibiting anticompetitive agreements and collusion between brand name and generic drug manufacturers intended to keep generic drugs off the market;

(2) to support the purpose and intent of antitrust law by prohibiting anticompetitive agreements and collusion in the pharmaceutical industry; and

(3) to clarify the law to prohibit payments from brand name to generic drug manufacturers with the purpose to prevent or delay the entry of competition from generic drugs.

SEC. 3. UNLAWFUL COMPENSATION FOR DELAY.

(a) IN GENERAL.—The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 28 the following:

''SEC. 29. UNLAWFUL INTERFERENCE WITH GENERIC MARKETING.

''(a) It shall be unlawful under this Act for any person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim in which—

''(1) an ANDA filer receives anything of value; and

''(2) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

''(b) Nothing in this section shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

''(c) In this section:

''(1) The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

''(2) The term 'agreement resolving or settling a patent infringement claim' includes, any agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) The term 'ANDA filer' means a party who has filed an ANDA with the Food and Drug Administration.

''(5) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.''.

(b) REGULATIONS.—The Federal Trade Commission may, by rule promulgated under section 553 of title 5, United States Code, exempt certain agreements described in section 29 of the Clayton Act, as added by subsection (a), if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers. Consistent with the authority of the Commission, such rules may include interpretive rules and general statements of policy with respect to the practices prohibited under section 29 of the Clayton Act.

SEC. 4. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 3155 note) is amended by—

(1) striking ''the Commission the'' and inserting ''the Commission (1) the''; and

(2) inserting before the period at the end the following: ''; and (2) a description of the subject matter of any other agreement the parties enter into within 30 days of an entering into an agreement covered by subsection (a) or (b)''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. 5. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 29 of the Clayton Act or'' after ''that the agreement has violated''.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LEAHY, Mr. KENNEDY, Mr. CARPER, Mr. PRYOR, and Ms. MIKULSKI):

S. 372. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I rise to reintroduce the Whistleblower Protection Enhancement Act. I am pleased that Senators COLLINS, GRASSLEY, LEVIN, LIEBERMAN, VOINOVICH, LEAHY, KENNEDY, CARPER, PRYOR, and MIKULSKI have joined as cosponsors of this bill.

I have been a long-time proponent of strengthening the rights and protections of federal whistleblowers. Last year, my bill, the Federal Employee Protection of Disclosures Act, S. 274, passed the Senate by unanimous consent in December 2007. A similar House bill, the Whistleblower Protection Enhancement Act, also passed in March 2008. Unfortunately, we were not able to reconcile the two bills and enact whistleblower protections before the 110th Congress adjourned.

The need for strengthened whistleblower protections is clear. In this time of economic crisis, we cannot wait to act on measures to make sure the government uses tax dollars efficiently and effectively. Indeed, President Obama emphasized the need for improved accountability in his inaugural address, stating:

> Those of us who manage the public's dollars will be held to account—to spend wisely, reform bad habits, and do our business in the light of day—because only then can we restore the vital trust between a people and their government.

This legislation will help us hold those who manage the public's dollars accountable by strengthening protections for Federal workers who shed light on Government waste, fraud, and abuse. Our bill also will contribute to public health and safety, civil rights and civil liberties, national security, and other valuable interests. Federal employees often are in the best position to observe and disclose Federal Government wrongdoing that can affect every aspect of our economy and our lives, and fewer employees will have the courage to disclose wrongdoing without meaningful whistleblower protections.

The Whistleblower Protection Act, WPA, was intended to shield Federal whistleblowers from retaliation, but the Federal Circuit and the Merit Systems Protection Board repeatedly have issued decisions that misconstrue the WPA and scale back its protections. Federal whistleblowers have prevailed on the merits of their claims before the Federal Circuit Court of Appeals, which has sole jurisdiction over federal employee whistleblower appeals, only three times in hundreds of cases since 1994. That is why further action is necessary.

I will highlight a few of the important provisions in this bill. Our bill would eliminate a number of restrictions that the Federal Circuit has read into the law regarding when disclosures are covered by the WPA. In light of the Federal Circuit's restrictive reading of the WPA, it would establish a pilot program to allow whistleblower appeals to be filed in the appropriate regional Federal Court of Appeals for five years, and would require a Government Accountability Office review of that change 40 months after enactment. This bill would bar agencies from enforcing a nondisclosure policy, revoking an employee's security clearance, or investigating an employee in retaliation for a protected disclosure.

This bill also includes a few improvements in whistleblower protection that were not in S. 274. It would expand the coverage of the Whistleblower Protection Act to include employees of the Transportation Security Administration. Additionally, it would make clear that disclosures of censorship of scientific information that could lead to gross government waist or mismanagement, a substantial and specific danger to public health or safety, or a violation of law are protected.

Congress has a duty to provide strong protections for Federal whistleblowers. Only when Federal employees are confident that they will not face retaliation will they feel comfortable coming forward to disclose information that can be used to improve government operations, our national security, and the health of our citizens.

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. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) SHORT TITLE.—This Act may be cited as the ''Whistleblower Protection Enhancement Act of 2009''.

(b) CLARIFICATION OF DISCLOSURES COVERED.—

(1) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(A) in subparagraph (A)—

(i) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of'';

(ii) in clause (i), by striking ''a violation'' and inserting ''any violation''; and

(iii) by striking ''or'' at the end;

(B) in subparagraph (B)—

(i) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of'';

(ii) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''; and

(iii) in clause (ii), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(C) any disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is direct and specific evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

''(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

''(III) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.''.

(2) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—

(A) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214, in subsections (a), (e)(1) and (i) of section 1221, and in subsection (a)(2)(C)(i) of 2302 by inserting ''or 2302(b)(9) (B) through (D)'' after ''section 2302(b)(8)'' or ''(b)(8)'' each place it appears.

(B) OTHER REFERENCES.—Title 5, United States Code, is amended in subsection (b)(4)(B)(i) of section 1214 and in subsection (e)(1) of section 1221 by inserting ''or protected activity'' after ''disclosure'' each place it appears.

(c) DEFINITIONAL AMENDMENTS.—

(1) DISCLOSURES.—Section 2302(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (B)(ii), by striking ''and'' at the end;

(B) in subparagraph (C)(iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) 'disclosure' means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

''(i) any violation of any law, rule, or regulation; or

''(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.''.

(2) CLEAR AND CONVINCING EVIDENCE.—Sections 1214(b)(4)(B)(ii) and 1221(e)(2) of title 5, United States Code, are amended by adding at the end the following: ''For purposes of the preceding sentence, 'clear and convincing evidence' means evidence indicating that the matter to be proved is highly probable or reasonably certain.''.

(d) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows:

''This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that they have disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.''.

(e) PERSONNEL ACTIONS AND PROHIBITED PERSONNEL PRACTICES.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

''(xii) a suspension, revocation, or other determination relating to a security clearance or any other access determination by a covered agency;

''(xiii) an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; and''

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to

Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling''; or

''(14) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section.''.

(f) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency; and

''(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

(g) DISCIPLINARY ACTION.—Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

''(3)(A) A final order of the Board may impose—

''(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

''(ii) an assessment of a civil penalty not to exceed $1,000; or

''(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under paragraph (8) or (9) of section 2302(b) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

(h) REMEDIES.—

(1) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking ''agency involved'' and inserting ''agency where the prevailing party is employed or has applied for employment''.

(2) DAMAGES.—Sections 1214(g)(2) and 1221(g)(1)(A)(ii) of title 5, United States Code, are amended by striking all after ''travel expenses,'' and inserting ''any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs).'' each place it appears.

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b)(1) of title 5, United States Code, is amended to read as follows:

''(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2), a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

''(B) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2009, a petition to review a final order or final decision of the Board in a case alleging a violation of paragraph (8) or (9) of section 2302(b) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2).''.

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

''(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2009, this paragraph shall apply to any review relating to paragraph (8) or (9) of section 2302(b) obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting paragraph (8) or (9) of section 2302(b). If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(j) MERIT SYSTEM PROTECTION BOARD REVIEW OF SECURITY CLEARANCES.—

(1) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

''§ 7702a. Actions relating to security clearances

''(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance or access determination, the Merit Systems Protection Board or any reviewing court—

''(1) shall determine whether paragraph (8) or (9) of section 2302(b) was violated;

''(2) may not order the President or the designee of the President to restore a security clearance or otherwise reverse a determination of clearance status or reverse an access determination; and

''(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

''(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regard to a security clearance or access determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall conduct a review of that suspension, revocation, access determination, or other determination, giving great weight to the Board or court judgment.

''(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, access determination, or other determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, other determination, or access determination. A report under this paragraph shall include any proposed agency action with regard to the security clearance or access determination.

''(c) An allegation that a security clearance or access determination was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.

''(d) For purposes of this section, corrective action may not be ordered if the agency demonstrates by a preponderance of the evidence that it would have taken the same personnel action in the absence of such disclosure.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

''7702a. Actions relating to security clearances.''.

(k) PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(A) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(B) by inserting after section 2303 the following:

''§ 2304. Prohibited personnel practices affecting the Transportation Security Administration

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

''(1) the provisions of section 2302(b)(1), (8), and (9);

''(2) any provision of law implementing section 2302(b) (1), (8), or (9) by providing any

right or remedy available to an employee or applicant for employment in the civil service; and

''(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and by inserting the following:

''Sec. 2304. Prohibited personnel practices affecting the Transportation Security Administration.
''Sec. 2305. Responsibility of the Government Accountability Office.
''Sec. 2306. Coordination with certain other provisions of law.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section.

(l) DISCLOSURE OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.—

(1) DEFINITIONS.—In this section—

(A) the term ''applicant'' means an applicant for a covered position;

(B) the term ''censorship related to research, analysis, or technical information'' means any effort to alter, misrepresent, or suppress research, analysis, or technical information;

(C) the term ''covered position'' has the meaning given under section 2302(a)(2)(B) of title 5, United States Code;

(D) the term ''employee'' means an employee in a covered position; and

(E) the term ''disclosure'' has the meaning given under section 2302(a)(2)(D) of title 5, United States Code.

(2) PROTECTED DISCLOSURE.—

(A) IN GENERAL.—Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information shall come within the protections of section 2302(b)(8)(A) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation; or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) the disclosure and information satisfy the conditions stated in the matter following clause (ii) of section 2302(b)(8)(A) of title 5, United States Code; and

(iii) shall come within the protections of section 2302(b)(8)(B) of title 5, United States Code, if—

(I) the conditions under clause (i) of this subparagraph are satisfied; and

(II) the disclosure is made to an individual referred to in the matter preceding clause (i) of section 2302(b)(8)(B) of title 5, United States Code, for the receipt of disclosures.

(B) APPLICATION.—Paragraph (1) shall apply to any disclosure of information by an employee or applicant without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties.

(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.

(m) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: ''For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.''.

(n) ADVISING EMPLOYEES OF RIGHTS.—Section 2302(c) of title 5, United States Code, is amended by inserting '', including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures'' after ''chapter 12 of this title''.

(o) SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action brought in a court of the United States related to any civil action brought in connection with section 2302(b) (8) or (9), or subchapter III of chapter 73, or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) or subchapter III of chapter 73 and the impact court decisions would have on the enforcement of such provisions of law.

''(2) A court of the United States shall grant the application of the Special Counsel to appear in any such action for the purposes described in subsection (a).''.

(p) SCOPE OF DUE PROCESS.—

(1) SPECIAL COUNSEL.—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting '', after a finding that a protected disclosure was a contributing factor,'' after ''ordered if''.

(2) INDIVIDUAL ACTION.—Section 1221(e)(2) of title 5, United States Code, is amended by inserting '', after a finding that a protected disclosure was a contributing factor,'' after ''ordered if''.

(q) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.''.

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

(r) REPORTING REQUIREMENTS.—

(1) GOVERNMENT ACCOUNTABILITY OFFICE.—

(A) IN GENERAL.—

(i) REPORT.—Not later than 40 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives on the implementation of this Act.

(ii) CONTENTS.—The report under this paragraph shall include—

(I) an analysis of any changes in the number of cases filed with the United States Merit Systems Protection Board alleging violations of section 2302(b)(8) or (9) of title 5, United States Code, since the effective date of the Act;

(II) the outcome of the cases described under clause (i), including whether or not the United States Merit Systems Protection Board, the Federal Circuit Court of Appeals, or any other court determined the allegations to be frivolous or malicious; and

(III) any other matter as determined by the Comptroller General.

(B) STUDY ON REVOCATION OF SECURITY CLEARANCES.—

(i) STUDY.—The Comptroller General shall conduct a study of security clearance revocations of Federal employees at a select sample of executive branch agencies. The study shall consist of an examination of the number of security clearances revoked, the process employed by each agency in revoking a clearance, the pay and employment status of agency employees during the revocation process, how often such revocations result in termination of employment or reassignment, how often such revocations are based on an improper disclosure of information, and such other factors the Comptroller General deems appropriate.

(ii) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the results of the study required under this subparagraph.

(2) MERIT SYSTEMS PROTECTION BOARD.—

(A) IN GENERAL.—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

(i) Information relating to the outcome of cases decided during the applicable year of the report in which violations of section 2302(b)(8) or (9) of title 5, United States Code, were alleged.

(ii) The number of such cases filed in the regional and field offices, the number of petitions for review filed in such cases, and the outcomes of such cases.

(B) FIRST REPORT.—The first report described under subparagraph (A) submitted after the date of enactment of this Act shall include an addendum required under that subparagraph that covers the period beginning on January 1, 2009 through the end of the fiscal year 2009.

(s) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of enactment of this Act.

By Mr. NELSON, of Florida:

S. 373. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal; to the Committee on Environment and Public Works.

Mr. NELSON of Florida. Mr. President, I rise today to discuss exotic pythons and the devastating impact they are having on wildlife in my home state. To combat this deadly nonnative nuisance, I am also filing a bill that will ban the interstate commerce and importation of these snakes.

Pythons were first discovered in the Everglades in the mid–1990s, and now have a rapidly-growing breeding population within the boundary of Everglades National Park. They impact almost seventy endangered species living in the Everglades and threaten to upset the natural balance that we are spending billions of dollars to restore. When I toured the Everglades with Environment and Public Works Committee Chairman BARBARA BOXER, we witnessed firsthand the damage pythons are causing, and the efforts researchers are making to eradicate them from the wild.

These snakes were brought to Florida to be sold as pets, and were introduced into the wild by owners who could no longer handle them. They eat animals ranging from songbirds to white ibises, as well as endangered and threatened species such as the Key Largo woodrat. Pythons can grow to be 23 feet long and weigh up to 200 pounds, and there is currently no effective way of eradicating them in the wild.

They can consume animals many times their size, and recently, researchers also found cougar parts in the stomachs of captured pythons. This development could signal a new threat to the endangered Florida panther, which we have been working so hard to save.

Python populations have also been discovered in Big Cypress National Preserve to the north, Miami's water management areas to the northeast, Key Largo to the southeast, and many state parks, municipalities, and public and private lands in the region.

Because climate range projections from the U.S. Geological Survey show that pythons may soon expand their range to include much of the southern third of the United States, getting their populations under control is even more pressing.

In the last year, the State of Florida has taken some actions to address the problems created by owners who release their pythons into the wild, and I applaud these efforts. The State now requires owners of animals they call ''Reptiles of Concern''—a category that includes two species besides pythons—not only to obtain permits for their animals, but also to implant a tracking microchip in larger pythons.

I believe federal action is also needed. That is why today I am introducing a bill that would amend the Lacey Act to ban the importation and interstate commerce of the python. This step is needed to reduce the number of pythons released into the wild by pet owners who don't understand the responsibility caring for a python entails. In 2007, preeminent environmentalist and former assistant secretary of the Interior Nathaniel Reed wrote, ''The dramatic increase in the number of snakes in the Park and Big Cypress call into question why it has taken so long for the Service to utilize its powers under the Lacey Act to prevent importation of the snake into an ecosystem where escapees and rejects have built a sustainable population.''

If we do not take action now, we will let python populations in Florida continue to grow and further ravage the already-fragile Everglades, as well as risk letting them spread throughout the Southern portion of the United States.

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. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPORTATION OR SHIPMENT OF INJURIOUS SPECIES.

Section 42(a)(1) of title 18, United States Code, is amended in the first sentence by inserting ''; of the constrictor snake of the species Python genera'' after ''polymorpha''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 26—RECOGNIZING AND HONORING RALPH WILSON, JR. AND BRUCE SMITH ON BEING SELECTED TO THE 2009 PRO FOOTBALL HALL OF FAME CLASS

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 26

Whereas Ralph Wilson, Jr. was born in Columbus, Ohio on October 17, 1918 and grew up in Detroit, Michigan;

Whereas Ralph Wilson, Jr. is a graduate of the University of Virginia and attended the University of Michigan Law School;

Whereas Ralph Wilson, Jr. bravely served in the United States Navy during World War II;

Whereas Ralph Wilson, Jr.'s first involvement in professional football was as a minority owner of the National Football League's (NFL) Detroit Lions;

Whereas on October 28, 1959, Ralph Wilson, Jr. created the Buffalo Bills, the seventh American Football League (AFL) franchise;

Whereas under Ralph Wilson, Jr.'s leadership and with the legendary players Jack Kemp, Cookie Gilchrist, Billy Shaw, and Tom Sestak, the Buffalo Bills were AFL champions in 1964 and 1965;

Whereas Ralph Wilson, Jr., head Coach Marv Levy, and outstanding talented players, including Jim Kelly, Bruce Smith, Thurman Thomas, and Andre Reed, led the Buffalo Bills to Super Bowls XXV, XXVI, XXVII, and XXVIII;

Whereas in 1998, the Buffalo Bill's home stadium was named ''Ralph Wilson Stadium'' to honor the team's owner;

Whereas at 90 years old, Ralph Wilson, Jr. is still a champion for his team;

Whereas Bruce Smith was born in Norfolk, Virginia on June 18, 1963;

Whereas Bruce Smith attended Virginia Polytechnic Institute and State University and is one of the most-celebrated football players of his alma mater, having been nicknamed ''The Sack Man'';

Whereas Bruce Smith was drafted to the Buffalo Bills in 1985 as the number one draft pick overall;

Whereas Bruce Smith was a member of the Buffalo Bills for Super Bowls XXV, XXVI, XXVII, and XXVIII;

Whereas Bruce Smith was first selected to play in the Pro Bowl in 1987, and was selected 10 additional years during which he was a Buffalo Bill;

Whereas Bruce Smith boasts numerous professional football recognitions, including Pro Bowl Most Valuable Player, Associated Press NFL Defensive Player of the Year, Newspaper Enterprise Association Defensive Player of the Year, United Press International Defensive Player of the Year, and American Football Conference (AFC) Defensive Player of the Year; and

Whereas Bruce Smith completed his career as a Washington Redskin in 2003 after 19 seasons and a record 200 sacks: Now, therefore, be it

Resolved, That the Senate recognizes and honors Ralph Wilson, Jr. and Bruce Smith on being selected to the 2009 Pro Football Hall of Fame class.

SENATE CONCURRENT RESOLUTION 4—CALLING ON THE PRESIDENT AND THE ALLIES OF THE UNITED STATES TO RAISE THE CASE OF ROBERT LEVINSON WITH OFFICIALS OF THE GOVERNMENT OF IRAN AT EVERY LEVEL AND OPPORTUNITY, AND URGING OFFICIALS OF THE GOVERNMENT OF IRAN TO FULFILL THEIR PROMISES OF ASSISTANCE TO THE FAMILY OF ROBERT LEVINSON AND TO SHARE INFORMATION ON THE INVESTIGATION INTO THE DISAPPEARANCE OF ROBERT LEVINSON WITH THE FEDERAL BUREAU OF INVESTIGATION

Mr. NELSON of Florida (for himself, Mr. VOINOVICH, Mr. BAYH, Mr. MARTINEZ, Mr. KYL, and Mr. MENENDEZ) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 4

Whereas United States citizen Robert Levinson is a retired agent of the Federal Bureau of Investigation, a resident of Florida, the husband of Christine Levinson, and father of their 7 children;

Whereas Robert Levinson traveled from Dubai to Kish Island, Iran, on March 8, 2007;

Whereas, after traveling to Kish Island and checking into the Hotel Maryam, he disappeared on March 9, 2007;

Whereas neither his family nor the United States Government has received further information on his fate or whereabouts;

Whereas March 9, 2009, marks the second anniversary of the disappearance of Robert Levinson;

Whereas the Government of Switzerland, which has served as Protecting Power for the United States in the Islamic Republic of Iran in the absence of diplomatic relations between the United States Government and the Government of Iran since 1980, has continuously pressed the Government of Iran on the case of Robert Levinson and lent vital assistance and support to the Levinson family during their December 2007 visit to Iran;

Whereas officials of the Government of Iran promised their continued assistance to the relatives of Robert Levinson during the visit of the family to the Islamic Republic of Iran in December 2007; and

Whereas the President of the Islamic Republic of Iran, Mahmoud Ahmadinejad, stated during an interview with NBC News broadcast on July 28, 2008, that officials of the Government of Iran were willing to cooperate with the Federal Bureau of Investigation in the search for Robert Levinson: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the Embassy of Switzerland in Tehran and the Government of Switzerland for the ongoing assistance to the United States Government and to the family of Robert Levinson, particularly during the visit by Christine Levinson and other relatives to Iran in December 2007;

(2) expresses appreciation for efforts by Iranian officials to ensure the safety of the family of Robert Levinson during their December 2007 visit to Iran, as well as for the promise of continued assistance;

(3) urges the Government of Iran, as a humanitarian gesture, to intensify its cooperation on the case of Robert Levinson with the Embassy of Switzerland in Tehran and to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation;

(4) urges the President and the allies of the United States to engage with officials of the Government of Iran to raise the case of Robert Levinson at every opportunity, notwithstanding other serious disagreements the United States Government has had with the Government of Iran on a broad array of issues, including human rights, the nuclear program of Iran, the Middle East peace process, regional stability, and international terrorism; and

(5) expresses sympathy to the family of Robert Levinson during this trying period.

Mr. NELSON of Florida. Mr. President, since we have a moment, I will tell you about S. Con. Res. 4. Two years ago, an American went to Kish Island, which is part of Iran. The Iranian island is in the Persian Gulf and a visa is not required to get there. We have the records that Bob Levinson, a retired FBI agent, checked out of his hotel, which subsequently has been confirmed by the taxi driver who drove him to the airport and deposited him. At that point, Bob Levinson disappeared and has left a wife and seven children. They happen to reside in the State of Florida. But it doesn't make any difference where the State is. We have a number of Senators who have joined with me on this resolution to keep up the pressure.

I want you to know that under the reasonable man test, all of the evidence we have suggests that Bob Levinson is in Iran and is being held against his will. First, there was an Iranian press story about 6 weeks after Levinson's disappearance that indicated he would be released, that he was in custody. This report comes from PRESS TV, which is an Iranian Government press operation.

In addition, there was a fellow he met with on Kish Island named Belfield, who is a fugitive from American justice. Belfield now resides in Iran and has stated publicly that he met with Bob Levinson. The meeting was suddenly interrupted by people who arrested Belfield. This fellow, Belfield, has said that Levinson is being held in Iran. We have also had the statement by the President of Iran, Ahmadinejad, who says he doesn't know anything about Levinson's location in Iran, but that the Government of Iran would do everything to cooperate.

Thus far, in innumerable contacts from this Senator and Mrs. Levinson including during her visit a year ago to Tehran and to Kish Island, the Government of Iran has not been forthcoming or willing to cooperate.

The reasonable man test says he is held in Iran. I can tell you that this Senator believes he is being held and he is being held in a secret prison. We do know that, from time to time, in several diplomatic sessions, whenever this has been brought up to an Iranian official, first, he says, ''We don't know anything about Levinson,'' and then they immediately change the subject to talk about the Iranians who were picked up by the U.S. Government in Erbil, Iraq. Whether they are suggesting an exchange, we simply don't know. But I can tell you that the Government of the United States, now under the new administration, specifically with the Secretary of State, who has been briefed on details in the Bob Levinson case, is pressing forward.

In conclusion, if there is a new chapter in the relationship between the United States and Iran, what better way for that new chapter to open than for Iran to make a humanitarian gesture by returning this father, this husband, to his family, his wife and seven children.

AMENDMENTS SUBMITTED AND PROPOSED

SA 106. Mr. ISAKSON (for himself 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.

SA 107. Mr. VITTER submitted an 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 108. 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 109. Mr. COBURN (for himself, Mr. ENZI, Mr. MCCAIN, and Mr. DEMINT) submitted an 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 110. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL, of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, Mr. SCHUMER, Mr. BYRD, Mr. MENENDEZ, Mr. CARPER, and Mr. TESTER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 111. 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 112. Mrs. BOXER (for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER) submitted an 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 113. Mr. WYDEN 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 114. Mr. KERRY (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. MENENDEZ, and Mr. WHITEHOUSE) 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 115. Mr. INHOFE (for himself and Mr. BENNET, 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 116. Mr. CARDIN (for himself, Mr. ENSIGN, and 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 117. Mr. VITTER 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 118. Mr. VITTER 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 119. Mr. DEMINT submitted an 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 120. Mr. BROWN submitted an 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 121. Mrs. BOXER (for herself 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 122. 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 123. 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 124. 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 125. Mrs. MCCASKILL (for herself, Mr. SANDERS, Mrs. HAGAN, Mr. HARKIN, Ms. MIKULSKI, Ms. KLOBUCHAR, Mr. NELSON, of Nebraska, Mr. BEGICH, and Mrs. BOXER) submitted an 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 126. Mrs. MCCASKILL (for herself, Mr. BOND, Mr. BINGAMAN, and 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 127. 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 128. 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 129. Mr. CARPER (for himself, Mr. VOINOVICH, 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 130. 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 131. Mr. VITTER submitted an 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 132. 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 133. 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 134. 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 135. 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 136. Mr. VITTER submitted an 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 137. Mr. REID (for Mr. KENNEDY (for himself, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mr. WHITEHOUSE, and 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, supra; which was ordered to lie on the table.

SA 138. 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 139. 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 140. Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, 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.

SA 141. 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 142. 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 143. 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 144. 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 145. Mr. DODD submitted an 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 146. Mr. CARPER (for himself and Mr. LIEBERMAN) 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 147. Mr. BROWNBACK 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 148. Mr. BROWNBACK 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 149. Mr. DEMINT submitted an 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 150. Mr. DEMINT submitted an 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 151. Mr. DEMINT submitted an 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 152. 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, supra; which was ordered to lie on the table.

SA 153. 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, supra; which was ordered to lie on the table.

SA 154. 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, supra; which was ordered to lie on the table.

SA 155. Ms. KLOBUCHAR (for herself and 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 156. 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, supra; which was ordered to lie on the table.

SA 157. 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, supra; which was ordered to lie on the table.

SA 158. Mr. MARTINEZ (for himself and Mrs. FEINSTEIN) submitted an 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 159. 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 160. Mr. BOND 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 161. Mr. BOND (for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED) 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 162. Mr. BOND 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 163. Mr. INHOFE 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 164. 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 165. 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 166. 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 167. Mr. DEMINT 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 168. Mr. DEMINT 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 169. Mr. BOND (for himself, Mrs. BOXER, Mr. INHOFE, Mr. BAUCUS, Mr. COCHRAN, Mr. VOINOVICH, Mr. CRAPO, Mr. BAYH, and Mr. BROWNBACK) 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 170. Mr. CARPER (for himself and Mr. CRAPO) submitted an 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 171. Mr. CARPER (for himself, Mrs. BOXER, Mr. SCHUMER, Mr. LAUTENBERG, Ms. STABENOW, Mrs. GILLIBRAND, Mr. KERRY, and Mr. WHITEHOUSE) 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 172. Mr. UDALL, of Colorado (for himself, Mr. BEGICH, and Mr. KAUFMAN) 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 173. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. CARDIN) submitted an 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 174. 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 175. 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 176. 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 177. Mr. SPECTER submitted an 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 178. Mr. HARKIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 179. Mr. VITTER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 180. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, and Mr. BROWN) submitted an 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 181. Ms. STABENOW (for herself 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 182. Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an 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 183. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, and 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 184. 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 185. Mr. SCHUMER (for himself, Mr. SPECTER, Mr. LAUTENBERG, Mr. MENENDEZ, 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 186. Mr. UDALL, of Colorado (for himself and Mr. BENNET, 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 187. Mr. UDALL, of Colorado (for himself, Mr. KERRY, Mr. BINGAMAN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, 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 188. 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 189. Mr. DEMINT submitted an 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 190. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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 191. 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 192. 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 193. 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 194. 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 195. Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. WYDEN, Mr. KERRY, Mr. TESTER, Mr. UDALL of New Mexico, 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 196. 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 197. Mr. THUNE submitted an 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 198. Mr. INHOFE (for himself and Mr. THUNE) submitted an 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 199. 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 200. 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 201. Ms. KLOBUCHAR (for herself, Mr. HATCH, Mr. BENNETT, and Mr. KOHL) submitted an 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 202. 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 203. 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 204. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. SPECTER) submitted an 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 205. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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 206. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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.

TEXT OF AMENDMENTS

SA 106. Mr. ISAKSON (for himself 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:

Strike section 1006 of title I of Division B 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 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 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 taxable years beginning after December 31, 2008.

SA 107. Mr. VITTER submitted an 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. ____. PROHIBITION ON USE OF FUNDS BY OR FOR ACORN.

None of the funds appropriated or otherwise made available by this Act may be used directly or indirectly to fund the Association of Community Organizations for Reform Now (ACORN).

SA 108. 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 74, beginning on line 12, strike ''$4,600,000,000'' and all that follows through ''powerplant(s): *Provided further*'' on line 15, and insert ''$2,600,000,000: *Provided*''.

SA 109. Mr. COBURN (for himself, Mr. ENZI, Mr. MCCAIN, and Mr. DEMINT) submitted an 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 475, beginning on line 1, strike through page 477, line 17.

SA 110. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID,

Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, Mr. SCHUMER, Mr. BYRD, Mr. MENENDEZ, Mr. CARPER, and Mr. TESTER) 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:

Beginning on page 118, line 4, strike ''$6,400,000,000, to remain available'' and all that follows through ''$2,000,000,000 shall be for'' and insert in-lieu thereof ''$13,400,000,000, to remain available until September 30, 2010, of which $10,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $3,000,000,000 shall be for''.

On page 232, line 16, insert ''and other surface transportation'' prior to the word ''investment'', ''

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$40,060,000,000''.

On page 239, line 24, strike ''$8,400,000,000'' and insert $10,400,000,000''.

On page 242, after line 10, insert the following:

SUPPLEMENTAL GRANTS FOR FIXED GUIDEWAY MODERNIZATION

For an additional amount for capital expenditures authorized under section 5309(b)(2), $2,000,000,000, to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337(a)(7) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SUPPLEMENTAL FUNDS FOR CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'' as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $1,000,000,000, to remain available through September 30, 2011: *Provided*, That in awarding grants with funding provided under this heading, the Secretary shall give priority to projects that the grant funding can expedite their completion and their entry into revenue service: *Provided further*, That such funding shall be allocated without regard to the requirements of section 5309(m)(2)(A)(i) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Capital Investment Grants account.

Each amount provided in this amendment 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 111. 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 431, between lines 8 and 9, insert the following:

SEC. 1607. FHA LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), notwithstanding any other provision of law, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

SEC. 1608. GSE CONFORMING LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2009, if the limitation on the maximum original principal obligation of a mortgage that may purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)), respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during 2009, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

SEC. 1609. FHA REVERSE MORTGAGE LOAN LIMITS FOR 2009.

For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150 percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

SA 112. Mrs. BOXER (for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER) submitted an 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 order to lie on the table; as follows:

On page 514, between lines 16 and 17, insert the following:

PART X—INVEST IN THE USA

SEC. 1291. ALLOWANCE OF DEDUCTION FOR DIVIDENDS RECEIVED FROM CONTROLLED FOREIGN CORPORATIONS FOR ADDITIONAL YEAR.

(a) IN GENERAL.—Section 965 (relating to temporary dividends received deduction) is amended by adding at the end the following new subsection:

''(g) ALLOWANCE FOR DEDUCTION FOR AN ADDITIONAL YEAR.—

''(1) IN GENERAL.—In the case of an election under this subsection, subsection (f)(1) shall be applied by substituting 'January 1, 2010,' for 'the date of the enactment of this section'.

''(2) SPECIAL RULES.—For purposes of paragraph (1)—

''(A) EXTRAORDINARY DIVIDENDS.—Subsection (b)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Subsection (b)(3)(B) shall be applied by substituting 'October 3, 2009' for 'October 3, 2004'.

''(C) APPLICABLE FINANCIAL STATEMENT.—Subsection (c)(1) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003' each place it occurs.

''(D) DETERMINATIONS RELATING TO BASE PERIOD.—Subsection (c)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(E) REQUIREMENTS FOR INVESTMENT IN UNITED STATES.—Subsection (b)(4) shall be applied—

''(i) by inserting 'deposited in 1 or more United States financial institutions and' after 'amount of the dividend', and

''(ii) by striking subparagraph (B) thereof and inserting the following:

'' '(B) provides for the reinvestment of such dividend in the United States (other than as payment for executive compensation) as a source of funding for only 1 or more of the following purposes:

'' '(i) worker hiring and training,

'' '(ii) research and development,

'' '(iii) capital improvements,

'' '(iv) acquisitions of business entities for the purpose of retaining or creating jobs in the United States, and

'' '(v) clean energy initiatives (such as clean energy research and development, energy efficiency, clean energy start ups, and clean energy jobs).

For any purpose described in clause (i), (ii), or (iii), funding shall qualify for purposes of this paragraph only if such funding supplements but does not supplant otherwise scheduled funding for either taxable year described in subsection (f) by the taxpayer for such purpose. Such scheduled funding shall be certified by the individual and entity approving the domestic reinvestment plan.'.

''(3) AUDIT.—Not later than 2 years after the date of the election under this subsection, the Internal Revenue Service shall conduct an audit of the taxpayer with respect to any reinvestment transaction arising from such election.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 2010.

SA 113. Mr. WYDEN 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 title II, add the following:

SEC. _____. ADDITIONAL AMOUNT FOR COMPETITIVE GRANT PROGRAM FOR CONSTRUCTION OF RESEARCH SCIENCE BUILDINGS.— (a) IN GENERAL.—The amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'' is increased by $100,000,000.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'', as increased by subsection (a), $100,000,000 shall be available for the competitive grant program for construction of research science buildings that is authorized by sections 13 through 15 of the National Institute of Standards and Technology Act (15 U.S.C. 278c–278e).

(c) REQUIREMENT OF TIMELY AWARD OF GRANTS.—Competitive grants using amounts appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'' shall be awarded not later than 120 days after the date of the enactment of this Act (or, in the case of appropriations not available upon such date of enactment, not later than 120 days after the appropriation becomes available for obligation).

SA 114. Mr. KERRY (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. MENENDEZ, and Mr. WHITEHOUSE) 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 71, line 22, before the period at the end, insert the following: '': *Provided further*, That the Secretary of Energy shall increase the ceiling on energy savings performance contacts entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) prior to December 1, 2008, to ensure that projects for which a contractor has been selected under the contracts are concluded in a timely manner''.

SA 115. Mr. INHOFE (for himself and Mr. BENNET 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 77, line 14, before the period, insert the following: '': *Provided further*, That a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)) shall be eligible to obtain a loan guarantee under section 1702(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(b)(2)) with funds made available under this heading for capital expenditures necessary to comply during the 3-year period beginning on the date of enactment of this Act with environmental requirements imposed by a Federal agency''.

SA 116. Mr. CARDIN (for himself, Mr. ENSIGN, and 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:

Strike subsections (a) and (b) of section 1006 of division B and insert the following:

(a) EXTENSION.—

(1) IN GENERAL.—Section 36(h) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENT.—Section 36(g) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) WAIVER OF RECAPTURE.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before January 1, 2010—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

SA 117. Mr. VITTER 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. ____. (a) Each amount appropriated or otherwise made available in the matter under the heading entitled ''DEPARTMENT OF DEFENSE—CIVIL'' of title IV is increased by 100 percent.

(b) Notwithstanding any other provision of this Act, each amount provided by each matter under the headings entitled ''ENERGY EFFICIENCY AND RENEWABLE ENERGY'' and ''FOSSIL ENERGY RESEARCH AND DEVELOPMENT'' under the heading entitled ''ENERGY PROGRAMS'' under the heading entitled ''DEPARTMENT OF ENERGY'' of title IV is reduced by the pro rata percentage required to carry out subsection (a).

SA 118. Mr. VITTER 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. _____. (a) Each amount appropriated or otherwise made available in the matter under the heading entitled ''DEPARTMENT OF DEFENSE—CIVIL'' of title IV is increased by 100 percent.

(b) Notwithstanding any other provision of this Act, the amount provided by the matter under the heading entitled ''DEFENSE ENVIRONMENTAL CLEANUP'' under the heading entitled ''ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES'' under the heading entitled ''ATOMIC ENERGY DEFENSE ACTIVITIES'' of title IV is reduced by $4,890,000,000.

SA 119. Mr. DEMINT submitted an 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 the purposes; which was ordered to lie on the table; as follows:

On page 122, after line 23, add the following:

Subtitle B—Expedited Lease Sales

SEC. 711. SHORT TITLE.

This subtitle may be cited as the ''Drill Now Act of 2009''.

SEC. 712. DEFINITIONS.

In this subtitle:

(1) OPENED AREA.—The term ''opened area'' means any area of the outer Continental shelf that—

(A) before the date of enactment of this Act, was closed to oil or gas leasing; and

(B) as of the date of enactment of this Act, is made available for leasing pursuant to section 713(a) and the amendments made by that section.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 713. LEASING ON OUTER CONTINENTAL SHELF.

(a) OPENING NEW OFFSHORE AREAS TO OIL AND GAS DEVELOPMENT.—

(1) IN GENERAL.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

(2) EASTERN GULF OF MEXICO.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended to read as follows:

''SEC. 104. DESIGNATION OF NATIONAL DEFENSE AREAS.

''The United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).''.

(b) EXPEDITED LEASING.—The Secretary may conduct leasing, preleasing, and related activities for any opened area before June 30, 2012, notwithstanding the omission of the opened area from the Outer Continental Shelf leasing program developed pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) for the period ending June 30, 2012.

(c) NO SURFACE OCCUPANCY.—Any lease issued by the Secretary pursuant to section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for any submerged land of the outer Continental Shelf in any opened area lying within 25 miles of the coastline of any State shall include a provision prohibiting permanent surface occupancy under that lease within that 25-mile area.

(d) DISPOSITION OF REVENUES FROM OUTER CONTINENTAL SHELF AREAS OPENED UNDER THIS SECTION.—

(1) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, the Secretary of the Treasury shall deposit rentals, royalties, bonus bids, and other sums due and payable from any leased tract within an opened area, and from all other leased tracts in any other area for which leases are entered into after the date of enactment of this Act, as follows:

(A) 50 percent in the general fund of the Treasury.

(B) 50 in a special account in the Treasury, for allocation by the Secretary among the States in accordance with paragraph (2).

(2) ALLOCATION.—

(A) IN GENERAL.—For fiscal year 2009 and each fiscal year thereafter, the amount made available under paragraph (1)(B) shall be allocated among States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between—

(i) the point on the coastline of each State that is closest to the geographical center of the applicable leased tract; and

(ii) the geographical center of the leased tract.

(B) PROHIBITION ON RECEIPT OF AMOUNTS.—No State shall receive any amount under this paragraph from a leased tract if the geographical center of that leased tract is more than 200 nautical miles from the coastline of that State.

(3) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

(A) be made available, without further appropriation, in accordance with this section;

(B) remain available until expended; and

(C) be in addition to any amounts appropriated under—

(i) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); or

(iii) any other provision of law.

(e) JUDICIAL REVIEW.—

(1) FILING OF COMPLAINT.—

(A) DEADLINE.—Subject to subparagraph (B), any complaint seeking judicial review of any provision of this section or any action of the Secretary under this section or relating to areas opened under the amendments made by subsection (a) shall be filed in any appropriate United States district court—

(i) except as provided in clause (ii), not later than the end of the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after that period, not later than 90 days after the date on which the complainant knew or reasonably should have known of the grounds for the complaint.

(B) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this section or relating to areas opened under subsection (a) may be filed only in the United States Court of Appeals for the District of Columbia.

(C) LIMITATION ON SCOPE OF CERTAIN REVIEW.—

(i) IN GENERAL.—Judicial review of a decision of the Secretary to conduct a lease sale for areas opened under the amendments made by subsection (a), including the environmental analysis relating to such a decision, shall be—

(I) limited to whether the Secretary has complied with the terms of this section and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(II) based upon the administrative record of that decision.

(ii) PRESUMPTION.—In any judicial review described in clause (i), the identification by the Secretary of a preferred course of action to enable leasing to proceed, and the analysis of the Secretary of any environmental effects of that course of action, shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(2) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(f) REPEAL OF RESTRICTION ON OIL SHALE LEASING.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 120. Mr. BROWN submitted an 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 the purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. ADDITIONAL AMOUNT FOR ECONOMIC ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—The amount appropriated or otherwise made available under title II of this division under the heading ''ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'' is hereby increased by $50,000,000.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available under title II of this division under the heading ''ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'', as increased by subsection (a), $50,000,000 shall be available for economic adjustment assistance pursuant to section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149). The amount available for economic adjustment assistance under this subsection shall be in addition to any other amounts available for such assistance under title II of this division.

SA 121. Mrs. BOXER submitted an 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 452, between lines 18 and 19, insert the following:

PART III—RIGHT START CHILD CARE AND EDUCATION

SEC. 1021. INCREASE IN EMPLOYER-PROVIDED CHILD CARE CREDIT.

(a) INCREASE IN CREDITABLE PERCENTAGE OF CHILD CARE EXPENDITURES.—Paragraph (1) of section 45F(a) is amended by striking ''25 percent'' and inserting ''35 percent''.

(b) INCREASE IN CREDITABLE PERCENTAGE OF RESOURCE AND REFERRAL EXPENDITURES.—Paragraph (2) of section 45F(a) is amended by striking ''10 percent'' and inserting ''20 percent''.

(c) INCREASE IN MAXIMUM CREDIT.—Subsection (b) of section 45F is amended by striking ''$150,000'' and inserting ''$225,000''.

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

SEC. 1022. INCREASE IN DEPENDENT CARE CREDIT.

(a) INCREASE IN INCOMES ELIGIBLE FOR FULL CREDIT.—Paragraph (2) of section 21(a) is amended by striking ''$30,000'' and inserting ''$20,000''.

(b) INCREASE IN PERCENTAGE OF EXPENSES ALLOWABLE.—Paragraph (2) of section 21(a) is amended—

(1) by striking ''35 percent'' and inserting ''50 percent'', and

(2) by striking ''20 percent'' and inserting ''35 percent''.

(c) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Subsection (c) of section 21 is amended—

(1) by striking ''$3,000'' in paragraph (1) and inserting ''$6,000'', and

(2) by striking ''$6,000'' in paragraph (2) and inserting ''$12,000''.

(d) CREDIT TO BE REFUNDABLE.—

(1) IN GENERAL.—Section 21 is hereby moved to subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) and inserted after section 36A.

(2) TECHNICAL AMENDMENTS.—

(A) Section 21, as so moved, is redesignated as section 36B.

(B) Paragraph (1) of section 36B(a) (as redesignated by paragraph (2)) is amended by striking ''this chapter'' and inserting ''this subtitle''.

(C) Paragraph (1) of section 23(f) is amended by striking ''21(e)'' and inserting ''36B(e)''.

(D) Paragraph (6) of section 35(g) is amended by striking ''21(e)'' and inserting ''36B(e)''.

(E) Subparagraph (C) of section 129(a)(2) is amended by striking ''section 21(e)'' and inserting ''section 36B(e)''.

(F) Paragraph (2) of section 129(b) is amended by striking ''section 21(d)(2)'' and inserting ''section 36B(d)(2)''.

(G) Paragraph (1) of section 129(e) is amended by striking ''section 21(b)(2)'' and inserting ''section 36B(b)(2)''.

(H) Subsection (e) of section 213 is amended by striking ''section 21'' and inserting ''section 36B''.

(I) Subparagraph (H) of section 6213(g)(2) is amended by striking ''section 21'' and inserting ''section 36B''.

(J) Subparagraph (L) of section 6213(g)(2) is amended by striking ''section 21,'' and inserting ''section 36B,''.

(K) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''36B,'' after ''36A,''.

(L) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36A and inserting the following:

''Sec. 36B. Expenses for household and dependent care services necessary for gainful employment.''

(M) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(e) CERTAIN PRIOR AMENDMENTS TO CREDIT MADE PERMANENT.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the amendments made by section 204 of such Act.

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

SEC. 1023. 3-YEAR CREDIT FOR INDIVIDUALS HOLDING CHILD CARE-RELATED DEGREES WHO WORK IN LICENSED CHILD CARE FACILITIES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. RIGHT START CHILD CARE AND EDUCATION CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is an eligible child care provider for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of $2,000.

''(b) 3-YEAR CREDIT.—

''(1) IN GENERAL.—The credit allowable by subsection (a) for any taxable year to an individual shall be allowed for such year only if the individual elects the application of this section for such year.

''(2) ELECTION.—An election to have this section apply may not be made by an individual for any taxable year if such an election by such individual is in effect for any 3 prior taxable years.

''(c) ELIGIBLE CHILD CARE PROVIDER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible child care provider' means, for any taxable year, any individual if—

''(A) as of the close of such taxable year, such individual holds a bachelor's degree in early childhood education, child care, or a related degree and such degree was awarded by an eligible educational institution (as defined in section 25A(f)(2)), and

''(B) during such taxable year, such individual performs at least 1,200 hours of child care services at a facility if—

''(i) the principal use of the facility is to provide child care services,

''(ii) no more than 25 percent of the children receiving child care services at the facility are children (as defined in section 152(f)) of the individual or such individual's spouse, and

''(iii) the facility meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Subparagraph (B)(i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(2) CHILD CARE SERVICES.—The term 'child care services' means child care and early childhood education.''.

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

''Sec. 25E. Right Start Child Care and Education Credit.''.

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

SEC. 1024. INCREASE IN EXCLUSION FOR EMPLOYER-PROVIDED DEPENDENT CARE ASSISTANCE.

(a) IN GENERAL.—Subparagraph (A) of section 129(a)(2) (relating to dependent care assistance programs) is amended by striking ''$5,000 ($2,500'' and inserting ''$7,500 ($3,750''.

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

SA 122. 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. _____. INCREASE IN LIMITATIONS ON OFFSETTING ORDINARY INCOME WITH CAPITAL LOSSES.

(a) IN GENERAL.—Section 1211(b)(1) is amended by striking ''$3,000 ($1,500'' and inserting ''$15,000 (one-half of such amount''.

(b) INFLATION ADJUSTMENT.—Section 1211 is amended by adding at the end the following new subsection:

''(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, the dollar amount contained in subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) 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.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.''.

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

SA 123. 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 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.

SA 124. 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.

SA 125. Mrs. MCCASKILL (for herself, Mr. SANDERS, Mrs. HAGAN, Mr. HARKIN, Ms. MIKULSKI, Ms. KLOBUCHAR, Mr. NELSON of Florida, Mr. BEGICH, and Mrs. BOXER) submitted an 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 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.

SA 126. Mrs. MCCASKILL (for herself, Mr. BOND, Mr. BINGAMAN, and 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:

The third provisio under the matter under the heading ''(INCLUDING TRANSFERS OF FUNDS)'' under the heading ''STATE AND TRIBAL ASSISTANCE GRANTS'' under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' in title VII is amended by striking ''principal and negative interest loans'' and inserting ''principal, negative interest loans, and grants''.

SA 127. 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:

Strike section 1518 and insert the following:

SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety;

(4) an abuse of authority related to the implementation or use of covered funds; or

(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)—

(i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or

(ii) submit a report under paragraph (1).

(B) EXTENSION.—If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(3) BURDEN OF PROOF.—

(A) DISCLOSURE AS CONTRIBUTING FACTOR IN REPRISAL.—

(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal.

(ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including—

(I) evidence that the official undertaking the reprisal knew of the disclosure; or

(II) evidence that the reprisal occurred within a period of time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal.

(B) PRESUMPTION THAT REPRISAL WARRANTS CORRECTIVE ACTION.—Except as provided in subparagraph (C), if a reprisal is affirmatively established under subparagraph (A), the appropriate inspector general shall recommend in the report under paragraph (1) that corrective action be taken under subsection (c).

(C) OPPORTUNITY FOR REBUTTAL.—The inspector general may not recommend corrective action under subparagraph (B) with respect to a reprisal that is affirmatively established under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the action constituting the reprisal in the absence of the disclosure.

(4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.—

(A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the complete investigation file of the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the ''Privacy Act''). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction.

(B) CIVIL ACTION.—In the event the person alleging the reprisal brings suit under subsection (c)(2)(a), the person alleging the reprisal and the contractor shall have access to the complete investigative file of the Inspector General in accordance with the Privacy Act.

(5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency or a court of competent jurisdiction.

(2) CIVIL ACTION.—

(A) IN GENERAL.—If the head of an agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(B) BURDENS OF PROOF.—In any action under subparagraph (A), the establishment of the occurrence of a reprisal shall be governed by the provisions of subsection (b)(3)(A), including with respect to burden of proof, and the establishment that an action alleged to constitute a reprisal did not constitute a reprisal shall be subject to the burden of proof specified in subsection (b)(3)(C).

(3) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys fees and costs.

(4) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

(d) RULES OF CONSTRUCTION.—

(1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(2) WAIVER OF SOVEREIGN IMMUNITY AS CONDITION FOR RECEIPT OF FUNDS.—State and local governments, as a condition for receipt of covered funds, may not raise sovereign immunity as an affirmative defense to an action under this section.

(e) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—Notwithstanding any other provision of law and except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—Notwithstanding any other provision of law and except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.

(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.

(f) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.—Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.

(g) DEFINITIONS.—In this Act:

(1) ABUSE OF AUTHORITY.—The term ''abuse of authority'' means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons.

(2) COVERED FUNDS.—The term ''covered funds'' means any contract, grant, or other payment received by any non-Federal employer if—

(A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

(B) at least some of the funds are appropriated or otherwise made available by this Act.

(3) EMPLOYEE.—The term ''employee'' means an individual performing services on behalf of an employer.

(4) NON-FEDERAL EMPLOYER.—The term ''non-Federal employer'' means any employer—

(A) with respect to any contract, grant, or direct payment issued by the Federal Government—

(i) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, grantee, or recipient is an employer;

(ii) any professional membership organization, certification or other professional body, any agency or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Federal funds; or

(B) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government.

(5) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Is Lands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

SA 128. 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 158, line 16, insert '', which may include constructing new facilities,'' after ''education facilities''.

On page 162, line 19, insert '', which may include constructing new facilities,'' after ''or repair facilities''.

On page 164, line 11, insert '', including construction of new facilities,'' after ''projects''.

On page 164, line 23, insert ''or'' after the semicolon.

On page 165, line 6, strike ''; or'' and insert a period.

On page 165, strike line 7.

SA 129. Mr. CARPER (for himself, Mr. VOINOVICH, 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 276, strike lines 15 through 24, and insert the following:

(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including—

(i) the required level of Federal funding;

(ii) expectations for regional, State, and private investment;

(iii) the expected contributions by volunteers to activities for the utilization of such records; and

(iv) the resources needed to establish or expand education programs in medical and health informatics and health information management to train health care and information technology students and provide a health information technology workforce sufficient to ensure the rapid and effective deployment and utilization of health information technologies.

SA 130. 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; which was ordered to lie on the table; as follows:

On page 93, lines 11 through 15, strike ''and not less than $6,000,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140:'' and insert ''of which not less than $6,000,000,000 shall be used for construction, repair, and alteration of Federal buildings for projects that will create the greatest impact on energy efficiency and conservation:''.

SA 131. Mr. VITTER submitted an 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. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

Notwithstanding any other provision of this division, any funds made available under this division to carry out a program or service under the title I of Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) shall be available to provide for the equitable participation in the program or service of children enrolled in private schools in the same manner as such participation is provided under section 1120 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6320) or under the Individuals with Disabilities Education Act, respectively.

SA 132. 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:

At the end of part I of subtitle A of title I of division B, insert the following:

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

(a) IN GENERAL.—Paragraph (1) of section 1(i) of the Internal Revenue Code of 1986 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 133. 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:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REDUCTION IN 10-PERCENT AND 15-PERCENT RATE BRACKETS FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new subparagraph:

''(3) REDUCTIONS FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(A) IN GENERAL.—Each of the tables under subsections (a), (b), (c), (d), and (e) (as in effect after the application of paragraphs (1) and (2)) shall be applied —

''(i) by substituting '5 percent' for '10 percent', and

''(ii) by substituting '10 percent' for '15 percent'.

''(B) 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.—Clause (ii) of section 1(i)(3)(B) 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 134. 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:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. ELIMINATION OF TAX ON CAPITAL GAINS AND DIVIDENDS PAID TO MIDDLE CLASS TAXPAYERS IN 2009 AND 2010.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxpayer with an adjusted gross income which does not exceed $75,000 ($150,000 in the case of a joint return) in any taxable year beginning in 2009 or 2010, paragraph (1)(C) shall be applied by substituting '0 percent' for '15 percent'.''.

(b) ALTERNATIVE MINIMUM TAX.—Section 55(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxpayer with an adjusted gross income which does not exceed $75,000 ($150,000 in the case of a joint return) in any taxable year beginning in 2009 or 2010, paragraph (3)(C) shall be applied by substituting '0 percent' for '15 percent'.''.

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

SA 135. 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:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REDUCTION IN 15-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new subparagraph:

''(3) REDUCTIONS FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, each of the tables under subsections (a), (b), (c), (d), and (e) (as in effect after the application of paragraphs (1) and (2)) shall be applied by substituting '10 percent' for '15 percent'.''.

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

SA 136. Mr. VITTER submitted an 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. _____. RESCISSION OF UNSPENT FUNDS.

Amounts made available by this Act for fiscal year 2010 that remain unobligated after September 30, 2010, are rescinded.

SA 137. Mr. REID (for Mr. KENNEDY (for himself, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mr. WHITEHOUSE, and 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 57, between lines 5 and 6, insert the following:

SEC. 203. (a)(1) Notwithstanding any existing or proposed regulation and subject to paragraph (2), the Secretary of Commerce—

(A) shall adopt a final interim rule that will carry out the recommendations described in section 9g of the summary of motions for the meeting of the New England Fishery Management Council held on September 4, 2008, in Providence, Rhode Island; and

(B) may not implement any provision of the proposed rule published on January 16,

2009 (74 Fed. Reg. 2959; relating to the Northeast Multispecies Fishery) that is inconsistent with the recommendations referred to in paragraph (1).

(2) The final interim rule required by paragraph (1)(A) shall require that if the total allowable catch for any stock described in such section 9g is exceeded during the effective period described in subsection (b), the amount of the excess shall be deducted from the total allowable catch for that stock during the period beginning May 1, 2010 and ending April 30, 2011.

(b) The final interim rule described in subsection (a) shall be in effect for the period beginning on May 1, 2009 and ending on April 30, 2010.

(c) The Secretary of Commerce shall publish the final interim rule required by subsection (a)(1)(A) in the Federal Register.

SA 138. 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:

Strike subtitle C of title XV of division A, and insert the following:

Subtitle C—Reports of the Council of Economic Advisers

SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of Economic Advisers shall submit to the Committees on Appropriations of the Senate and House of Representatives quarterly reports based on the reports required under section 1551 that detail the impact of programs funded through covered funds on employment, estimated economic growth, and other key economic indicators.

(b) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted not later than 45 days after the end of the first full quarter following the date of enactment of this Act.

(2) LAST REPORT.—The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1521.

Subtitle D—Reports on Use of Funds

SEC. 1551. REPORTS ON USE OF FUNDS.

(a) SHORT TITLE.—This section may be cited as the ''Jobs Accountability Act''.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) RECIPIENT.—The term ''recipient''—

(A) means any entity that receives recovery funds (including recovery funds received through grant, loan, or contract) other than an individual; and

(B) includes a State that receives recovery funds.

(3) RECOVERY FUNDS.—The term ''recovery funds'' means any funds that are made available—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from an agency shall submit a report to that agency that contains—

(1) the total amount of recovery funds received from that agency;

(2) the amount of recovery funds received that were expended or obligated to projects or activities; and

(3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

(A) the name of the project or activity;

(B) a description of the project or activity;

(C) an evaluation of the completion status of the project or activity; and

(D) an analysis of the number of jobs created and the number of jobs retained by the project or activity.

(d) AGENCY REPORTS.—Not later than 30 days after the end of each calendar quarter, each agency that made recovery funds available to any recipient shall make the information in reports submitted under subsection (c) publicly available by posting the information on a website.

SA 139. 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 appropriate place, insert the following:

SEC. ___. REPORTING BONUSES TO PROTECT TAXPAYERS.

(a) REPORTS REQUIRED.—Any person that receives emergency economic assistance from any Federal financial entity shall report to such Federal financial agency, all bonuses paid to any officer, director, or other employee of that person, including the name of such officer, director, or employee and the amount of the bonus paid.

(b) TIMING.—The reports required under subsection (a) shall be submitted to the Federal financial entity—

(1) not later than 30 days after the date of enactment of this Act, in the case of any person receiving emergency economic assistance from the Federal financial entity before the date of enactment of this Act, with respect to all bonuses paid during 2008;

(2) not later than 30 days after the date on which a person applies for emergency economic assistance from the Federal financial entity on and after the date of enactment of this Act, with respect to all bonuses paid during 2008 and the calendar year during which the application is made; and

(3) monthly in updated form while any obligation arising from such assistance remains outstanding.

(c) TRANSMISSION TO CONGRESS; PUBLIC AVAILABILITY.—Each Federal financial entity that provides emergency economic assistance shall promptly compile and transmit all reports received under this section to Congress, and shall make such reports publicly available via the Internet.

(d) DEFINITION.—As used in this section, the term ''Federal financial entity'' means—

(1) the Secretary of the Treasury;

(2) each member of the Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303); and

(3) the Federal Housing Finance Agency.

SA 140. Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, 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; as follows:

At the appropriate place, insert the following:

SEC. ___. CURTAILING CONGRESSIONAL EARMARKS AND LOBBYING DISCLOSURE.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''CONGRESSIONAL EARMARKS

''SEC. 316. (a) IN GENERAL.—On a point of order made by any Senator:

''(1) No unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b) POINT OF ORDER NEW LEGISLATION.—

''(1) SENATE MEASURE.—If a point of order under subsection (a)(1) against a Senate bill or amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) HOUSE MEASURE.—If a point of order under subsection (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT.—If the point of order against an amendment under subsection (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT BETWEEN THE HOUSES.—

''(1) SENATE.—If a point of order under subsection (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) HOUSE.—If a point of order under subsection (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) OTHER POINTS OF ORDER.—The disposition of a point of order made under any other rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subsection (a) with respect to the same matter.

''(f) SUPERMAJORITY.—A point of order under subsection (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) FORM OF POINT OF ORDER, MULTIPLE PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subsection (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

''(2) SUSTAINED POINT OF ORDER.—If the Presiding Officer sustains the point of order under paragraph (1) as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph.

''(3) MOTION TO WAIVE.—Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subsection (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

''(4) APPEAL.—After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) DEFINITION.—For purposes of this section, the term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV of the Standing Rule of the Senator—

''(1) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(2) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(i) CONFERENCE REPORTS.—

''(1) IN GENERAL.—On a point of order made by any Senator, no unauthorized appropriation may be included in any conference report on a general appropriation bill.

''(2) POINT OF ORDER SUSTAINED.—If the point of order against a conference report under paragraph (1) is sustained—

''(A) the unauthorized appropriation in such conference report shall be deemed to have been struck;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(C) when all other points of order under this subsection have been disposed of—

''(i) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(ii) the question shall be debatable; and

''(iii) no further amendment shall be in order; and

''(D) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(3) FURTHER POINTS OF ORDER.—The disposition of a point of order made under any other provision of this section, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under paragraph (1) with respect to the same matter.

''(4) SUPERMAJORITY.—A point of order under paragraph (1) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(5) SINGLE POINT OF ORDER.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate paragraph (1). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this subsection. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with paragraph (4), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.''.

(b) LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

SA 141. 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:

SEC. _____. RESCISSION OF UNSPENT FUNDS.

Amounts made available by this Act for fiscal year 2009 that remain unobligated after September 30, 2010 are rescinded.

SA 142. 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 223, beginning on line 19, strike ''$180,500,000'' and all that follows through ''facility in the United States'' on line 23 and insert ''$105,500,000, to remain available until September 30, 2010, of which up to $45,000,000 shall be available for passport and visa facilities and systems''.

SA 143. 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. 1607. BIPARTISAN SUPPORT FOR THE PLAN BY THE PRESIDENT TO CHANGE THE WASTEFUL SPENDING HABITS OF THE FEDERAL GOVERNMENT.

(a) FINDINGS.—Congress finds the following:

(1) The national debt now exceeds $10,600,000,000,000.

(2) The share of each United States citizen of the national debt is more than $34,800.

(3) Each cent that the United States Government borrows and adds to such debt is money stolen from future generations of United States citizens and from senior citizens who depend on Social Security.

(4) Congress has repeatedly demonstrated its inability to prioritize spending.

(5) In the first month of 2009, the Senate authorized nearly $50,000,000,000 in new Government spending.

(6) 59 percent of people in the United States worry that Congress and President Barack Obama will increase spending too much, according to a poll conducted by Rasmussen Reports on January 21 and 22, 2009.

(7) As a candidate, President Obama pledged to restore fiscal discipline to Washington.

(8) As part of the ''Plan for Restoring Fiscal Discipline'' by President Obama, the President pledged to ''require new spending commitments or tax changes to be paid for by cuts to other programs or new revenue''.

(9) This Act contains tax changes that would reduce Federal revenue by $252,500,000,000 and increase spending by $632,000,000,000, without any corresponding new revenue or spending cuts.

(10) The ''Plan for Restoring Fiscal Discipline'' by President Obama vowed an ''end to wasteful government spending''.

(11) This Act spends billions of dollars on programs that are riddled with significant amounts of waste, fraud, abuse, and mismanagement.

(12) The ''Plan for Restoring Fiscal Discipline'' by President Obama promised to ''cut pork barrel spending''.

(13) This Act contains a number of congressional earmarks, including the most expensive ''pork'' project in history, $2,000,000,000 for a near-zero emissions power plant for FutureGen Industrial Alliance.

(14) To limit the abuse of no-bid Federal contracts, the ''Plan for Restoring Fiscal Discipline'' by President Obama pledged ''that federal contracts over $25,000'' will be awarded by competitive bidding.

(15) This Act steers billions of dollars to pre-selected entities that will not have to compete for such Federal contracts.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) because the power of the purse belongs to Congress, it is irresponsible for Congress to increase spending without first reducing lower-priority spending elsewhere within the Federal budget; and

(2) in the spirit of bipartisanship and common sense, Congress should adopt those aspects of the ''Plan for Restoring Fiscal Discipline'' by President Barack Obama that require that all new spending be paid for with reductions in lower-priority spending elsewhere within the Government.

SA 144. 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 115, between lines 17 and 18, insert the following:

LIMITATION ON USE OF FUNDS

Notwithstanding any other provision of this Act, none of the funds made available under this heading shall be expended unless the expenditure of funds directly reduces the deferred maintenance backlog of the National Park Service, as determined by the Secretary of the Interior.

SA 145. Mr. DODD submitted an 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 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.''.

SA 146. Mr. CARPER 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 division A, add the following:

TITLE XVII—POSTAL SERVICE RETIREE HEALTH BENEFITS

SEC. 1701. POSTAL SERVICE RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Section 8906(g)(2)(A) of title 5, United States Code, is amended by striking ''shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.'' and inserting ''shall through September 30, 2008, be paid by the United States Postal Service, shall through September 30, 2010, be paid from the Postal Service Retiree Health Benefits Fund, shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.''.

(b) MONTHLY REPORTING TO POSTAL OVERSIGHT COMMITTEES.—

(1) IN GENERAL.—The United States Postal Service shall submit a monthly report summarizing its financial condition and outlook to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives. Each report under this subsection shall provide sufficiently detailed data and narrative

information for the committees to understand the Postal Service's current and projected financial condition, including how its financial outlook and budget targets for the fiscal year has changed since the previous report, and the Postal Service's progress toward achieving its budget targets for the current fiscal year.

(2) SUBMISSION DATES.—Monthly reports under this subsection shall be submitted within 30 days after the end of each month, for each fiscal year in which retiree health benefit premiums are paid by the Postal Service Retiree Health Benefits Fund.

SA 147. Mr. BROWNBACK 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. ___. SENSE OF THE SENATE RELATING TO THE USE OF CERTAIN EXCESS FEDERAL FUNDING FOR TAX REBATES.

It is the sense of the Senate that any Federal funds provided to States under this Act in excess of the amount needed to balance a State's budget should be used to provide a tax rebate to citizens of the State.

SA 148. Mr. BROWNBACK 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. _____. ELIGIBILITY FOR CDBG FUNDS.

Notwithstanding any other provision of law or this Act, any unit of general local government that was eligible for community development block grant assistance under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) as of January 1, 2009, shall remain eligible for any such additional community development block grant assistance made available under this Act or any other Act for fiscal year 2009.

SA 149. Mr. DEMINT submitted an 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) INCREASED FLEXIBILITY.—Notwithstanding any COBRA continuation provision, an assistance eligible individual may, not later than 30 days after the date on which the individual makes the election under paragraph (3), elect to enroll in any health insurance coverage offered by the employer (or employee organization) involved, in any health insurance coverage offered in the individual market in the State involved, in a high deductible plan, or in coverage offered through a high risk pool administered by the State involved, and such coverage (or plan) shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision and this section.

SA 150. Mr. DEMINT submitted an 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. —. PROHIBITION ON CONSIDERATION OF REVENUE PROVISIONS WITHOUT CERTIFICATION OF TAX BURDEN EFFECTS.

(a) IN GENERAL.—It shall not be in order to consider a bill, resolution, amendment, or conference report that proposes any provision amending the Internal Revenue Code of 1986 or affecting the application of such Code unless the Joint Committee on Taxation provides a written certification that such provision does not increase the net yearly tax burden for any family whose taxable income for any taxable year to which such provision applies is less than $250,000.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—A point of order raised under subsection (a) may be waived or suspended in the Senate only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''family'' means a married couple filing jointly or an individual filing as a head of household.

SA 151. Mr. DEMINT submitted an 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. —. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

''SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain or loss on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(3) WRITTEN DOCUMENTATION REQUIREMENT.—Paragraph (1) shall apply only with respect to indexed assets for which the taxpayer has written documentation of the original purchase price paid or incurred by the taxpayer to acquire such asset.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) common stock in a C corporation (other than a foreign corporation), or

''(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

''(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) stock of a foreign investment company,

''(ii) stock in a passive foreign investment company (as defined in section 1296),

''(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

''(iv) stock in a foreign personal holding company.

''(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

''(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not

be treated as an indexed asset for the period of such reduced risk.

''(2) SHORT SALES.—

''(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

''(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

''(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

''(ii) the average of the fair market values of all assets held by such company at the close of each such month.

''(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

''(ii) the fair market value of all assets held by such trust at the close of such quarter.

''(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

''(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

''(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

''(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

''(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

''(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

''(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking the item relating to section 1023 and by inserting after the item relating to section 1022 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.

''Sec. 1023. Cross references.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indexed assets acquired by the taxpayer after December 31, 2008, in taxable years ending after such date.

SA 152. 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 451, after line 22, add the following:

SEC. _____. REPEAL OF SUNSETS FOR 2001 AND 2003 TAX RELIEF PROVISIONS.

(a) ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX.

(b) JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.—The Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

SA 153. 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 477, strike line 18 and insert the following:

(d) 100 PERCENT EXPENSING FOR PROPERTY ACQUIRED IN 2009.—Section 168(k) is amended by adding at the end the following new paragraph:

''(5) EXPENSING OF PROPERTY ACQUIRED IN 2009.—

''(A) IN GENERAL.—The cost of any qualified expensing property shall be treated as an expense which is not chargeable to a capital account and shall be allowed as a deduction in the taxable year in which such property is placed in service.

''(B) QUALIFIED EXPENSING PROPERTY.—For purposes of this paragraph, the term 'qualified expensing property' means qualified property, as defined in paragraph (2), determined by substituting 'December 31, 2008' for 'December 31, 2007' each place it appears therein.''.

(e) EFFECTIVE DATES.—

SA 154. 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 18, strike the quotation marks and the last period and insert the following:

''(8) APPLICATION TO ELEMENTARY AND SECONDARY EXPENSES.—In applying this section with respect to the Hope Scholarship Credit—

''(A) term 'qualified tuition and related expenses' shall include expenses for tuition incurred in connection with the enrollment or attendance of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an elementary or secondary school student at a public, private or religious school (within the meaning of section 530(b)(3)), and

''(B) in the case of an individual who is enrolled in a public, private, or religious school (within the meaning of section 530(b)(3)), subsection (b)(1) shall be applied without regard to whether such individual is an eligible student and subsection (b)(2)(B) shall not apply.''.

SA 155. Ms. KLOBUCHAR (for herself and 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 456, after line 24, insert the following:

SEC. 1104. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

(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. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the renewable electricity integration credit for any taxable year is an amount equal to the product of—

''(1) the intermittent renewable portfolio factor of an eligible taxpayer, multiplied by

''(2) the number of kilowatt hours of renewable electricity purchased or produced by such taxpayer and sold by such taxpayer to an unrelated person during the taxable year.

''(b) INTERMITTENT RENEWABLE PORTFOLIO FACTOR.—The intermittent renewable portfolio factor for an eligible taxpayer shall be determined as follows:

''In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:	**The intermittent renewable portfolio factor is:**
less than 4 percent	0 cents
at least 4 percent but less than 12 percent	0.10 cents
at least 12 percent but less than 19 percent	0.30 cents
at least 19 percent	0.50 cents

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means an electric utility company (as defined in section 1262(5) of the Public Utility Holding Company Act of 2005).

''(2) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated by—

''(A) a facility using wind to produce such electricity, and

''(B) a facility using solar energy to generate such electricity.

''(3) INTERMITTENT RENEWABLE ELECTRICITY PERCENTAGE.—The term 'intermittent renewable electricity percentage' means the percentage of an electric utility's total sales to native load customers that is derived from renewable electricity, whether purchased or produced by the taxpayer.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended—

(1) by striking ''plus'' at the end of paragraph (34),

(2) by striking the period at the end of paragraph (35) and inserting '', plus'', and

(3) by adding at the end the following new paragraph:

''(36) the renewable electricity integration credit determined under section 45R(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

Sec. 45R. Renewable electricity integration credit.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced or purchased after December 31, 2008.

SA 156. 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:

On page 123, line 9, insert ''(and an additional amount of $25,000,000)'' before '', which''.

On page 124, line 24, strike ''and''.

On page 125, strike line 7 and insert the following:

sequential service strategy; and

(7) $25,000,000 for programs of veterans' workforce investment activities under section 168 of WIA:

SA 157. 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:

On page 123, strike lines 15 and 16 and insert the following:

134(e)(2) and (3) of the WIA, and for the programs of veterans' workforce investment activities carried out under section 168 of the WIA: *Provided*, That not less than $25,000,000 of the funds made available under this paragraph shall be used for such programs under section 168 of the WIA: *Provided further*, That a priority use of the remaining funds made available under this paragraph shall be services to individ-

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SA 158. Mr. MARTINEZ (for himself and Mrs. FEINSTEIN) submitted an 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. TEMPORARY EXTENSION OF LOAN LIMIT INCREASE.

(a) FANNIE MAE AND FREDDIE MAC.—Section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110-185, 122 Stat. 619) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) FHA LOANS.—Section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110-185, 122 Stat. 620) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

SA 159. 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:

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)(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 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.

SA 160. Mr. BOND 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:

For an appropriations report:

On page 251, strike beginning from ''Provided'' on line 19 through ''funding:'' on line 22.

Insert on page 252, after line 21 the following:

''CHILDHOOD DEVELOPMENT CENTERS''

''For an amount for ''Childhood Development Centers'', $400,000,000, to remain available until September 30, 2001: Provided, Further, That these funds shall be made available competitively from the Secretary of Housing and Urban Development for the construction or rehabilitation of early childhood development centers serving households that qualify as low-income: Provided further, That all funds shall be obligated with 120 days and expended no later than 12 months after the date of enactment of this Act: Provided further, That the Secretary shall allocate funds on a geographic basis with an appropriate balance based on the needs of rural and urban areas: Provided further, That there is no required federal match: Provided further, That failure to expend funds as provided under heading shall result in the redistribution of such funds by the Secretary.''.

SA 161. Mr. BOND (for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED) 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:

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 financer, 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 decision-making 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.''.

SA 162. Mr. BOND 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 241, strike ''HIGH-SPEED'' on line 7 and all that follows through ''paragraph'' on line 19.

SA 163. Mr. INHOFE 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 57, between lines 5 and 6, insert the following:

SEC. 203. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for a purpose as follows

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

SA 164. 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''.

SA 165. 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:

RESTRICTION ON USE OF FUNDS

SEC. 603. 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 166. 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).

SA 167. Mr. DEMINT 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. ___. DAVIS-BACON ACT NOT APPLICABLE.

Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act).

SA 168. Mr. DEMINT 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:

Strike all after the enacting clause and 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.

SA 169. Mr. BOND (for himself, Mrs. BOXER, Mr. INHOFE, Mr. BAUCUS, Mr. COCHRAN, Mr. VOINOVICH, Mr. CRAPO, Mr. BAYH, and Mr. BROWNBACK) 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:

In Title XII, on page 227 line 5, strike ''OFFICE OF THE SECRETARY'' and all that follows through page 230, line 3.

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$32,560,000,000''.

On page 233, line 5, after ''Public Law 110–161:'', strike ''*Provided*'' and all that follows in this and the following 2 related provisos through ''extension:'' on page 233, line 20.

On page 240, line 15, strike ''*Provided further,*'' and all that follows in this and the following 2 provisos through ''extension:'' on page 241 line 3.

SA 170. Mr. CARPER (for himself and Mr. CRAPO) submitted an 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 517, beginning on line 3, strike through page 523, line 9, and insert the following:

''SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after October 31, 2008, or

''(ii) which is acquired by the taxpayer if the original use of such eligible property commences with the taxpayer after October 31, 2008, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

''(c) DEFINITIONS.—

''(1) QUALIFYING ADVANCED ENERGY PROJECT.—

''(A) IN GENERAL.—The term 'qualifying advanced energy project' means a project—

''(i) which re-equips, expands, or establishes a manufacturing facility for the production of property which is—

''(I) designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

''(II) designed to manufacture fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

''(III) designed to manufacture electric grids to support the transmission of intermittent sources of renewable energy,

''(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) otherwise determined by the Secretary, after consultation with the Secretary of Energy, to be new or significantly improved advanced energy technology as compared to commercial technologies in service in the United States at the time of the certification of the project under subsection (d), and

''(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

''(B) EXCEPTION.—Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is part of a qualifying advanced energy project and is necessary for the production of property described in paragraph (1)(A)(i).

''(d) QUALIFYING ADVANCED ENERGY PROJECT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

''(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed $2,000,000,000.

''(2) CERTIFICATION.—

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

''(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

''(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

''(3) SELECTION CRITERIA.—

''(A) IN GENERAL.—In determining which qualifying advanced energy projects to certify under this section, the Secretary shall consult with the Secretary of Energy and shall take into consideration only those projects where there is a reasonable expectation of commercial viability.

''(B) PRIORITY.—The Secretary shall give priority under this section to projects that—

''(i) can create the greatest number of jobs in the United States, and

''(ii) can begin before January 1, 2011.

''(4) REVIEW AND REDISTRIBUTION.—

''(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

''(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

''(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

''(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

''(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.''.

SA 171. Mr. CARPER (for himself, Mrs. BOXER, Mr. SCHUMER, Mr. LAUTENBERG, Ms. STABENOW, Mrs. GILLIBRAND, Mr. KERRY, and Mr. WHITEHOUSE) 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 118, line 16, strike ''$300,000,000'' and insert ''$550,000,000''.

SA 172. Mr. UDALL of Colorado (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation 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 430, strike lines 14 through 23 and insert the following:

SEC. 1605. With respect to funds in titles I though XVI of this division made available to State, or local government agencies, the Governor, mayor, or other chief executive, as appropriate, shall certify that the investment of such funds has received the full review and vetting required by law and that the chief executive accepts responsibility that the investment is an appropriate use of taxpayer dollars and results in the creation of jobs or economic improvement. A State or local agency may not receive funds made available in this Act unless the certification required by this section is made.

SA 173. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. CARDIN) submitted an 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 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, lines 24 and 25, strike ''$190,000,000, to remain available until September 30, 2010'' and insert ''$215,000,000, to remain available until September 30, 2010, of which not less than $50,000,000 shall be used for habitat restoration''.

On page 120, between lines 10 and 11, insert the following:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for ''Environmental Programs and Management'' $300,000,000, to remain available until September 30, 2010, to be used for environmental clean-up programs, including ecosystem restoration and remediation activities, funded under this heading during the 3 fiscal years preceding the date of enactment of this Act: *Provided,* That the Administrator of the Environmental Protection Agency may waive any cost-sharing requirements for the use of funds provided under this heading.

SA 174. 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 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, strike lines 17 through 21 and insert the following:
through the ''Indian Health Facilities'' account.

SA 175. 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, arts center, or highway beautification project, including renovation, remodeling, construction, salaries, furniture, zero-gravity chairs, big screen televisions, beautification, rotating pastel lights, and dry heat saunas.

SA 176. 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:

PROHIBITION ON NO-BID CONTRACTS AND EARMARKS

SEC. 1607. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(b) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient.

SA 177. Mr. SPECTER submitted an 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 110, line 23, insert before the colon '', including construction to upgrade Level I Trauma Centers in target areas to mitigate health consequences related to potential damage from all hazards''.

SA 178. Mr. HARKIN 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 2, line 5, strike the following: '': *Provided, further,*'' through and including ''shall be decreased by $6,500,000,000''.

SA 179. Mr. VITTER 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:

SEC. ___. ELIMINATE SPENDING AND PRIORITIZE INVESTMENTS.

(a) ELIMINATE SPENDING.—

(1) FISH BARRIERS.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Management under the heading ''Resource Management'', and the amount made available under such heading is reduced by $20,000,000.

(2) CENSUS BUREAU.—None of the funds appropriated or otherwise made available in title II of division A for Bureau of the Census under the heading ''Periodic Censuses and Programs'', and the amount made available under such heading is reduced by $1,000,000,000.

(3) FEDERAL VEHICLES.—None of the funds appropriated or otherwise made available in title V of division A for General Services Administration under the heading ''Energy-Efficient Federal Motor Vehicle Fleet Procurement'', and the amount made available under such heading is reduced by $600,000,000.

(4) FBI CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A construction for Federal Bureau of Investigation under the heading ''Construction'', and the amount made available under such heading is reduced by $400,000,000.

(5) NIST CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A for National Institute of Standards and Technology under the heading ''Construction of Research Facilities'', and the amount made available under such heading is reduced by $357,000,000.

(6) COMMERCE HEADQUARTERS.—None of the funds appropriated or otherwise made available in title II of division A for National Oceanic and Atmospheric Administration under the heading ''Departmental Management'', and the amount made available under such heading is reduced by $34,000,000.

(7) DHS CONSOLIDATION.—None of the funds appropriated or otherwise made available in title VI of division A for Department of Homeland Security under the heading ''Office of the Undersecretary of Management'', and the amount made available under such heading is reduced by $248,000,000.

(8) USDA MODERNIZATION.—None of the funds appropriated or otherwise made available in title I of division A for Department of Agriculture under the heading ''Office of the Secretary'', and the amount made available under such heading is reduced by $300,000,000.

(9) STATE DEPARTMENT TRAINING FACILITY.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Diplomatic and Consular program'', and the amount made available under such heading is reduced by $75,000,000.

(10) STATE DEPARTMENT CAPITAL INVESTMENT FUND.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Capital Investment Fund'', and the amount made available under such heading is reduced by $524,000,000.

(11) DC SEWER SYSTEM.—None of the funds appropriated or otherwise made available in title V of division A for District of Columbia under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'' and the amount made available under such heading is reduced by $125,000,000.

(12) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM.—None of the funds appropriated or otherwise made available in title II of division A for Economic Development Administration under the heading ''Economic Development Assistance Programs'' , and the amount made available under such heading is reduced by $150,000,000.

(13) AMTRAK.—None of the funds appropriated or otherwise made available in title XII of division A for Federal Railroad Administration under the heading ''Supplemental Grants to the National Passenger Railroad Corporations'', and the amount made available under such heading is reduced by $850,000,000.

(14) DOD HYBRID VEHICLES.—None of the funds appropriated or otherwise made available in title III of division A for Procurement under the heading ''Defense Production Act Purchases'', and the amount made available under such heading is reduced by $100,000,000.

(15) NASA CLIMATE CHANGE.—None of the funds appropriated or otherwise made available in title II of division A for National Aeronautics and Space Administration under the heading ''Science'', and the amount made available under such heading is reduced by $500,000,000.

(16) NEIGHBORHOOD STABILIZATION.—None of the funds appropriated or otherwise made available in title XII of division A for Public Housing Capital Fund under the heading ''Neighborhood Stabilization Program'', and the amount made available under such heading is reduced by $2,250,000,000.

(17) HISTORIC PRESERVATION FUND.—None of the funds appropriated or otherwise made available in title VII of division A for National Park Service under the heading ''Historic Preservation Fund'', and the amount made available under such heading is reduced by $55,000,000.

(18) FISH AND WILDLIFE RESOURCE CONSTRUCTION.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Service under the heading ''Construction'', and the amount made available under such heading is reduced by $60,000,000.

(b) UNDER PRIORITIZED SPENDING THAT SHOULD BE BUDGETED FOR.—

(1) COMPARATIVE RESEARCH.—None of the funds appropriated or otherwise made available in title VIII of division A for Healthcare Research and Quality under the heading ''Agency for Healthcare Research and Quality'' may be available for comparative research, and the amount made available under such heading is reduced by $700,000,000.

(2) HEALTH IT.—Title XIII for Health Information Technology shall be null and void and none of the funds appropriated or otherwise made available in title VII of division A for Information Technology under the heading ''Office of the National Coordinator for Health Information Technology'' may be available for health information technology, and the amount made available under such heading is reduced by $5,000,000,000.

(3) PANDEMIC FLU.—None of the funds appropriated or otherwise made available in title VIII of division A for pandemic influenza under the heading ''Public Health and Social Services Emergency Fund'' may be available for pandemic flu and the amount made available under such heading is reduced by $870,000,000.

(4) SMART GRID.—None of the funds made available in this Act for Smart Grid shall be made available.

(5) BROADBAND.—None of the funds appropriated or other made available in title II of division A for Broadband Technology Opportunities under the heading ''National Technology Opportunities Program'' may be available for broadband and the amount made available under such heading is reduced by $9,000,000,000.

(6) HIGH-SPEED RAIL CORRIDOR PROGRAM.—None of the funds appropriated or made available in title XII of division A for the High-Speed Rail Corridor projects under the heading High-Speed Rail Corridor Program may be available for the high-speed rail corridor and the amount made available under such heading is reduced by $2,000,000,000. Section 201 of title II of division A shall be null and void.

(7) PRISON SYSTEM AND COURTHOUSES.—None of the funds appropriated or made available in title II of division A for prison buildings and facilities under the heading Federal Prison System may be available for buildings and facilities and the amount made available under such heading is reduced by $1,000,000,000.

(c) UNDER GENERAL PROVISIONS.—

(1) DAVIS-BACON ACT NOT APPLICABLE.—Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act.

(2) PROHIBITED USES.—None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or Mob Museum.

SA 180. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, and Mr. BROWN) submitted an 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. 2____. 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 181. Ms. STABENOW (for herself 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 57, between lines 5 and 6, insert the following:

SEC. 2____. Section 136(d)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking ''$25,000,000,000'' and inserting ''$50,000,000,000''.

SA 182. Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an 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: 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 183. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, and 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 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 184. Mr. LEAHY (for himself and Ms. KLOBUCHAR) 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. _____. 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 or any other Act making appropriations for fiscal year 2009 or 2010 for Community Oriented Policing Services authorized under part Q of such Act of 1968.

SA 185. Mr. SCHUMER (for himself, Mr. SPECTER, Mr. LAUTENBERG, Mr. MENENDEZ, 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 239, line 24, strike ''$8,400,000,000'' and insert ''$10,400,000,000''.

On page 240, line 15, after ''promptly:'' insert ''*Provided further*, That the Secretary of Transportation shall make such funds available to pay for operating expenses to the extent that a transit authority demonstrates to his or her satisfaction that such funds are necessary to continue current services or expand such services to meet increased ridership:''.

On page 242, after line 10, insert the following:

CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'', as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309 (d) and (e) of such title, $2,500,000,000: *Provided*, That such amount shall be allocated without regard to the limitation under section 5309(m)(2)(A)(i): *Provided further*, That in selecting projects to be funded, priority shall be given to projects that are able to obligate 50 percent of the appropriated funds within 180 days of enactment of this Act: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That applicable chapter 53 requirements shall apply, except that notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall remain available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an additional amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, $2,000,000,000 to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337 of such Act: *Provided further*, That the Federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SA 186. Mr. UDALL of Colorado (for himself and Mr. BENNET 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 121, line 4, before the period, insert the following: '': *Provided further*, That no State matching funds are required: *Provided further*, That funding priority shall be given to areas that are experiencing high levels of insect and disease infestations''.

SA 187. Mr. UDALL of Colorado (for himself, Mr. KERRY, Mr. BINGAMAN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, 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 ''$17,298,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*, That $3,400,000,000 shall be for additional grants for State Energy Programs under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) with the States prioritizing the grants, to the maximum extent practicable, toward funding energy efficiency and renewable energy programs, especially for the purpose of retrofitting residential and commercial buildings to reduce energy consumption: *Provided further*,''.

SA 188. 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; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. ACCELERATION OF PHASEIN OF DOMESTIC PRODUCTION ACTIVITIES DEDUCTION.

(a) IN GENERAL.—Subsection (a) of section 199 is amended to read as follows:

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to 9 percent of the lesser of—

''(1) the qualified production activities income of the taxpayer for the taxable year, or

''(2) taxable income (determined without regard to this section) for the taxable year.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 199(d) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsection (a)(2)''

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

SEC. —. RESTORATION OF FULL DOMESTIC PRODUCTION ACTIVITIES DEDUCTION FOR OIL RELATED PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Section 401 of the Energy Improvement and Extension Act of 2008 is repealed.

(b) EFFECTIVE DATE; ADMINISTRATION OF CODE.—

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

(2) ADMINISTRATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if section 401 of the Energy Improvement and Extension Act of 2008, and the amendments made by such section, had not been enacted.

SA 189. Mr. DEMINT submitted an 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 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.

SA 190. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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 535, after line 17, add the following:

SEC. _____. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

(a) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

(b) PERIOD FOR TREATING GO ZONES AS DIFFICULT DEVELOPMENT AREAS.—Section 1400N(c)(3)(A) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2012''.

SA 191. 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 122, after line 23, add the following:

SEC. ___. ENVIRONMENTAL CERTIFICATION REQUIREMENT.

Before any funds made available under this Act to carry out a project may be obligated for the project, the head of the Federal agency responsible for the project shall certify that all reviews and consultations required by law that are intended to protect human health or the health of the natural environment have been completed, including those required by—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (including all required consultations under that Act); and

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SA 192. 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 ''renewable energy construction grants under section 803 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17282), geothermal energy programs and grants under sections 613, 614, 615, and 625 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17192, 17193, 17194, 17204) and the marine and hydrokinetic renewable energy technologies program established under section 633 of that Act (42 U.S.C. 17212), 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, $180,000,000 shall be available for renewable energy construction grants under section 803 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17282), geothermal energy programs and grants under sections 613, 614, 615, and 625 of that Act (42 U.S.C. 17192, 17193, 17194, 17204), and the marine and hydrokinetic renewable energy technologies program established under section 633 of that Act (42 U.S.C. 17212) and $1,920,000,000''.

SA 193. 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 22, insert '', to remain available for expenditure only until September 30, 2010,'' after ''$2,100,000,000''.

SA 194. 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 1, insert ''for expenditure only'' after ''remain available''.

SA 195. Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. WYDEN, Mr. KERRY, Mr. TESTER, Mr. UDALL, of New Mexico, 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 122, after line 23, add the following:

SEC. 70__. (a) In addition to amounts made available by this title, there shall be made available—

(1) for ''Operation of the National Park System'', $142,000,000;

(2) for ''National Park Service Construction'', $811,000,000;

(3) for ''Historic Preservation Fund'', $45,000,000;

(4) for ''Land Acquisition and State Assistance'', $100,000,000 to be derived from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) to provide financial assistance to States in accordance with section 6 of that Act (16 U.S.C. 4601–8), subject to subsection (b);

(5) for ''United States Fish and Wildlife Service Resource Management'', $110,000,000;

(6) for ''United States Fish and Wildlife Service Construction'', $15,000,000;

(7) for ''State and Tribal Wildlife Grants'', $50,000,000 for wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for the development and implementation of programs for the benefit of wildlife and wildlife habitat, including species that are not hunted or fished;

(8) for ''Bureau of Land Management Management of Lands and Resources'', $350,000,000;

(9) for ''Bureau of Land Management Wildland Fire Management'', $20,000,000;

(10) for ''Forest Service Capital Improvement and Maintenance'', $50,000,000;

(11) for ''Forest Service Wildland Fire Management'', $850,000,000, of which $250,000,000 shall be available for work on State and private land; and

(12) for ''Bureau of Indian Affairs Operations'', $15,000,000.

(b) Amounts made available under subsection (a)(4) shall not be used for land acquisition.

(c) Amounts made available under subsection (a)—

(1) shall remain available until September 30, 2010; and

(2) 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.

(d) Amounts made available by this title for ''Forest Service Capital Improvement and Maintenance'' may be—

(1) used for reconstruction, improvement, decommissioning, and maintenance of roads, trails, bridges, and dams; and

(2) transferred to the ''National Forest System'' account and other appropriate accounts of the Forest Service.

(e) Amounts made available by this title for ''Forest Service Wildland Fire Management'' may be—

(1) used for forest, rangeland, and watershed rehabilitation and restoration activities; and

(2) transferred to the ''National Forest System'' account, the ''State and Private Forestry'' account, and other appropriate accounts of the Forest Service.

SA 196. 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 91, after line 23, insert the following:

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For an additional amount for the Recovery, Accountability, and Transparency Website established under section 1551, $30,000,000: *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.

On page 422, strike lines 4 through 14, and insert the following:

(4) The website shall include a link to the website established and maintained by the Office of Management and Budget under section 1551.

On page 422, line 15, strike ''(6)'' and insert ''(5)''.

On page 422, line 18, strike ''(7)'' and insert ''(6)''.

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Recovery, Accountability, and Transparency Website

SEC. 1551. ESTABLISHMENT OF THE RECOVERY, ACCOUNTABILITY, AND TRANSPARENCY WEBSITE.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall establish and maintain the Recovery, Accountability, and Transparency Website to foster greater accountability and transparency in the use of covered funds.

(b) DATE OF ESTABLISHMENT.—The Director shall establish the website required under this section not later than 30 days after the date of enactment of this Act.

SEC. 1552. WEBSITE.

(a) PURPOSE.—The website established and maintained under section 1551 shall be a publicly available portal or gateway to provide the public full transparency and accountability of covered funds with timely availability of information and accounting of covered funds expended at the Federal, State, and local level.

(b) CONTENT AND FUNCTION.—In establishing the website established and maintained under section 1551, the Director of the Office of Management and Budget shall ensure the following:

(1) The website shall include information on relevant, economic, financial, grant, and contract information in user-friendly visual presentations.

(2) At a minimum, the website shall include detailed information on government contracts and grants, including Federal, State, and local contracts and grants and any subsequent subcontracts, including those made by 1 private entity to another, that expend covered funds to include—

(A) information about the competitiveness of the contracting process;

(B) notification of solicitations for contracts to be awarded;

(C) information about the process that was used for the award of contracts;

(D) information about the recipient of the contract to include the scope and statement of work under the contract;

(E) the dollar value of the contract;

(F) an estimate of the jobs sustained or created through execution of the contract including an explanation of the estimate;

(G) an estimate of the start date for any project using covered funds and a corresponding end date for the project;

(H) information confirming the certification required under section 1605 for the receipt of any covered funds; and

(I) any other information as the Director determines necessary.

(3) The website shall be fully available to the public.

(4) Information included on the website shall be available in printable formats, to include information on covered funds obligated in each State and each congressional district.

(5) The website shall provide the information required under paragraph (2) not later than 30 days after the obligation or award of funds.

(6) The website shall be searchable by project type, geographic region, level of government executions and as otherwise determined necessary by the Director.

(7) The website shall include appropriate links to other Government websites with information concerning covered funds including, at a minimum, the Board website established under section 1519.

(c) COMPLIANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, as a condition of receipt of funds under this Act, each agency shall require any recipient of such funds, whether from a Federal, State, or local contract or grant or otherwise, to provide the information required under subsection (b)(2).

(2) INFORMATION PROVIDED BY RECIPIENTS.—All information required to be made by recipients of covered funds under paragraph (1) shall be—

(A) provided not later than 30 days after the receipt of such funds; and

(B) updated not later than 30 days after any material changes in the execution of such funds.

(3) USER-FRIENDLY MEANS FOR COMPLIANCE.—In coordination with agencies and State and local governments, the Director of the Office of Management and Budget shall provide for user-friendly means for recipients of covered funds to meet the requirements of this subsection.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security.

SEC. 1553. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 to carry out this subtitle.

SA 197. Mr. THUNE submitted an 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:

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 ''Economic Recovery Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—TAX PROVISIONS

SEC. 100. REFERENCES.

Except as otherwise expressly provided, whenever in this title 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.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

SEC. 101. 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. 102. 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.

Subtitle B—Alternative Minimum Tax Relief For Individuals

SEC. 111. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended—

(1) by striking ''or 2008'' and inserting ''2008, 2009, or 2010'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2010''.

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

SEC. 112. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNTS FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($69,950 in the case of taxable years beginning in 2008)'' in subparagraph (A) and inserting ''($55,000 in the case of taxable years beginning in 2009 or 2010)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($38,750 in the case of taxable years beginning in 2009 or 2010)''.

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

Subtitle C—First-Time Homebuyer Credit

SEC. 121. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT.

(a) EXTENSION OF CREDIT.—Subsection (i) of section 36 (as redesignated by subsection (d)) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) REPEAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 is amended by striking ''an individual who is a first-time homebuyer of a principal residence'' and inserting ''an individual who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Section 36(b)(1)(A) is amended by inserting ''with respect to any taxpayer for any taxable year'' after ''subsection (a)''.

(B) Section 36(c) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(C) The heading of section 36 (and the item relating to such section in the table of sections for subpart C of part IV of subchapter A of chapter 1) are amended by striking ''first-time homebuyer'' and inserting ''homebuyer''.

(c) REPEAL OF RECAPTURE RULES.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(d) DOWNPAYMENT REQUIREMENT.—Section 36 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DOWNPAYMENT REQUIREMENT.—No credit shall be allowed under subsection (a) to any taxpayer with respect to the purchase of any residence unless such taxpayer makes a downpayment of not less 5 percent of the purchase price of such residence. For purposes of the preceding sentence, an amount shall not be treated as a downpayment if such amount is repayable by the taxpayer to any other person.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to residences purchased after December 31, 2008.

(2) DOWNPAYMENT REQUIREMENT.—The amendment made by subsection (d) shall apply to residences purchased after the date of the enactment of this Act.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 131. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) 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''.

(3) 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 (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(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 December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 132. 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.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 136. 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).

(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(b)(1)(H) 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. 137. 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).

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

SEC. 141. DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of a qualified small business for a taxable year beginning in 2009 or 2010, 20 percent of the lesser of—

''(i) the qualified small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—

''(1) QUALIFIED SMALL BUSINESS.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business' means any taxpayer for any taxable year if the annual average number of employees employed by such taxpayer during such taxable year was 500 or fewer.

''(B) AGGREGATION RULE.—For purposes of subparagraph (A), any person treated as a single employer under subsection (a) or (b) of section 52 (applied without regard to section 1563(b)) or subsection (m) or (o) of section 414 shall be treated as 1 taxpayer for purposes of this subsection.

''(C) SPECIAL RULE.—If a taxpayer is treated as a qualified small business for any taxable year, the taxpayer shall not fail to be treated as a qualified small business for any subsequent taxable year solely because the number of employees employed by such taxpayer during such subsequent taxable year exceeds 500. The preceding sentence shall cease to apply to such taxpayer in the first taxable year in which there is an ownership change (as defined by section 382(g) in respect of a corporation, or by applying principles analogous to such ownership change in the case of a taxpayer that is a partnership) with respect to the stock (or partnership interests) of the taxpayer.

''(2) QUALIFIED SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business income' means the excess of—

''(i) the income of the qualified small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of a qualified small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

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

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 146. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

SEC. 151. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED HEALTH INSURANCE COSTS OF INDIVIDUALS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. COSTS OF QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount paid during

the taxable year for coverage for the taxpayer, his spouse, and dependents under qualified health insurance.

''(b) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means insurance which constitutes medical care; except that such term shall not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(c) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a). Any amount taken into account in determining the credit allowed under section 35 shall not be taken into account for purposes of this section.

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence the following new paragraph:

''(22) COSTS OF QUALIFIED HEALTH INSURANCE.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and inserting before such item the following new item:

''Sec. 224. Costs of qualified health insurance.''.

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

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income

SEC. 161. TEMPORARY EXCLUSION OF UNEMPLOYMENT COMPENSATION FROM GROSS INCOME.

(a) IN GENERAL.—Section 85 is amended by adding at the end the following new subsection:

''(c) EXCLUSION OF AMOUNTS RECEIVED IN 2008 AND 2009.—Subsection (a) shall not apply to any unemployment compensation received in 2008 or 2009.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 2007.

Subtitle G—No Impact on Social Security Trust Funds

SEC. 171. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) ESTIMATE BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i).

(b) TRANSFER OF FUNDS.—If, under subsection (a), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS

SEC. 200. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers Act''.

SEC. 201. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 201(a) of the Assistance for Unemployed Workers Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 202. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''Additional Eligibility Requirements

''(g)(1) IN GENERAL.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act for any week—

''(A) in the case of any individual described in paragraph (2), that such individual—

''(i) have a secondary school diploma or its recognized equivalent; or

''(ii) be making satisfactory progress in a program that leads to a secondary school diploma or its recognized equivalent; and

''(B) in the case of any individual described in paragraph (3), that such individual participate in reemployment services or in similar services (or, if such services were ongoing as of when such individual most recently exhausted regular compensation before seeking emergency unemployment compensation, that such individual continue to participate in such services), unless the State agency charged with the administration of the State law determines that—

''(i) such individual has completed such services as of a date subsequent to the commencement of emergency unemployment compensation; or

''(ii) there is justifiable cause for such individual's failure to participate in such services.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1)(A) APPLIES.—The requirements of paragraph (1)(A) shall apply in the case of any individual who was under age 30 at the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation.

''(3) INDIVIDUALS TO WHOM PARAGRAPH (1)(B) APPLIES.—The requirements of paragraph (1)(B) shall apply in the case of any individual who, as of the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation, was identified under the State profiling system (described in section 303(j) of the Social Security Act) as being a claimant who—

''(A) was likely to exhaust regular compensation; and

''(B) would need job search assistance services to make a successful transition to new employment.

''(4) EFFECTIVE DATE.—This subsection shall apply in the case of any individual filing an initial application for emergency unemployment compensation after the end of the 3-month period beginning on the date of the enactment of this subsection.''.

SEC. 203. SPECIAL TRANSFERS.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''Special Transfer in Fiscal Year 2009 for Benefits

''(f)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the Federal unemployment account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(2) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the improvement of unemployment benefit and unemployment tax operations,

including responding to increased demand for unemployment compensation; and

''(B) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

TITLE III—NO TAX INCREASES TO PAY FOR SPENDING

SEC. 301. NO TAX INCREASES TO PAY FOR SPENDING.

(a) FINDINGS.—The Congress finds that—

(1) according to the economic forecast released by the non-partisan Congressional Budget Office on January 7, 2009, unemployment in the United States is expected to be above the level estimated for calendar year 2008 until the year 2015, and

(2) raising taxes on families and employers during times of high unemployment delays economic recovery and the creation of new jobs.

(b) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) outlays from the Treasury of the United States that occur as a result of any provision of this Act shall not be offset through the enactment of new legislation that results in increases in revenues to the Treasury of the United States, but, if such outlays are offset, such offsets shall be through the enactment of legislation that results in a reduction in other outlays, and

(2) the effective rate of tax imposed on individuals or businesses shall not be increased, whether by operation of a provision of existing law or the enactment of new legislation, during any year in which unemployment is projected to exceed the level of unemployment for calendar year 2008.

SA 198. Mr. INHOFE (for himself and Mr. THUNE) submitted an 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. ____. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for any of the following purposes:

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

SA 199. Mr. 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:

On page 570, after line 8, insert the following:

SEC. —. EXTENSION OF REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201(b)(1) is amended by striking ''1 year after such date'' and inserting ''3 years after such date''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 1201(b)(3) is amended by striking ''1 year after such date'' and inserting ''3 years after such date''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. —. EXTENSION OF TIMBER REIT MODERNIZATION AND MODIFCATION OF PROHIBITED TRANSACTION RULES FOR TIMBER PROPERTY.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended—

(1) by striking ''the taxpayer's first taxable year'' and inserting ''the taxpayer's third taxable year'', and

(2) by striking ''1 year after such date'' and inserting ''3 years after such date''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. —. EXTENSION OF QUALIFICATION OF MINERAL ROYALTY INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2)(I) is amended by inserting '', second, or third'' after ''the first''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 200. 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 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.

SA 201. Mrs. KLOBUCHAR (for herself, Mr. HATCH, Mr. BENNETT, and Mr. KOHL) submitted an 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 359, line 22, insert ''In promulgating such regulations, the Secretary shall not require that data be de-identified or require valid authorization for use or disclosure for activities described in paragraph (1) of the definition of health care operations under such section 164.501.'' after ''disclosure.''.

On page 360, line 6, insert at the end the following: ''Nothing in this subsection may be construed to supersede any provision under subsection (e) or section 13406(a).''.

SA 202. 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 203. 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, 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 204. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. SPECTER) submitted an 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 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, may be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

SA 205. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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, line 16, strike ''$427,000,000'' and insert ''$627,000,000''.

On page 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 62, line 3, insert ''*Provided further*, That not less than $1,000,000,000 of the funds provided shall be provided for large-scale aquatic ecosystem restoration:'' after ''assistance:''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, shall be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

On page 114, line 24, strike ''$190,000,000'' and insert ''$215,000,000''.

On page 115, line 4, insert before the period at the end the following: '', of which not less than $50,000,000 shall be used for habitat restoration projects (including grant programs for wetlands restoration)''.

On page 120, between lines 10 and 11, insert the following:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for ''Environmental Programs and Management,'' $1,000,000,000, for existing large-scale aquatic ecosystem programs and related activities: *Provided*, That funds provided under this heading shall be used only for programs, projects, or activities that, as of the date of enactment of this Act, receive funds provided in Acts making appropriations available for the Department of the Interior, the Environmental Protection Agency, and related agencies: *Provided further*, That the Administrator of the Environmental Protection Agency may waive cost-sharing requirements for the use of funds made available under this heading.

SA 206. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an 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 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 62, line 3, insert ''*Provided further*, That not less than $1,000,000,000 of the funds provided shall be provided for large-scale aquatic ecosystem restoration:'' after ''assistance:''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, shall be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, February 10, 2009, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on a majority staff draft for a Renewable Electricity Standard proposal.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Gina__Weinstock@energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224–2209 or Gina Weinstock at (202) 224–5684.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources. The hearing will be held on Thursday, February 12, 2009, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the current state of the Department of Energy Loan Guarantee Program, authorized under Title 17 of the Energy Policy Act of 2005, and how the delivery of services to support the deployment of clean energy technologies might be improved.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachelpasternack@energy.senate.gov.

For further information, please contact Mike Carr at (202) 224–8164 or Rachel Pasternack at (202) 224–0883.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Lacee Oliver of my Finance Committee staff be granted the privileges of the floor during the first session of the 111th Congress.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Vishal Patel and Samantha Harvell, two fellows in my office, be granted the privilege of the floor during the pendency of H.R. 1.

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

AUTHORIZING USE OF THE ROTUNDA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 27 at the desk, just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 27) authorizing the use of the rotunda of the Capitol for the ceremony in honor of the bicentennial of the birth of President Abraham Lincoln.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 27) was agreed to.

Mr. DURBIN. Mr. President, this resolution, incidentally, authorizes the use of the Capitol Rotunda on February 12, 2009, on the 200th birthday of Abraham Lincoln. We originally thought a smaller venue would be adequate, but interest in this event has grown. I hope people across America realize that as we celebrate here, there will be celebrations in Springfield, IL, and many other venues.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96–388, as amended by Public Law 97–84, appoints the following Senator to the United States Holocaust Memorial Council for the 111th Congress: the Senator from Utah (Mr. HATCH).

The Chair, on behalf of the President pro tempore, pursuant to Public Law 94–118, Section 4 (a) (3), appoints the Senator from Alaska (Ms. MURKOWSKI) to the Japan-United States Friendship Commission.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, appoints the Senator from Mississippi (Mr. COCHRAN) as a member of the Board of Regents of the Smithsonian Institution.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 111th Congress: the Honorable CHRIS DODD of Connecticut; the Honorable SHELDON WHITEHOUSE of Rhode Island; the Honorable TOM UDALL of New Mexico; and the Honorable JEANNE SHAHEEN of New Hampshire.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 111th Congress: the Honorable SAXBY CHAMBLISS of Georgia and the Honorable SAM BROWNBACK of Kansas.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senator as Chairman of the Senate Delegation to the Canada-U.S. Interparliamentary Group conference during the 111th Congress: the Honorable AMY KLOBUCHAR of Minnesota.

ORDERS FOR WEDNESDAY, FEBRUARY 4, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow, Wednesday, February 4; that following the prayer and 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 the Senate resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act.

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

PROGRAM

Mr. DURBIN. Mr. President, tomorrow the Senate will resume consideration of the economic recovery legislation. Additional amendments are going to be offered and debated during tomorrow's session. Rollcall votes are expected to occur in the late afternoon hours. Senators will be notified when the votes are scheduled.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:45 p.m., adjourned until Wednesday, February 4, 2009, at 10:30 a.m.