

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

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

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

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

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

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

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

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

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

The legislative clerk read as follows:

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

Pending:

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

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

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

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

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

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

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

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INOUE. I have no objection.

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

Mr. ALEXANDER. I thank the Senator from Hawaii.

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

The Republican leader, Senator MCCONNELL, stated that this is a big spending bill. I was on the telephone last night with the former budget chairman, Senator Domenici of New Mexico, who has been counting in his retirement. He said it took our country

from the time of its founding until the mid-1980s to build up a national debt of \$850 billion, which was the size of this so-called stimulus package when it came over here. So we are talking about real borrowed money, and our goal is to reorient the whole discussion: first, to housing; second, to letting taxpayers keep more of their own money; and, third, to get out of the bill those items that don't belong in the bill.

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

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

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

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

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

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

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

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

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

Exactly the point the Senator from Tennessee is making.

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

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

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

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

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

He made this comment as well:

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

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

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

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

What is happening is that home values, in a ratio to mortgages, are declining. So the other point the realtors told me was a lot of folks, through no

fault of their own, are now paying mortgages on homes that exceed the value of the homes. That is the upside-down element. We can affect that part of the equation. That is to say, we can't stop home values from going down until we do something else first. The thing we can affect is that ratio—what people are paying in their monthly mortgage payments. I am going to leave that to my colleagues. The Senator from Nevada is here. The Senator from Georgia is here. They will talk about a better Republican idea of how we can address the costs people pay every month in their mortgages as a way of making them more healthy, able to pay the mortgage, not going to foreclosure, and ultimately fix that value of homes, and then we are on the road to recovery.

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

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

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

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

I appreciate the efforts of my colleagues.

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

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

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

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

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

will help. We will have to have three or four TARP funds, trillions of dollars, and it is not going to help because we have not fixed the underlying problem.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. ISAKSON. That is right, and I am delighted the Senator from Tennessee called this colloquy today so we could talk for a few minutes about what JON KYL and JOHN ENSIGN said is

the heart of the problem, and that is the U.S. housing market. Our houses are down 25 percent in the last 18 months. Equity lines of credit are dissolved because houses are underwater. One in five houses in the United States is worth less than what is owed on it.

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

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

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

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

NEW HOUSING TAX CREDIT PROMPTS RISE IN BUYING

(By James Feron)

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

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

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

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

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

BUILDERS PLEASED

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

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

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

Potential buyers, meanwhile are said to have been visiting housing developments and condominiums throughout the metropolitan area in increasing numbers since last Sun-

day, the day after the measure became law. Martin Berger, president of Robert Martin Corporation, Westchester's largest builder, said a few days ago:

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

INTEREST GROWS

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

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

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

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

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

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

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

HOME BUYERS GET A NEW ENTICEMENT

(By Ernest Dickinson)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The amount of the tax credit is figured by taking 5 per cent of the total cost of acquisi-

tion (including closing costs), minus any profit the buyer might realize in selling his old house. The credit cannot exceed the total tax liability. If a buyer qualifies for a maximum \$2,000 credit but his Federal tax totals only \$1,500, the latter amount is all he can claim.

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

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

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

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

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

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

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

As has been said, it is not a catch phrase and it is not a slogan. If we do not fix housing first, it does not matter what else we fix because throwing

money at the symptoms, as JON KYL said, will not work. If you are a doctor and you are trying to cure a patient, you go to the root of the infection or the root of the problem, and you cut it out or you deal with it.

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

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

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

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

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

I commend the Senator from Tennessee.

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

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

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

Mr. President, how much time remains?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Please let me know if you have any further questions.

EDWARD KLEINBARD,  
*Joint Committee on Taxation.*

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

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

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

Mr. Kleinbard states specifically:

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

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

I note my colleagues, particularly from Tennessee and Georgia, have made a number of good points that I happen to feel strongly about with re-

spect to the need to address the current housing crisis, and one of the things we have seen with respect to housing and all of the other economic challenges we have is we have to get people's confidence back in the American economy.

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

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

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

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

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

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

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

I yield the floor.

AMENDMENT NO. 140

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

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

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

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

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

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

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

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

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

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

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Arizona.

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

Senator FEINGOLD outlined the provisions of the amendment so I don't want to repeat them. But I also want to point out that some people are saying: Why should we have this on this legislation, when this stimulus package does not directly apply? We know there is an omnibus appropriations bill coming down the pike. The House of Representatives intends to take it up soon. There is apparently, unfortunately, another TARP that may be coming, not to mention the other appropriations bills that will be coming. So the sooner we address this issue, the better off we will be. I also think one of the reasons why support for the stimulus package

is rapidly eroding is because you don't have to call it an earmark and it doesn't have to be technically an earmark, but when you see many of the provisions in this stimulus bill, they have nothing to do with stimulus and everything to do with spending. They are fundamentally earmarks as well, certainly in their effect.

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

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

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

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

amendment and acceptance or rejection.

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

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

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

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

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

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

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

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

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

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

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

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

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 106

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

The PRESIDING OFFICER. The Senator has that right.

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

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

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

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

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

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

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



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

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

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

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

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

The PRESIDING OFFICER. The Senator from Georgia is recognized.

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

Mr. ISAKSON. I will.

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

The PRESIDING OFFICER. Is there objection?

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

Mr. GRASSLEY. Madam President, I don't want to do that because I am the manager for this bill and I have been waiting to speak. I want the floor after

the Senator from Maryland completes his remarks, and I think I am entitled to it.

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

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

The Senator from Georgia is recognized.

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

#### AMENDMENT NO. 106, AS MODIFIED

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

The PRESIDING OFFICER. Are there objections to the modification?

Without objection, the amendment is modified.

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

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

#### SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

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

#### “SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

“(a) ALLOWANCE OF CREDIT.—

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

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

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

“(b) LIMITATIONS.—

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

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

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

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

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

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

“(3) ONE-TIME ONLY.—

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

lowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

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

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

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

“(e) SPECIAL RULES.—

“(1) JOINT PURCHASE.—

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

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

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

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

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

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

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

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

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

“(2) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 25E. Credit for certain home purchases.”

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

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

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

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

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

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

Thirteen months ago, in January of last year, I introduced this same amendment. It was scored at that time by Joint Tax at a cost of \$11.4 billion. The Finance Committee in its wisdom elected not to include this in the proposal because they said it was too ex-

pensive. Since they said that was too expensive, we have spent \$4 trillion between the Federal Reserve and the Congress and the U.S. Treasury, and the problem is worse. So I would submit this is a very small price to pay for a solution that at least we have an historical precedent that it works.

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

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

First, let me comment on the underlying bill. We need to give President Obama the tools necessary for our economic recovery. President Obama said 2 weeks ago in his inaugural address the challenges we face are real, they are serious, and they are many. They

will not be met easily or in a short span of time, but they will be met.

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

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

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

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

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

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

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

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

In regards to small business, I said earlier small businesses are the heart of America. It is where our economic strength is. The American dream is not only owning a home; the American dream is also owning a small business, being your own boss. Unfortunately, too many small businesses today have on their front door "going out of business." We have to do more to protect

small businesses. At the end of the day, when we pull out of this recession, we need to have small businesses in place because they are the economic engine of America. Madam President, 99.7 percent of the businesses in Maryland are small businesses and 80 percent of all new job growth is created by small businesses.

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

AMENDMENT NO. 237 TO AMENDMENT NO. 98

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

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

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To amend certain provisions of the Small Business Investment Act of 1958, related to the surety bond guarantee program)

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

**SEC. 505. SURETY BONDS.**

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

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

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

(3) by adding at the end the following:

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

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15

U.S.C. 694a) is amended by adding at the end the following:

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

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

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

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

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

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

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

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

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

I thank my colleague and yield the floor.

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

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

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

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

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

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

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

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

The amendments are as follows:

AMENDMENT NO. 168

(Purpose: In the nature of a substitute)

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

**SECTION 1. REDUCTION IN CORPORATE MARGINAL INCOME TAX RATES.**

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

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

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

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

(4) by striking the last 2 sentences.

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

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

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

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

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

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

“(A) by substituting ‘25%’ for ‘28%’ each place it appears, and

“(B) without regard to—

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

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

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

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

**SEC. 3. REPEAL OF ALTERNATIVE MINIMUM TAX.**

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

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

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

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

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

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

(a) RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 (relating to general rule for unified credit against gift tax), after the application of

subsection (f), is amended by striking “(determined as if the applicable exclusion amount were \$1,000,000)”.

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

“(c) APPLICABLE CREDIT AMOUNT.—

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

“(2) APPLICABLE EXCLUSION AMOUNT.—

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

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

“(i) such dollar amount, multiplied by

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

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

(c) FLAT ESTATE AND GIFT TAX RATES.—

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

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

(2) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

(1) ESTATE TAX.—

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

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

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

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

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

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

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

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

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

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

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

(f) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

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

(A) Subtitles A and E of title V.

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

(C) Paragraph (2) of subsection (b), and paragraph (2) of subsection (e), of section 521. The Internal Revenue Code of 1986 shall be applied as if such provisions and amendments had never been enacted.

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

(3) REPEAL OF DEADWOOD.—

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

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

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

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

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

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

#### SEC. 7. BASE BROADENING.

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

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

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

“(2) the deduction allowed under section 170.”

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

AMENDMENT NO. 197

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

AMENDMENT NO. 238

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

At the appropriate place, insert the following:

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

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

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

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

A sustainable fiscal policy depends on a growing economy. A sound economy depends on a sound fiscal policy. Unfortunately, there doesn’t seem to be any consensus on what constitutes

sound policy. But I think we can all agree that Government doesn’t create wealth; Government only expends wealth. So we have to be about the business of having an environment that creates wealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The 19th century economist Fredrick Bastiat once observed:

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

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

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

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

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

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

They quote President Obama:

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

Going on to quote President Obama:

I have a pretty good track record at doing that.

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

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

Our first job is to put people back to work and get our economy working again. This is an extraordinary challenge, which is why I've taken the extraordinary step of work-

ing—even before I take office—with my economic team and leaders of both parties on an American recovery and reinvestment plan that will call for major investments to revive our economy, create jobs, and lay a solid foundation for future growth.

I asked my nominee for chair of the Council of Economic Advisers, Dr. Christina Romer, and the Vice President-elect's chief economic adviser, Jared Bernstein, to conduct a rigorous analysis of this plan and come up with projections of how many jobs it will create—and what kind of jobs they will be. . . .

The report confirms that our plan will likely save or create 3 to 4 million jobs. . . .

The jobs we create will be in businesses large and small across a wide range of industries. And they'll be the kind of jobs that don't just put people to work in the short term, but position our economy to lead the world in the long term.

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 140

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To offer more opportunity for public scrutiny of Member requests, Members

will be required to post information on their earmark requests on their Web sites at the time the request is made, explaining the purpose of the earmark and why it is a valuable use of taxpayers' funds.

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

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

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

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

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

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

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

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

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

I yield the floor.

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

AMENDMENT NO. 238

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

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

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

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

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

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

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

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

There may be programs in this proposed legislation that are worthy of support—I am not arguing that point—but surely not under the guise of economic stimulus. There are new programs that are created that will add to the size of this, and many of us have reacted to the size of it. As I have said already, we know for a fact there is going to be a lot of additional spending

coming down the pike that we are going to be asked to consider. But adding to that \$1 trillion for something that arguably does not create economic stimulus, does not create jobs, seems to me to be the wrong direction in which to head.

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

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

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

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

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



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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

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

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

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

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

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

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

The first tranche of the TARP funds does illustrate the point I am trying to make today. The Federal Government sent hundreds of billions of dollars to banks to get credit flowing. The expectation was that this money would translate very quickly into car loans, student loans and operating loans for businesses. What happened? Lending has declined—for a variety of reasons, many legitimate, and some banks that have received Government money have actually reduced lending more sharply

than banks that chose not to take the money.

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I just had the opportunity to hear the initial—what we used to call the maiden speech around here—of the new Senator from Nebraska. I want to congratulate him on an extraordinarily insightful presentation that melded his own personal history in government

with his thoughts about this massive bill that we will be considering this week, and his feelings about it, which he expressed to his constituents today. On behalf of all of us, I welcome the Senator to the Senate. I would say he just made a great start, and I know he is going to have an incredibly effective career representing the people of Nebraska and America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

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

AMENDMENT NO. 200 TO AMENDMENT NO. 98

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

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

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

“(j) IMPORTED PROPERTY INCOME.—

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

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

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

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

Such term shall not include any foreign oil and gas extraction income (within the mean-

ing of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

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

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

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

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

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

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

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

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

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

“(3) DEFINITIONS AND SPECIAL RULES.—

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

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

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

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

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

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

“(B) imported property income, and”.

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

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

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

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

(d) TECHNICAL AMENDMENTS.—

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

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

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

“(II) imported property income.”.

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

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

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

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

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

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

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

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

I might add that the Democratic caucus is conducting an issues conference today, but the floor is open for busi-

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

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

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

I thank all Senators for their cooperation.

#### AMENDMENT NO. 168

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

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

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

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

What is the effect of that? There are several effects. First, we are trying to begin to address our health care system, and the DeMint amendment strikes all the health information technology provisions in the bill. We are trying to get health information tech-

nology up and running. I think it is a bad idea to strike health information technology. We have to get that started if we are going to begin to lower health care costs in this country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 159 TO AMENDMENT NO. 98

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

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

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

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

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

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

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

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

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

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

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

To date, Congress and the White House and the private sector have put forth a number of programs to help struggling homeowners, but we have yet to see significant results from any of these various programs that have been out there. This is because at the core of the problem are privately

securitized mortgages, which were originated without a guarantee from the government-sponsored enterprises. These are the privately securitized mortgages that are not Fannie Mae, Freddie Mac or GSE sponsored. These mortgages account for only 15 percent of all outstanding mortgages, but they represent more than one-half of all the foreclosures that are taking place today.

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

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

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

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

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

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

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

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

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

A lot of colleagues of mine have expressed support for this plan. I encourage Members on both sides of the aisle to please look at this plan carefully. Because as a result of what we are doing on stimulus, we need to also deal with the housing problem. The housing problem is what brought us into this economic mess until we once again resolve the housing problem.

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

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

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

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

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

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there objection?

Mr. INOUE. I object.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 278 AND 279 TO AMENDMENT NO. 98

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

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

Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

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

The amendments are as follows:

AMENDMENT NO. 278

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

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

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

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

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

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

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

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

“(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

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

“(2) MAXIMUM DEFICIT AMOUNTS.—

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

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

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

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

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

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

AMENDMENT NO. 279

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

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

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

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

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

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

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

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

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

The purpose of this stimulus legislation is to create jobs and generate eco-

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

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

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

Should we enact such a provision, it will only be a matter of time before we face an array of similar protectionism from other countries—from “Buy European” to “Buy Japanese” and more. In fact, in the 1980s we saw Japanese provisions that attempted to take the kinds of steps we are contemplating now, and barred American goods in Japanese government procurement.

The U.S. Congress responded just as we can expect others to do now—by threatening retaliation and considering legislation that would restrict Japanese imports.

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

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

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

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

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

I urge my colleagues to support this amendment.

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 161 TO AMENDMENT NO. 98

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

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

For any economic recovery package to work, there are three critical components. First, we must invest in ready-to-go priority infrastructure projects. America's decades-long lack of improvement and investment in infrastructure—in roads, bridges, river navigation, housing, and all types of public improvements—is taking a huge toll on our economy. By investing now in shovel-ready projects, we will make significant long-term improvements to

our aching infrastructure. Good roads and highways connect people to communities, attract and sustain business, and are necessary to spur economic development in our communities. Also, investing in shovel-ready projects will create jobs in our communities now. New jobs and putting people back to work is the best way to help struggling families now and start turning our economy around.

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

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

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

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

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

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

During the savings and loan crisis in the 1980s and 1990s, the Government

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

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

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

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

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

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

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

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

Hollywood movies an energy stimulus is outrageous.

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

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

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

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

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

We must not repeat the mistakes of the Great Depression by throwing up trade barriers. We are living in a global economy, and we are in a global economic crisis. This demands more free trade, not less. I am heartened that just yesterday President Obama acknowledged the dangers of protectionism. I hope my colleagues don't follow the path of Smoot-Hawley and cause further damage to our economy and jobs. Cutting off trade not only threatens our export jobs, but many more jobs in my State depend upon exports and depend upon the one or two industries that might be affected.

Farmers in my State have been absolutely wiped out in the past when their exports to Southeast Asia, for example, a decade ago were cut off. This retaliation that the European Union and others have threatened could cut off the markets for our farmers.

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

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

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

On a totally different subject, I will join Senator COBURN in offering an amendment that will address a national health epidemic and empower families to make healthy food choices. The amendment is simple. It would require the U.S. Department of Agriculture to establish guidelines to ensure that Federal dollars are used to purchase food that is nutritious and consistent with the food pyramid. These guidelines would be developed by the USDA, and they would give all of our important health and community advocates the opportunity to give the Government their input about how to make the Food Stamp Program a

healthier program. According to the Centers for Disease Control and Prevention, poor nutrition leading to obesity can result in 1 out of 8 deaths in America today, which is caused by illnesses linked to being overweight or obese.

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

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

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

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

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

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

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

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



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

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

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To provide \$2,000,000,000 from the HOME program for investment in the low income housing tax credit projects)

GAP FUNDING FOR LOW INCOME TAX CREDIT PROJECT

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

"For an additional amount for capital investments in low income housing tax credit projects, \$2,000,000,000, to remain available until September 30, 2011: *Provided*, That the funds shall be allocated to States under the HOME program under this Heading shall be made available to State housing finance agencies in an amount totaling \$2,000,000,000, subject to any changes made to a State allocation for the benefit of a State by the Secretary of Housing and Urban Development for areas that have suffered from disproportionate job loss and foreclosure: *Provided further*, That the Secretary, in consultation with the States, shall determine the amount of funds each State shall have available under HOME: *Provided further*, That the State housing finance agencies (including for purposes throughout this heading any entity that is responsible for distributing low income housing tax credits) or as appropriate as an entity as a gap financier, shall distribute these funds competitively under this heading to housing developers for projects eligible for funding (such terms including those who may have received funding) under the low income housing tax credit program as provided under section 42 of the I.R.C. of 1986, with a review of both the 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."

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

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

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

The other area is in the military. While those two amendments have to do with the infrastructure of which I am in strong support, the Boxer-Inhofe amendment has yet to be filed. It will be filed. We are talking there about

some \$50 billion that would go toward construction and infrastructure.

AMENDMENT NO. 262 TO AMENDMENT NO. 98

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

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

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

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

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

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

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

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

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

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

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

The clerk will report.

The bill clerk read as follows:

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

The amendment is as follows:

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

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

**GENERAL PROVISIONS—THIS TITLE**

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

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

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

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

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

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

(b) OFFSET.—

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

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

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading “NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION” under the heading “PROCUREMENT, ACQUISITION, AND CONSTRUCTION” is hereby re-

duced by \$70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

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

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

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

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

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

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

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

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

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

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

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

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

There are no human rights abuses. In fact, 3 days ago when I was there, some

of the detainees were kind of laughing about the fact they actually had better medical treatment than they ever had before. As far as the food is concerned, it is the best. There are six camps in conjunction with the severity of the problem with a particular detainee, what level of terrorist activities he was involved in. The first three are the ones ready to go back, and the last ones are the more severe.

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

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

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

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

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

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

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

As we have seen, the new chairwoman of President Obama's Council of Economic Advisers, Christina Romer, along with her husband, did a study—she is a real, live economist. We hear economist for this, economist for that.

Many are nameless and faceless. I thought how interesting it would be, instead of citing unnamed economists, if you just plugged in the word "lawyer" or let's say "veterinarians." Veterinarians believe this, lawyers believe that. We wouldn't accept that at face value. We would want to know what it was and whether it was credible and what they are talking about. Because we know there are economists who disagree with each other, and it is plain silly to suggest that among economists there is any consensus on these unprecedented times we find ourselves in.

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

AMENDMENT NO. 277 TO AMENDMENT NO. 98

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

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

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

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

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

“(ii) Section 3402(p)(2) shall be applied by substituting ‘5 percent’ for ‘10 percent’.”

(b) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 242 TO AMENDMENT NO. 98

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

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

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

**SEC. \_\_\_\_ . TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.**

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

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

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

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

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

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

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

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

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

As a Member of the House in 1993, I thought this tax increase was grossly

unfair to our senior citizens. On one hand we tell seniors to plan for retirement and on the other hand we tax them for doing that. CRS estimates that there are 12 million seniors paying this tax on 85 percent of their Social Security benefits.

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

My amendment is very simple. It gives seniors a break for 1 year from paying this tax. While I would love to see this tax permanently repealed, suspending it for 1 year is a start and a stimulus to get money into the pockets of our senior citizens so they can help stimulate the economy. It would help do it immediately, by allowing millions of seniors to keep more of their Social Security benefits. With wild fluctuations in gas prices and increases in health care and food costs, this tax relief could make a difference to millions of seniors across this country.

The amendment holds the Medicare trust fund harmless so the solvency of Medicare is not jeopardized. The amendment is paid for by reducing discretionary spending in the bill, except spending for veterans.

In the past, many of my Senate colleagues have supported sense-of-the-Senate amendments to remove this unfair tax. Today, Senators will have an opportunity to vote on actually giving seniors relief and removing this unfair tax for just 1 year, 2009. It is the fair thing to do. I hope my colleagues can support this amendment and support over 12 million seniors who are forced to pay this unfair tax.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Kentucky for offering his amendment. There are 14, I believe, maybe 15, pending amendments to this bill. I think it is healthy. It means we are actively debating this issue and getting suggestions from Democrats and Republicans about ways to change it.

But let's remember why we are here. This is H.R. 1, the first bill of the session. It is the bill, in terms of priority, that has the highest priority for the President of the United States and for the Nation. It is the American Recovery and Reinvestment Act of 2009.

It has been only 2 weeks now since we swore in a new President, the 44th President of the United States. He comes to this office, I believe, with extraordinary talents and potential. But he also comes facing some of the most serious challenges any President has faced in 75 years. You have to go back to Franklin Roosevelt, in 1933, and the Great Depression to find another time in American history that was any more challenging than what we face today. I think most Americans know what we are talking about.

We found, for the gross domestic product; that is, the production of

goods and services in America, our growth in that area has started to decline for the first time in 25 years. We have found that unemployment rates are higher than they have been in 15 or 20 years—in some places even worse. Ask the average person or family member: Does this affect you? And they will say, of course, it does. My savings for my retirement are not what they used to be. I have lost a lot. I had planned on a life of comfort and security and now I am not sure.

How about your home? For most people it is the most important asset in their life. Even if you are paying your mortgage payment, your home value has been going down in most communities across America. People understand, too, that many of their neighbors are losing their homes to foreclosure. Some of these are hard-working families who have played by the rules and all of a sudden the world is upside-down. The principal they owe on their mortgage is more than the value of their home.

Ask people about jobs, about all the jobs we have lost across America—half a million jobs in December, even more in the month of January. As we lose more and more jobs, of course, people face hardships. Part of our effort is to try to find a way to help them, provide a safety net, to give them a helping hand—as we should.

Let me tell you what President Obama's proposal means to America. First, we are going to try to help those people who are suffering. For those on unemployment right now, many of these people have been stretched to the absolute limit. Imagine losing your job and trying to keep your family together and make the utility bill payments and not lose the house—in the hopes that this is going to turn around and you will find another job. We provide an additional help to them. It is not a lot. I would like to give more, but it means more money in unemployment relief for these families.

The second thing we find is that as soon as you lose your job, guess what happens next. You lose your health insurance. There is a program called COBRA where you can turn around and buy health insurance, but take a look at the price. The price is dramatically larger than you paid as an employee, if you had coverage at your workplace. So we try to extend health insurance for these families. Shouldn't we, for the millions of Americans who are out of work, give them a little more to live on and a little helping hand when it comes to the paying of their health insurance? That is not just humane; if you are looking at the pure economics of it, trust me, those unemployed families with an extra few dollars a week are going to spend this money back into this economy, keeping their families together.

Then we take a look at what we need to do to get this economy moving forward. President Obama said the first thing we need to do is to give working

families, middle-income families, a helping hand. Tax policy over the last 8 years has been geared primarily, most of the breaks, to the wealthiest people in America. But the folks who have been falling behind are those whose wages didn't keep up. The cost of living kept up, but their wages didn't keep up. President Obama says, as part of our recovery plan, let's give a helping hand, \$500 to an individual, \$1,000 to a family, at least so that these working families can pay their bills and maybe try to get ahead a little bit. That, to me, is a sensible economic recovery.

Wouldn't we start at the base of America, the strength of America, the families of America, and make sure they get the first helping hand, after we have taken care of those who lost their jobs, through unemployment? That is part of it.

He also has asked us, in the Obama plan: Help businesses, small businesses in particular, because they are the bedrock of the American economy. They create most of the jobs. They are the most vulnerable. We have seen it happen. We get the announcements of the big companies that are laying off thousands of workers: 20,000 at Caterpillar, thousands at Starbucks and INTEL and the list goes on and on. But it is the small job in the mall or downtown that lays off a worker or goes out of business—then we start losing jobs that way. The President has proposed in his tax package, let's allow these businesses to write off their losses and apply them to previous years' tax liability. Give them a helping hand. If they want to buy things that might expand their businesses, let's encourage them, give them more of a tax writeoff. So we build this into the program here as well. I think these are all solid investments in people who are struggling with unemployment and middle-income families finding it hard to pay their bills and small businesses that are vulnerable to a weak economy.

Then the President goes a step further and the President says: Let's now create jobs, let's invest in America in a way that is going to build America's economy for decades to come. He has identified several areas of importance that I think will meet the test of time and I hope will meet the approval of my colleagues.

The first thing he says is energy. We know, as long as we are captives of foreign oil producers who can run the price of gasoline up to \$4.50 next week and back down again to \$2.50 a month later, it is tough to build an economy.

So President Obama has told us, as part of this, build into this energy-related investments, the kinds of things that make sense, research in areas that will give us energy capability.

We can't build an American economy without energy. Let's build it with homegrown energy, energy that uses our creativity and our resources and builds on them.

He also said: Let's take a look at our schools, let's take a look at our Gov-

ernment buildings, and if the energy is going out through cracks in the windows and the doors, let's do something about it—more energy efficiency.

That is a good investment. That is going to pay itself back over a period of time.

Secondly, there is this whole element of health care. We know that one of the crucial elements in our daily lives is the protection of health insurance, and we know the cost of that insurance and the cost of medical care continue to rise.

What President Obama has made part of this is something that is the most important single downpayment to health care reform. He believes we should start moving as a nation to put our medical records on computers so that we have technology that has my medical records, the records of my family, so that when you go to the hospital, the doctors who are there and the nurses who are there have access to solid available information. They are not going through pages hoping they don't miss one. It is going to mean that there will be more affordable health care, and it will be safer health care. That makes sense. That is a good investment.

The third element is education. What the President has said as part of his proposal here is that we need to start building—by building, putting people to work—we need to start building the laboratories, the libraries, and the classrooms of the 21st century.

Let's be honest about this. America is as ingenious, innovative, and creative as any nation on earth. But the reason we are is because our schools prepare our children to meet that challenge and to lead. That is part of the investment of this bill.

Overall, what the President is asking us to do is to do our very best today to invest about \$900 billion—a huge sum of money, I do not doubt that—so at the end of the day we will have saved or created 3 to 4 million jobs.

My friends, some of them on the other side of the aisle, say that is way too much money, \$900 billion. This \$900 billion represents about 6.5 percent of the gross domestic product of America. So you say: Is that enough? Is that enough of a catalyst? Most of the economists say: Err on the side of providing enough water to put out the fire. Don't put so little on it that you will have to revisit that conflagration tomorrow. And if you follow the lead of some who want to cut back the size of this program substantially, every time they cut back the size of it, they will cut back the number of jobs we will be creating in America at a time when we desperately need more jobs.

We expect to lose in economic activity in America \$1 trillion a year because of this recession. What we are putting back over 2 years, this \$900 billion, means we are about at half of what we are going to lose. We are going to put some \$450 billion of economic spending into an economy that is losing \$1 trillion in activity. So we are

not even keeping up with what the recession is doing to us. So those who want to cut this back dramatically, I can tell you, sadly, if they have their way, we will be back here again.

You remember last year, President Bush said to us: I think the economy is weak, and I know how to solve the problem. Tax cuts will do it. And he asked us, the Democratic Congress, to give the Republican President \$150 billion in tax cuts. And we did. Senator BAUCUS, the chairman of the Finance Committee, worked to deliver a bill, a bipartisan bill, focusing on tax cuts.

If you listen to my friends on the other side of the aisle, they believe this is the answer to every ill. If the economy is flourishing, more tax cuts; if the economy is struggling, more tax cuts. Well, tax cuts have their place, and they are a part of this, but they are not the complete answer. We learned that when we put \$150 billion into the economy in tax cuts last April, I believe it was, and it did not have the kind of positive impact we expected on our economy.

The point I want to get to is this: We have to act, and we have to act now. Sure, we should have this debate on the amendments. Some will prevail, some will not. But at the end of the day, the American people will not accept as a final verdict that the Senate did nothing. They will find it absolutely unacceptable that one of the worst economic crises in America was met with political resistance. They want us to work together. And we should.

I am open—I believe most Democrats are—to good ideas and good suggestions, and a lot of our colleagues are, in good faith, working toward that end. But there is one basic thing we should remember: When we get down to the bottom line, most of the critics of this program, this \$900 billion program, when you add up the total amount of their criticism, it is less than 1 percent—less than 1 percent.

Well, let's try to cure that 1 percent. Let's do our best to make sure we do. But let's not walk away from this challenge. Let's not walk away from this crisis because we find in some paragraph in here something to which we object.

If there were ever a time when the American people expect us to rise to the occasion, to stand with President Obama and try to turn this economy around, this is the time. I would say to my colleagues, let's get it done this week. We need to tell America first—and the world—that we are not going to stand back and be victimized by this economy. We are going to use every talent, every tool we can to get this American economy moving again for the workers and families and businesses that count on us so much.

In the Senate, it is easy to get something lost in the debate and end up doing nothing. That is the one thing that is prevalent in the Senate too many times. But this is different. This is a historic challenge.

I hope Senators from both sides of the aisle will work in good faith to find a way to put together a product that will ultimately serve this country and serve it well. Two-thirds of the American people now say they support this plan. They do not believe it is the last thing we are going to do, and they sure do not believe the economy is going to be cured in weeks or months; it may take us longer. But we need to start working together and give this our best effort. We need to follow on from this doing something about the housing market, mortgage foreclosures, people who are underwater with their own home mortgages, folks who will not consider buying a home because of the uncertainty of the economy. That is absolutely a priority. It may not be included in this bill. Perhaps it will be. But that is a priority we should turn to next.

Then we need to look at these financial institutions.

Make no mistake about it, when this Bernard Madoff is found guilty of a Ponzi scheme, people are wondering whether he will go to jail. I am not going to say whether he should or should not. He needs to be held accountable for what he did. A lot of innocent people lost a lot of money because of what he did. He needs to be held accountable.

What about the financial institutions that brought us to this moment in American economic history? I think we need accountability there too. We need to make sure these executives do not run off with millions of dollars in bonuses, capitalizing on the taxpayers' money, ignoring the fact that they failed in their business missions. We need to have a good, strong law in that regard too.

We need to have proper oversight and regulation of financial institutions so America never goes down this road again. That is our responsibility on our watch.

I sincerely hope both sides of the aisle will make it their business to get it done this week so the American people understand that we get it, we understand the severity of the crisis we face.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the—

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. FEINGOLD. Mr. President, if there was an arrangement that I am unaware of, I would defer.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we try to be evenhanded and fair and balanced here. We have had a gentleman's agreement that we alternate sides on speakers. Since the Senator from Illinois last spoke, I think it is only fair and appropriate that we rotate.

Mr. FEINGOLD. Mr. President, I was unaware of that, and I defer to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I will not take too long because I know there are other Senators waiting to speak.

I send an amendment to the desk and ask for its immediate consideration.

Mr. BAUCUS. Mr. President, reserving the right to object, I think the pending amendments would have to be set aside.

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

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. We already have 16 amendments lined up in the queue. It is going to be a very late night tonight because of that great number of amendments.

I was wondering, I would be more than willing to work out an arrangement where the Senator's amendment can be the next one available after our votes tonight, the first Republican amendment tomorrow. I have to draw the line somewhere here; otherwise, we would keep going. I renew my offer to make it the first amendment tomorrow.

Mr. MCCAIN. I would be pleased to accommodate the manager, who has been very accommodating to this side of the aisle, and he just demonstrated that. So I would be glad, if it is agreeable to the manager to allow me to propose the amendment now. Then I would be glad to ask for a vote on it at the convenience of the managers of the bill so that it is most convenient for them.

Mr. BAUCUS. Mr. President, I would prefer that you offer the amendment after we dispose of the 16 tonight.

Then we can agree by unanimous consent that it would be the first one up.

Mr. MCCAIN. If I could ask unanimous consent that I would be the first amendment considered tomorrow.

Mr. BAUCUS. That would be fine.

Mr. MCCAIN. Mr. President, I will withhold proposing the amendment. I ask unanimous consent that my amendment be allowed to be filed and considered at the beginning of legislative work tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. So far, I have to object, and I have to figure out why. I might say to my good friend, in order to get order here, they are telling me we are coming in at 9:30 tomorrow morning. I know the Senator, a former military man, is used to early hours.

Mr. MCCAIN. Whatever the floor staff wishes, as well as the manager. By the way, I say that with great respect to the staff on the floor who are making this machine, this unwieldy machine, run in the most efficient fashion.

Mr. BAUCUS. Thank you very much.

Mr. McCAIN. Mr. President, I will withhold until tomorrow morning, according to the unanimous consent agreement, and file the amendment and ask for its consideration at 9:30 a.m.

Mr. BAUCUS. Or whenever we come into session tomorrow morning. We expect to be in about 9:30. There may be some leader time.

Mr. McCAIN. Sure.

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

Mr. McCAIN. Mr. President, I would like to keep the floor, if I can, for a couple of minutes.

Basically, tomorrow morning we will be considering this amendment. I would like to say a few words because this is a proposal that I think should be considered, along with the legislation that is pending. It is a compilation of what we believe is the most effective way to address the stimulus and job creation. It has tax provisions, such as elimination of the 3.1-percent payroll tax for all employees for 1 year. It lowers the 10-percent tax bracket to 5 percent; lowers the 15-percent tax bracket to 10 percent; lowers the corporate tax bracket from 35 to 25 percent and has accelerated depreciation for capital investments for small business; the extension of unemployment insurance benefits; extension of food stamps, unemployment insurance benefits, tax-free training and employment services, as well as keeping families in their homes through a loan modification program. It has tax incentives for home purchases and GSE-FHA conforming loan limits; national infrastructure and defense, which is very badly needed; transportation infrastructure; and also contains the trigger that is also the subject of a separate amendment I have proposed, with a total of about \$420 billion.

Now, I know my friend from Wisconsin is waiting patiently, but I would like to point out where I think we are at this moment; that is, we basically have legislation which is too big, which is not stimulative, and which does not create jobs. The American people are beginning to figure it out. In fact, polling numbers in the last couple of days have shown a significant shift in American public opinion because they are beginning to examine this proposal.

I argue that it is time we sit down, Republicans and Democrats, and begin good-faith negotiations to create a real job creation and stimulus package. I think it would be unfortunate if this body passed, on a party-line basis or largely party-line basis, this package in similar fashion as it did in the other body.

I think we have a proposal here that deserves consideration, but I also think it is time that we had serious negotiations to try to reach some kind of consensus on a package and legislation that truly stimulates and truly creates jobs.

My colleague from Arizona will be pointing out, as many others have,

that there are many programs here, moneys in the hundreds of millions and billions, that simply do not meet any criteria for job creation: \$75 million for smoking cessation; \$150 million for honeybee insurance. The list goes on and on. We also have an obligation to future generations to understand that \$1.2 trillion, followed by another TARP, followed by an omnibus appropriations bill, requires us to put this country, once the economy recovers, back on the path to a balanced budget and reduce spending across the board once our economy has recovered.

I thank the Senator from Montana, the distinguished manager of the bill, for his consideration on my amendment. I thank my colleague from Wisconsin, as always.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that following the remarks by the Senator from Wisconsin, the Senator from Arizona, Mr. KYL, be recognized.

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

The Senator from Wisconsin.

#### AMENDMENT NO. 140

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the amendment I am offering with Senator McCAIN and others. Just to remind my colleagues, our amendment creates a point of order against unauthorized earmarks in appropriations bills. Again, it applies to unauthorized earmarks. If a provision is not both an earmark, as defined by the Senate Rule 44, and unauthorized, this point of order does not apply.

For the purposes of this amendment, we consider a program to have been authorized even if that authorization has only passed the Senate during the same Congress as the proposed spending item.

Moreover, as a safeguard we have taken care to also exempt programs that may have had their authorization lapse, but which are clearly needed and are included in the President's budget request.

The Senator from Hawaii noted, for example, that we haven't considered an Intelligence authorization bill for some time, or a Foreign Operations and State Department authorization bill. He argued that the programs covered by those lapsed authorizations, or programs that have never been authorized, would be subject to this point of order.

They would not be subject to the point of order established by this amendment.

First, to my knowledge, few if any of the programs under those measures would be considered "congressionally directed spending," and thus they could be funded without this point of order applying. Second, programs covered by those authorizing measures are typically included in the President's budget request whether or not the authorization has lapsed and, as such, are fully exempt from this point of order.

Let me reiterate, in order to be subject to our point of order, the program must be an earmark; that is, "congressionally directed spending" as defined in Senate rules, and it must not be authorized or included in the President's budget request.

The Senator from Hawaii used the specter of an authorization bill being filibustered to stop the ability of Congress to use its power of the purse as an argument against this amendment. Once again, if a program is not considered to be "congressionally directed spending" it will never be subject to this point of order, and Congress is free to fund it or not as it sees fit.

The Senator from Hawaii also raised the concern that this amendment creates a point of order against unauthorized earmarks added to conference reports. Darn right it does. We shouldn't be adding earmarks to conference reports. Under the amendment, if a point of order is sustained against a provision in a conference report, that provision would be stricken, but the legislative process would continue with no more potential roadblocks than exist currently. The conference report would revert to a nonamendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House. It won't tie the two Houses up in knots, as the Senator from Hawaii suggested. The House will accept the Senate amendment or it won't. If the House makes a further change, the Senate can consider it. That is the regular order of business around here. The best way to avoid this issue is not to slip earmarks into conference reports.

The argument was also made that if our amendment was adopted, then authorizers would have the power to earmark, but no one else. This amendment doesn't give the power to earmark to anyone. All it does is return the Senate to what should be the proper way to consider special interest spending. If you want some special project for your State or district, the authorizing committee of jurisdiction should review it, and legislation authorizing it should pass both Houses and be signed into law. That is the regular scrutiny we should require of special interest spending. Then the Appropriations Committee can decide whether and at what level to fund the authorized program. That is the way the system is supposed to work. Unfortunately, we now have an alternative, short-cut process, whereby Members stick spending provisions into appropriations bills without any scrutiny whatsoever. That is a recipe for waste, fraud and abuse.

I have great respect for the Senator from Hawaii, and I appreciate his willingness to debate my proposal on the merits. I wish more of my colleagues were willing to have this kind of public discussion about earmarks. But I disagree with his arguments. This is a sensible amendment. It will put some teeth into the earmark rules we adopted in the last Congress. As we consider

a bill that proposes to increase our debt to the tune of \$800 billion, we should be doing all we can to assure our constituents that their money is not being wasted on pork-barrel spending. One way we can do that is to pass the Feingold-McCain-McCaskill amendment, and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that an editorial in the February 4 edition of the Arizona Republic be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. I will refer to that editorial, because it sets the stage for what we need to do to fix this bill. The Gallup poll yesterday said that 56 percent of Americans believe that either this bill should not be passed or that it should require major changes before it is passed. That is not only what most American people believe but also what most of the people on the Republican side of the aisle believe and I know some Members on the other side as well.

This editorial is titled "Senators should just start over in fixing fiscal mess."

They say:

Far too much of the stimulus bill is simply unserious as "economic stimulus." The Senate would do us all a great favor if it started again from scratch.

In a different part they write:

When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.

A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

They conclude:

Make the measure look like a stimulus package rather than a pork package.

That is what most of us believe we should do. You build the bill from the bottom up. What actually stimulates the economy, what actually creates jobs, you put that in the program. There may be a place for extending unemployment benefits, though that probably should be in a separate bill, because it is clearly not stimulative even though it helps people who are hurting. I doubt that there would be any objection to doing it. But we ought to focus the stimulus on exactly that; otherwise the American people are going to be cynical when they look at a bill that is \$1.3 trillion in size, and the experts are saying a very small percentage of that actually does anything to create jobs or stimulate the economy.

Let's go back to last December. In the Washington Post, Lawrence Summers, head of the President's National Economic Council, said:

Investments will be chosen strategically based on what yields the highest rate of return for the economy.

The Congressional Budget Office, the CBO, projects that in fiscal year 2009, the deficit is going to total \$1.2 trillion, and that doesn't include any of this stimulus bill which is about \$1.3 trillion. Add those two together, we are talking about \$2.5 trillion. So we need to take Lawrence Summers' advice and only spend money that will yield the highest rate of return for the economy. If we do that in building this bill from the bottom, we can actually do something that is great for the American people and still not be wasting taxpayer money. It might take 2 or 3 more days, but this is the most important economic bill this Congress will have considered in decades. It is the biggest bill in the history of the United States. We spent yesterday, Tuesday, on it, today, tomorrow, probably Friday, perhaps Saturday. We spent 5 weeks on an energy bill a couple years ago. Surely on a bill of this magnitude and with the emergency facing the country, if it takes us 3 or 4 more days to do it right, we ought to do it right. That means constructed from the bottom up with things we know will stimulate the economy and create jobs, not just fulfill campaign promises, not just make good on 8 years of things we wanted to spend money on but have not been able to find any other bill to stick it in until we got to this bill. Let's try to do this in a bipartisan way that will achieve the objective.

The President himself, on Super Bowl Sunday, in a nationally televised interview on NBC, said:

There will be no earmarks in the bill.

He said he is going to be trimming out things that are not relevant to putting people back to work right now. My guess is he is fairly embarrassed with a lot of the earmarks that are in the bill. Most of my Democratic colleagues are meeting now. I hope they are talking about what can be eliminated from this bill, what kind of earmarks or wasteful spending can be eliminated from the bill. It has become an embarrassment. We would be very happy to have them join in some of our amendments which will eliminate that spending.

Senator CONRAD, chairman of the Budget Committee, knows what he is talking about in these matters. He told Fox News:

There are other areas of the package that are really very questionable in terms of whether they would stimulate the economy. Some of the programs that are given money only have 10 percent spend out in the next two years.

He is correct on that. On the same day Senator DORGAN also commented to Fox News that "major chunks of the package do not spend out for years which is problematic."

We all agree. We ought to start over and start by eliminating these programs. If we do that, then we can meet an objective which is far higher than either 12 percent or 25 percent in terms

of the money we spend that will actually provide new jobs.

The Congressional Budget Office, nonpartisan, says only 12 percent of the discretionary spending in the bill will be spent by the end of this year and that less than half of the total of the discretionary money will be spent by the end of the following year. So more than half of the bill starts spending in the year 2011. I hope the recession is over by 2011. If it is not, obviously, we can look at that time to see whether we need more stimulus. But having stimulus for 2 years, that is a pretty long time to be stimulating. Let's adopt the McCain idea that after 2 years we take a pause and see what else we might need to do. We could probably save a lot of money. We would make wiser decisions, and we would be stimulating in the short term which is what we want to do.

The President's Chief of Staff said last year: You never want to waste a crisis. He was referring to the use of a crisis such as this to accomplish certain good. He was talking about reform ideas and so on. But we have to be careful that others aren't using this as an excuse to put spending in a bill that has been pent up for 8 years, that some of our colleagues wish to have done but haven't found a vehicle to carry it and, thus, stick it in this bill. That is what the American people are so upset about.

If we will solve this problem, the American people will be a lot more generous in their support for the other things we want to do. I have talked about some examples. I don't want to go through a laundry list. A lot of this is oriented to Washington, DC: \$9 billion for a Federal buildings fund; more money to help the auto companies, \$600 million to buy more cars for Government employees; \$248 million for USDA facilities modernization; \$34 million to spruce up the Commerce Department headquarters; \$125 million for the DC sewer system. All of these may well be important things to do. You can't argue that they are directly stimulative, though some people will have to do the work associated with them. But we have no idea whether these things are ready to go, whether they can be done in the first 2 years, or whether these are things that actually will be spent, as will the majority of the money, in the 2 years after 2010.

In any event, we have a process, as Senator COCHRAN, the ranking member on the Appropriations Committee, has said, that enables us to vet all of this spending and prioritize it so we put the most helpful spending first, and those things that are not as justified then fall out of the spending for this year and maybe come back next year. But it is our way of determining what we really want to do as a country that, obviously, cannot just have everything we want, and we cannot pay for simply everything. So, as Senator COCHRAN said, we have the responsibility to be deliberate and consider these items



carefully in the context of the President's formal budget request. It is a matter of making tough decisions, and I would hope we could do that.

Now, let's assume—because I am sure our Democratic colleagues will agree to eliminate some of these wasteful programs—we still have the problem that if the money is not reduced, then the money is still in the bill to be spent by somebody somewhere. So it is not just a matter of taking earmarks out, but it is a matter of eliminating the funding categories those earmarks are in, or as soon as we authorize the money, it will come right back in and we will have the same projects.

In this regard, I am very troubled by programs that would fund directly States and local governments because we have seen the lists they have sent to us—their wish list of things they would like to get. If we simply strike the exact delineation of where they want some of this money to go but leave the pot of money there, I ask you, where is it going to be spent? It will not take 5 minutes for them to get that list back out, put it on the table, and start going to town.

Just some general categories here:

There is \$16 billion to repair and build schools. That has always been a local school function. It is not a Federal function.

There is \$5.5 billion for a brandnew discretionary program on transportation.

There is \$2.25 billion for a neighborhood stabilization program. That is the same kind of program that would have made funding available for groups such as ACORN that we took out of the housing bill in June of last year. I do not think people want this kind of money going to ACORN or groups like that.

There is \$500 million to upgrade fire stations. I know all our local fire departments would love to have money to upgrade their fire stations. Is that a Federal responsibility?

There is \$9 billion to the National Telecommunications and Information Administration for grants to provide access to broadband.

There are huge chunks that would go to local projects specifically delineated by the Conference of Mayors. On January 17, they issued their fourth update of a report that details much of the spending they would like to accomplish. It is a stunning list of porkbarrel projects involving swimming pools, water slides, corporate jet hangars, skateboard parks, dog parks, equestrian trails, golf courses, parking garages, museums, bike paths, and so on. Some of those things might be perfectly appropriate; all of them should be local responsibilities. If people in the community want something like that badly enough, they will find a way to get the money to support it.

Just to illustrate the degree to which this prospect of free money has motivated people to what I regard as silliness—again, some of these projects

may be perfectly appropriate; if they are, local governments will find a way to fund them—there is \$8.4 million—a lot of money—for a polar bear exhibit in Providence, RI. There is \$6.1 million for corporate jet hangars in Fayetteville, AK. There is—a small amount of money—\$100,000 to create one cop job in Sulfur Creek, CA. I do not know what kind of community Sulfur Creek is, but surely California could come up with \$100,000 to get a police officer on the force for that community, I would think. There is a lot of money here for California. There is money to rehabilitate a skateboard park in Alameda, CA; \$500,000 for Sunset View Dog Park in Chula Vista, CA. There is money for an equestrian park in San Juan, Puerto Rico, and so on.

The bottom line is, these things ought to be subjected to the usual appropriations process. I guarantee you, the appropriators are pretty careful when they go through these items. Yes, some of this stuff slips in, but they try to prioritize these projects, and it is not just a giveaway to local communities.

I think it is worthwhile noting what some of the money is specifically spent for in categories. Golf courses seem to be a big item. Golf courses. There are several million dollars for golf course renovations and construction in Shreveport, LA; Brockton, MA; Roseville, MN; Florissant, MO; St. Louis, MO; Lincoln, NE. There is an environmentally friendly golf course in Dayton, OH. That one might win the approval of the appropriators. There is the renovation of a golf course maintenance building in Kauai County, HI.

Not to leave out my own State—there are a lot of museums that are apparently in need of some renovation or construction here—there is one in Scottsdale, \$35 million for a museum of the West. I guarantee you that will be a great museum, but I would hope we could help the folks in Arizona generate the money for this museum. There are museums in Miami, FL; Meridian, MS; a Minor League Baseball museum in Durham, NC; a museum of contemporary science—there are several museums of contemporary science; that must be a new trend—in Trenton, NJ. There is a music museum in Puerto Rico; a music hall of fame in Florissant, MO.

I may be mispronouncing the names of some of these communities, in which case I apologize.

There is a local history museum at Imperial Centre in Rocky Mount, NC. I bet that would be fun to go to. In Trenton, NJ, there is another contemporary science museum—again, in Trenton, NJ. There is the Las Vegas Historic Post Office Museum in Las Vegas, NV, and the Las Vegas Performing Arts Center in Las Vegas. There is the Art Walk at the Rochester Museum and Science Center in Rochester, NY; Lima, OH; Puerto Rico—well, there are three more in Puerto Rico—four more; one in Green Bay, WI. You get the drift.

Parking garages are a pretty big item, and I will not list them all here, but there are a lot of them in California, Colorado, Connecticut. There is a maintenance garage recycling and sanitation truck wash—let me say that again—a maintenance garage recycling and sanitation truck wash in Bridgeport, CT—I am sure that is necessary, actually—\$27 million. I gather all other communities in the country find a way to pay for theirs, but Bridgeport needs some help on that. Structural repairs to Yankee Doodle Garage in Norwalk, CT. And that list goes on and on. In fact, the list goes on and on. I will refrain from reading about another 30 of these.

Bicycles are a big item. Bike paths in Long Beach, CA; Miami, FL; Lewiston, ME; St. Louis, MO; Austin and Arlington, TX; Salt Lake City.

Water slides are a pretty good item. There is one in Carmel, IN. There is one in Shreveport, LA.

Pools—as I said, that is a big item. There is lots of swimming pool rebuilding and refurbishing and so on: California: San Leandro, CA; Sulfur Creek, CA—a lot of California swimming pools. There are a couple here in Connecticut, Colorado. There is one to replace pools at city high schools in Meriden, CT; one to upgrade swimming pools and school restrooms in New Haven, CT. Florida has several pools. They are going to build a fishing pier in Savannah, GA. This one I do not understand, Mr. President: millions of dollars for propane heating replacement with solar water heating systems for county swimming pools in Maui, HI. I did not think they needed heated pools in Maui, but more power to them if they can go with solar. Again, the list goes on and on and on. This is the wish list.

These are the kinds of things that when you make money free, people will line up to take part in. Even if we were to eliminate the pots of money here that these particular specific items would come from—let's assume all of the earmarks are gone but the pot of money is there—there are still other pots of money in the bill worth billions of dollars that represent wasteful Washington spending, money that will not go to create jobs.

I urge my colleagues here, as we talk about bipartisanship, as every one of us is struck by the absolute seriousness of the crisis that faces our country, we want to do something that works. And to ask somebody to support this is to say, in 6 months or a year or a year and a half, did it work? For those who support something that does not work, not only is that not in the best interests of the United States, but I think there will be a very high price to pay for wasting perhaps a trillion dollars. It is money we do not have, and we cannot afford to waste it.

So what I would urge my colleagues to do: We have several amendments today and tomorrow that will be offered to try to end the wasteful Washington spending and relegate those

kinds of bills to the Appropriations Committee, where they can make the tough choices, and then focus on the things which can actually create jobs and stimulate the economy. Our colleagues on our side of the aisle will have several important suggestions in that regard. We probably need to start with housing, which is where the problem started. Experts, as I read this morning, agree that until you solve that, you are probably not going to solve the rest of the problem.

So if we can approach the bill from a commonsense standpoint, which is what the American people want us to do, we can create a very good piece of legislation. But as it stands right now, there are going to have to be fundamental changes in this bill, starting basically from scratch, in order for it to do the work we want it to do and to be supported by the American people. We can afford the extra time, if it is 2 or 3 days, to get it done right.

I urge my colleagues, let's put the partisanship aside, the victory dances and all of that, and roll up our sleeves and try to see if we can follow the admonitions of the President when he laid out the original concept of this bill—timely, targeted, and temporary—and try to focus on those things which will do the job rather than simply to fulfill our spending wishes or those of many of our well-meaning constituents.

#### EXHIBIT 1

[From the Arizona Republic, Feb. 4, 2009]  
SENATORS SHOULD JUST START OVER IN  
FIXING FISCAL MESS

In opposing President Barack Obama's economic-stimulus package—now ballooned to more than \$900 billion—congressional Republicans risk letting Democrats earn all the credit as stewards of a national economic revival.

Unfortunately, their strategy looks to be a safe bet.

Far too much of the stimulus bill is simply unserious as "economic stimulus."

The Senate would do us all a great favor if it started again from scratch.

Congress now enjoys a public mandate to spend like the drunken sailor of its dreams . . . on one condition. That it allocate spending not to its beloved "pork," but to spending projects that offer some promise, however slight, of sparking the economy.

And just what constitutes an economy-igniting spending project?

We know what doesn't. Smoking-cessation programs may be helpful, but they are not "stimulus."

Spending \$870 million to combat bird flu may be a worthwhile investment in public health. But its prospects for kick-starting the 2009 U.S. economy are pretty much nil.

When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.

A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

And there are outright dangerous provisions to the bill.

The "Buy American" clause in the legislation, ensuring that only American-made steel and manufactured goods are purchased

with stimulus money, is an open invitation to an economy-wrecking trade war. Europeans are rightfully infuriated by it.

So are serious Democratic-leaning economists like Lawrence Summers.

Make the measure look like a stimulus package rather than a pork package.

Then, Democrats might manage to peel off some of the GOP support that the president deems so valuable.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Carolina.

Mr. DEMINT. Thank you, Mr. President.

I would like to speak for a few moments on a couple of amendments. But before I do, I ask unanimous consent that following my talk that Senator SAXBY CHAMBLISS be allowed to speak.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, we have been going back and forth, so if someone from this side of the aisle does appear by the time the Senator finishes his remarks, we could either have a gentlemen's agreement or I could ask unanimous consent that the next speaker be a Democrat. Everyone is an honorable Senator here, so if a Democrat is here, after you finish, I say to the Senator—

Mr. DEMINT. I revise my request, Mr. President, to fit that request.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request as revised?

Mr. BAUCUS. I have no objection.

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

Mr. DEMINT. Thank you, Mr. President.

#### AMENDMENT NO. 168

Mr. President, I would like to speak for a few minutes about Amendment No. 168. It is the DeMint amendment we are calling the American Option to the spending plan that has been proposed by the majority. This is a complete substitute for the spending plan. We call it the American Option because it helps to develop a free market American economy by leaving money in the hands of people and businesses rather than taking it and then having the Government direct where the money goes. So it basically puts our faith in the American people, in our free market economic system, instead of political decisions here in Washington.

Americans are very concerned about the direction of our country. In fact, I have never seen people more anxious about where we are. They are worried about the economy but even more worried about the reckless spending and Government intrusion into our culture and into our free markets.

Our economy is in trouble. That is obvious. The national unemployment rate is now over 7 percent and climbing. Stock markets have plunged, jeopardizing the retirement security of millions of seniors. Nearly a million homes were repossessed last year, and in the last week, thousands of Americans have lost their jobs at some of our

Nation's strongest companies, including Home Depot, Microsoft, Caterpillar, and Boeing. In the midst of these difficult and uncertain times, Americans understandably voted for change. Frustrated with runaway spending, Wall Street bailouts, and soaring energy prices, they voted for President Obama who, as a candidate, promised to lower taxes, cut spending, increase domestic energy, and create millions of new jobs.

I like President Obama very much. We were elected to the Senate together, and we have worked together on several common goals. I truly believe he wants to do what is best for our country, but our economy needs more than slogans and empty promises.

As I have said before, I believe the stimulus bill that is being championed by President Obama and the Democratic majority is the worst piece of economic legislation Congress has considered in 100 years. Not since the passage in 1909 of the 16th amendment which cleared the way for Federal income tax has the United States seriously entertained a policy so comprehensively hostile to economic freedom, nor so arrogantly indifferent to economic reality. The bill, if it were a country, would have the 15th largest economy in the world—right in between Australia and Mexico and greater than the gross domestic product of Saudi Arabia and Iran put together. The American people will be forced to borrow 100 percent of the unprecedented \$1.2 trillion pricetag when you include interest. The stimulus bill will cost well over \$1 billion for every page it is printed on and \$400,000 for every job it hopes to create or save.

Proponents argue that we are facing a once-in-a-lifetime economic crisis and only an immediate and overwhelming stimulus bill can ignite the economy, create jobs, and spur growth. That may very well be true, but the spending bill before us today is just that: a spending bill, not an economic stimulus bill. The Democratic bill takes money—it actually borrows money—and decides where it should go. It does virtually nothing to stimulate the economy while it wastes billions of taxpayer dollars. It is a hodgepodge of long-supported pet projects that should be considered in the normal budget process but not an economic stimulus bill. Using the troubled economy as their motive, Democrats have opened the floodgates for all sorts of outrageous wasteful spending.

Here are just a few of the examples from the Senate substitute: \$400 million for researching sexually transmitted diseases. They are telling us now that they took that out, but then we find they left the money in there, which could be used for the same purposes once we pass the bill. There is \$200 million for bike and pedestrian trails and off-road vehicle routes; \$200 million to force the military to buy electric cars; \$34 million to renovate the Department of Commerce headquarters; \$75 million for a program to

end smoking, which, if successful, will bankrupt the children's health program Democrats just passed last week.

Of the more than \$800 billion in the bill that is being sold as infrastructure investment, only \$30 billion will actually go to build highways, about \$40 billion for upgrades in our telecommunications and electricity infrastructure, and about \$20 billion in business tax cuts. These are the only three components of the bill that might arguably stimulate the economy and create jobs and, even then, only temporarily. Altogether, only 11 percent of this so-called "American Recovery and Reinvestment Act of 2009" will have anything to do with either recovery or reinvestment. And rest assured, the elevated spending levels in this bill will never recede.

The tax side of the bill is not much better. We can think of it this way: If nearly every Democrat in Congress supports a tax cut, it is probably not a tax cut. Indeed, the text of the Democratic plan reveals that \$212 billion of smoke-and-mirror gimmicks—temporary cuts and rebates exactly like those that failed to stimulate the economy last year. Half of the tax changes in this bill are for people who don't even pay taxes, and all of them are temporary, which will undermine their impact. This bill is not an economic stimulus bill at all, but really a political stimulus—a stimulus to grow Government in Washington.

Any doubters of the bare-knuckled partisanship at the heart of the Democrats' trillion-dollar catastrophe will do well to ask a simple question: Who benefits from this legislation? Who, indeed? Alternative energy companies, public employee unions, teachers unions, university faculty and administrators, welfare recipients, ACORN-style community organizers, politicians who spend the money, Federal bureaucrats who allocate it, and the limousine liberal lawyers and lobbyists who will influence every dime behind the scenes. In other words, this bill is a massive transfer of wealth not from the rich to the poor, but from middle-class families and small businesses to favored Democratic constituencies who are not the poor and middle class we promised to help.

This bill is not a stimulus; it is a mugging. It is a fraud. Conservatives who fear proponents of this bill want to inch our economy closer to a European style of socialism are kidding themselves. The proponents of this bill want to strap a big rocket on the back of our economy and launch it all the way to Brussels. This massive spending bill is fatally flawed. It will not rescue our economy; it will strangle it.

That is why this bill must be stopped dead in its tracks. It cannot be fixed by tweaking it here or tweaking it there. It must be scrapped entirely so the leadership in Congress will be forced to consider real alternatives.

Fortunately, there is another way, a better way, a way that will actually

stimulate the economy, spur investment, and create jobs, a way that will permanently and immediately save billions of dollars in the private sector and in the hands of Americans who buy goods, provide services, start businesses, and hire employees. We call it the American Option because it relies on the American people to generate jobs and growth, not the Federal Government.

The plan I am offering is not new or clever. It is only 11 pages long. It comes with no bells or whistles, no smoke and mirrors, but it will work, and it is based on proven American principles of freedom, equality, and opportunity.

The plan—developed by scholars J.D. Foster and William Beach at the Heritage Foundation—is the best anyone has proposed since the recession first took hold. The idea is simple. First, make the temporary tax cuts of 2001 and 2003 that are currently set to expire in 2011 permanent. Make our current rates permanent. This would create the certainty for citizens and businesses they need to plan their spending and to grow their businesses. The short-term, temporary tax relief of the sort envisioned by the Democratic plan does not stimulate economic growth; it is temporary and it creates economic uncertainty. It is the difference between a \$1,000 gift one month, which you might put away or use to pay off some credit card, and a \$1,000-a-month raise which might get you thinking about buying a house, a new car, or taking a summer vacation or starting a new business. To encourage people to take risks and create new jobs, we must make tax relief for families and small businesses permanent. Recessions are caused by uncertainty that keeps investors on the sidelines. Permanent low taxes allow for plans and decisions to be made with an eye toward the future.

With the 2011 tax bomb diffused, part 2 of our plan will cut income tax rates across the board. The top marginal rate—the one paid by most of the small businesses that create new jobs—will fall from 35 percent to 25 percent. It simplifies the code to include only two other brackets: 15 and 10. These marginal rate reductions would be permanent and give the private sector maximum predictability as it decides how to best spend its recovered income. This is a matter of fairness. No American family should be forced to pay the Federal Government more than 25 percent of the fruits of their labor.

Just as we cut taxes for families and small businesses, we need to cut them for corporations as well, from 35 to 25 percent, and we shouldn't be afraid to say so. Our corporate tax rate is one of the highest in the world, driving investment and jobs overseas. Lowering this key rate will unlock trillions of dollars to be invested in America instead of abroad. Rather than giving large companies loopholes and targeted tax benefits which only encourage them to spend money on lobbyists who

secure such goodies, Congress should get out of the business of picking winners and losers in the market and simply cut everyone's taxes and let's let the best companies win. This plan will make businesses compete for consumers, not Congressmen and Senators.

To further simplify and improve the code, our plan would also permanently repeal the alternative minimum tax, permanently maintain the capital gains and dividend taxes at 15 percent, permanently kill the death tax for estates under \$5 million, and cut the tax rate to 15 percent; permanently extend the \$1,000-per-child tax credit, permanently repeal the marriage penalty, and permanently limit itemized deductions to home mortgage interest and charitable contributions.

The Heritage Foundation's Center for Data Analysis' widely respected economic forecasting model projects this plan would result in nearly 500,000 more jobs this year, almost 3 million new jobs by 2011, 7.5 million new jobs by 2013, and a total of nearly 18 million jobs over the next decade. That is an average of nearly 2 million jobs every year. Instead of taking \$1 trillion out of the economy so politicians can spread it around to special interests, the American Option will keep a trillion more dollars in the hands of American families and businesses. Instead of growing Government where waste and corruption run rampant, we grow the private sector where innovation flourishes. Instead of giving the power and control of our economy to politicians and bureaucrats, we give Americans and small businesses the freedom to spend and invest their own money. The positive effects of letting more money stay in the private economy immediately and permanently will quickly become apparent.

Beyond the job creation, I know we are all also interested in seeing our housing and real estate markets, as well as the automobile sector, emerge from the doldrums. Within 5 years, the American Option would produce \$175 billion in residential investment and \$362 billion in nonresidential investment. That is more than a half trillion dollars left to private citizens with the motivation to care for their families, invest in a new business, or expand their current productive activities.

The auto industry will also experience a dramatic increase in sales activity. Between 2009 and 2011, total sales of new cars and light trucks would rise \$24.5 billion more than they would otherwise. Again, allowing private citizens and businesses to use their own capital instead of sending it off to Washington benefits all sectors of the economy.

The evidence in support of this legislation is not theoretical but historical, unlike the Keynesian arguments behind the Democratic spending and debt plan. In 1964 John F. Kennedy's tax reductions led to 9 million private sector jobs in 5 years. Ronald Reagan's 1981 tax cuts led to 7 million in the same

timeframe. Five years on, the 2001 and 2003 tax cuts led to the creation of 4 million and 6 million jobs, respectively. Every time the United States has cut marginal tax rates, millions of jobs have been created—jobs that lifted the unemployment into the workplace, the working poor into the middle class, and the middle class into long-term economic security.

Similar stories can be told of Great Britain's rescue under Margaret Thatcher in the 1980s. More recently, Israel's economic reforms under their Finance Minister changed their whole economic platform.

President Obama's own chief economist has shown that tax cuts do truly stimulate economic activity to the tune of \$3 of increased output for every dollar of tax relief.

On the other hand, the world's greatest experiments in spending our way out of a recession have three textbook examples. The first is Franklin Roosevelt's response to the Great Depression. The New Deal began in 1933 with unemployment around 25 percent and effectively ended with the establishments of F.D.R.'s "war economy" in 1940 with unemployment still hovering around 20 percent. The second example is from the 1970s when huge deficits in the United States neither spurred economic growth nor curtailed inflation. The third example is Japan, their so-called Lost Decade, in which the Japanese Government tried in vain for 10 years to spend its way out of a national real estate and investment collapse.

Every discredited idea from these three monuments to economic mismanagement can be found in the fine print of the Democrats' \$1 trillion socialist experiment we are considering this week: massive spending, skyrocketing deficits, inevitable tax increases, and the disastrous unintended consequences of hurried and arbitrary meddling in our economy.

Finally, there is another issue I want to address. I have recently heard some of my colleagues say that this recession is the fault of the free market, that President Obama has inherited the problems of a conservative ideology.

Mr. President, the charge is flatly, demonstrably false. In fact, it is incredible that anyone would say it.

Let me be clear: conservatism has nothing to apologize for.

It was not conservatism that foisted Fannie Mae and Freddie Mac onto the national credit market.

It was not conservatism that that shook-down the Nation's banking system with the Community Reinvestment Act.

It was not conservatism that asked for, lied about, and then wasted \$350 billion for the Troubled Asset Relief Program.

Nor did conservatism sign on to the second tranche of the TARP funds now in the hands of our esteemed new Treasury Secretary.

It was not conservatism that used taxpayer funds to bail out the perpetrators of the Wall Street meltdown.

It wasn't conservatism that led our financial industry to make these reckless loans, and it certainly wasn't conservatism that made that industry ask for the taxpayers to foot the bill for their idiocy.

It wasn't conservatism that bailed out an auto industry bankrupted by its inability to manage costs and strangled by the tentacles of unionism.

Every problem now plaguing our economy can be directly traced to some Government policy that was passed over the vehement objections and warnings of principled conservatives.

The same scenario is playing out with this spending bill, but the result is not preordained.

The Democrat plan will fail, it will hurt our economy, it will kill jobs, it will lengthen and deepen the recession, and it will delay any hope of recovery.

But it is not enough to merely stop this, the wrong bill—we must pass the right one.

It is not simply a viable alternative—it is the American option to rescue our economy from an inexorable slide toward European social-democracy.

With a troubled economy, mounting national debt, and an entitlement crisis ready to explode, conservatives must offer bold and proven solutions to secure America's future.

We cannot simply derail the "liberal express"; we must show our fellow countrymen a better path.

There is nothing wrong with our economy that a free people cannot solve. All we need is the freedom to take back from Washington control of our economic destiny.

The policy approach I have outlined can work, and if implemented, will work. How do I know?

Because liberating people to pursue their own happiness and fortune is the only thing that ever does.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to discuss the economic stimulus package. First of all, my friend from South Carolina has raised so many valid points in his discussion. I know he has an amendment that is primarily focused on reduction of taxes to stimulate this economy, create jobs, and put more money into people's pockets. I concur with him 100 percent that this is the direction in which we need to go. I look forward to further debate on his amendment and seeing his amendment reach the floor.

This stimulus package we are now debating gets more expensive and, frankly, less stimulating with every passing day. The Democrat's plan is not a job creating bill. Plain and simple, in its current form it is a spending bill.

We have been going through a number of amendments over the last several days and I am pleased to see that some of those amendments have had

success. I think the bill looks somewhat better, but we still have a long way to go. This bill should not be about pet projects. Instead of wasting \$600 million, for example, of hard-earned taxpayer money for new cars for the Federal Government or \$650 million for a failed digital TV transition program or even \$120 million for the Census Bureau to hire personnel who specialize in "partnerships," we should be spending Americans' money on creating jobs for Americans. These jobs should allow Americans to go out and buy new cars themselves and thereby stimulate and energize a very struggling automobile industry. This bill should put money in the pockets of individuals who can buy new TVs instead of having to worry about the digital transmission issue covered in this particular proposal.

I have been in discussions with Senators MCCAIN, MARTINEZ, and others. We are in the process of finalizing an amendment that will be a substitute for the base bill that does exactly that—focus on creating jobs and stimulating the economy.

Any package that is intended to focus on strengthening our economy should focus on three things and three things only:

First of all, job creation. Despite an injection of hundreds of billions of dollars into our banking system, the credit markets remain frozen.

A lack of both confidence in the market and credible borrowers are precluding our credit markets from thawing and freeing much needed capital. Along with the current dual track of the TARP program, we can loosen this tight grip on capital is through job creation.

We must incentivize the creation of new jobs through favorable tax treatment of businesses and individuals. My friend from South Carolina mentioned an issue we are going to have in our amendment that is very critical, I think, to the long-term corporate structure in America. A solution that really will provide for the creation of jobs is the reduction of the corporate tax rate from 35 percent to 25 percent. We have the second highest corporate tax rate in the world. What are we doing about charging corporations that amount of money? What we are doing is exporting jobs out of America.

I talked to one of the leading economists in the country this morning who happens to be a resident of my State and is somebody whom I look to for guidance from time to time. I asked him, "If you could point to anything that would create jobs in America, what would the first thing be?" He immediately said, "Cutting the corporate tax rate." He said it is ridiculous what we do and that what we are going to hear from folks on the other side is that what we are doing by cutting the corporate tax rate is looking after the big corporations. The fact is, according to this renowned economist, the big corporations don't pay that 35 percent

anyway. It is the guys on Main Street, the insurance agencies in my home State, the veterinary hospitals down the street, and all the other small businesses that are, in fact, paying that 35 percent. It is our small manufacturers that depend on export markets to be competitive that are having to pay that 35 percent. If we reduce the corporate tax on those entities, then we are going to have the potential and the reality of creating jobs in this country. We also need to put more money in the pockets of individuals. One way we can do that, which we are going to have in our amendment, is by the reduction of payroll taxes. That will put a bigger paycheck into the pockets of every hard-working American every single week; make no mistake about it.

We have to look at spending measures that will have an immediate stimulative effect on our economy. Military and highway construction can provide jobs in the immediate future and put stability and confidence back in the marketplace and start people spending their paychecks again. There is no better way to put money into the manufacturing sector tomorrow than by putting money into defense contracting if it's done in the right and responsible way. We need to increase defense spending and make sure America remains safe and secure. Yet there is nothing in the base bill that the Democrats have offered that will increase pure defense spending.

In addition to job creation, second, we have to focus on housing. The housing crisis is what got us into this real financial mess that we are in today. I don't care what we do with respect to trying to spend or tax our way out of this; unless we fix the housing sector in this country, we are never going to recover from the economic crisis we are seeing today.

How do we do that? Again, you will see measures that have already been discussed in the form of amendments over the next couple of days—amendments such as that from my colleague and friend, Senator ISAKSON, to provide a \$15,000 tax credit to anyone who buys a house between January 1 and December 31. Measures that are outside-the-box thinking such as the one by the Senator from Nevada that proposes to provide long-term, low-interest loans for individuals seeking to either purchase a home or to refinance a home, where if they are not able to do this, they will be subject to foreclosure. So it is these types of housing measures and provisions that will allow us to stimulate the housing sector and try to get that portion of our economy back on track.

Third, in addition to the job creation and housing, we have to focus on compassion for folks who have lost jobs during these tough times, through no fault of their own. In my State, we have had 2 weeks of major announcements of job losses. It is simply due to the fact that these corporations are having to develop cost-cutting meas-

ures that will improve their bottom line because their sales are down significantly. Their workers are quality workers and they would like to keep them on, but they simply cannot afford it. They have to find cost-cutting measures.

So when you find folks such as that who are in need of assistance, we have an obligation, I think, to provide some relief to them. It is important that we prevent the bottom from getting deeper. We need to work to assist those who have fallen as a result of this spiraling economy and not from irresponsible fiscal decisions.

We must act to expand protections to serve as a compassionate step toward regrowth of our economy, a restrengthening in our markets, and a return to fiscal security.

All these provisions are going to be included, along with others, in the substitute amendment that will be forthcoming either tonight or tomorrow. We must be clear—job creation doesn't mean "Buy American." In tough economic times, it is all too easy to turn inward, to want to build protectionist walls around America. Nobody believes in buying American more than I do, but it is not the time to pretend our economy knows only the bounds of our borders.

I say this as someone who represents a State with a strong manufacturing sector. We live in an interconnected, global economy, where most manufactured products have at least one component not made in America. "Buy American" is the quickest way to export American jobs.

The biggest problem I see with the current proposal that is under debate, which came out of the Finance Committee from the Democratic side, is that we are now having to approach that bill in a top-down way. In other words, we are having to take the bill as it is and have amendments forthcoming that seek to strip out provisions in there that are not stimulating. These are the pet projects for individuals in this body, projects that will do nothing but take money out of taxpayers' pockets.

What we should do is develop a system directed toward this crisis that is a bottom-up review and a bottom-up attack on this financial crisis. We can do that basically by scrapping the current bill and starting over again. It is not that complicated to do.

I hope, at the end of the day, that this is the approach we will ultimately take. It is not just this trillion dollar spending package we are looking at in the Senate; we have to be responsible as we move forward because there are other bills that are coming right behind this one. There is a TARP III, which we understand will be laid on the table within the next few days. We have heard numbers as high as another half trillion dollars that may be asked for in TARP III, and that may not be the end of the road there.

There is also an Omnibus bill that I understand has already been put to-

gether that spends \$1 trillion of taxpayers' money. One of my constituents said to me the other day, "We used to talk in terms of a million. Then we got to where we talk in terms of a billion. Now you folks are talking in terms of a trillion. What comes after a trillion?"

That is a pretty tough question to answer, but we are fast getting there. We as policymakers in the Senate have to be responsible with the taxpayers' money. Sure, we want to do everything we can from a policy standpoint to stimulate America out of this economic crisis. But spending our way out of this situation is not the answer. That is why I hope we can review where we are with this current proposal, and instead of having a top-down review of it, look at it in more positive terms and have a bottom-up review. Let's start over again with the basics. We should start with the housing sector and figure out how to fix it. If there are other ideas out there than what has already been talked about, let's put them on the table and figure it out.

Secondly, let's look at how we are going to create jobs. We simply know by spending money that we are not going to create or maintain jobs. There are a lot of smart people in this body. Let's figure out the best solution.

Lastly, let's be compassionate. We need to make sure Americans are taken care of when they have lost their jobs through no fault of their own.

Mr. President, I yield the floor. I see the Senator from Rhode Island is here. I assume going back and forth he would be next.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise today to discuss a feature of the economic recovery legislation that will both create jobs in the short term and help us confront the long-term economic challenges that are facing us.

Clearly, creating jobs is a paramount goal of this legislation. In this time of deepening recession, one in ten Rhode Islanders is looking for a job. At 10 percent, our unemployment rate is second in New England and the second highest across this entire Nation. As I have traveled around my State, I have heard from countless Rhode Islanders struggling to hold on to their retirement savings, their homes, and their livelihoods.

Against this dark background, jobs mean security. Steady employment helps families pay the bills and plan for the future. Jobs mean confidence in an unsettled time. In this weakening economy, job creation should be our highest economic priority.

But at the end of the day, the best jobs this legislation can create are jobs that produce lasting infrastructure, assets that will help our economy function smoothly for years to come, such as highways, bridges, weatherized homes and schools, and water treatment plants. These are win-wins for the American people.

Fortunately, this bill goes beyond a definition of infrastructure as just the things the Romans could build. The last few decades have seen enormous innovation in this country—new communications platforms, the Internet and mobile phones, new sources of energy. This technological revolution is transforming the way we live and work, as the rail system did and the highway system did in decades and centuries past. And as the Federal Government helped build the railways and highways, the bricks and mortar infrastructure of the 20th century, today this recovery bill will support the digital infrastructure of the 21st century. It is a dual benefit: jobs today and a platform for growth tomorrow.

To me, one of the most vital parts of our Nation's infrastructure in this 21st century will be the development of a national health information network to improve the quality and efficiency of health care, to save money, and to save lives. But today this network is growing at the speed of mud. Health care is frighteningly behind the rest of American industry in its development and implementation of information technology. Why? Because of economics, the strange, bizarre, twisted economics of our health care system that fails to reward doctors and hospitals when they invest in health information infrastructure.

If we can solve the health information network problem, private industry will develop technology to allow doctors to prescribe drugs electronically and help remind you to take them. Technology will help doctors update your vital information in real time and cross-reference your health issues with the best illness prevention and treatment strategies. And technology promises decision support programs implementing best medical practices which will help health care providers avoid costly, life-threatening, and completely unnecessary medical errors that now bedevil our health care system.

Look at what private technology and innovation have already done with the Internet—Google, e-Bay, Amazon, YouTube, Facebook. Whose life has not been changed?

Imagine what can happen in health care. Wonderful opportunities beckon, both in the near term, because funding this infrastructure will create jobs in the information technology sector, and in the long term to help us bring down the spiraling health care costs that threaten to engulf our economy.

But the broken economics of the health care system mean that those opportunities will not arise without help. Unless the Federal Government gets involved to set standards for this technology on which everyone can agree, the resolution of a digital x-ray image, for instance, or requirements protecting a patient's privacy or leveling economic obstacles, we will never get to a national system.

The Romans could not build an electronic health information infrastruc-

ture, but we can and we must, and this legislation will.

There are rumors that an amendment will shortly be adopted that would, among other things, strip out this investment in health information technology. Of all the dumb mistakes we could make in this bill, that would be the very dumbest of all. It would harm the immediate element of job creation that is important to this infrastructure. It would slow down the development of a national health information infrastructure, and it would compromise our ability to deal with the health care crisis that is looming behind the economic crisis we are dealing with now.

As I see it, we have three waves stacked up. We have an economic crisis that is upon us that we need to address. Immediately behind that is a bigger and worse health care crisis, bigger and worse than the crisis we are facing now. And behind that is an environmental, global warming, and climate change crisis that is bigger still.

Now is the time to prepare for that next health care crisis, the one we will have to address as soon as we begin to get our arms around the economic crisis.

I have been a champion of health information technology since I was attorney general of Rhode Island years ago, and the snail's pace of adoption has both perplexed and disappointed me. I frequently ask doctors from all across the country why they insist on using paper, and I always get the same three answers. One: I can't afford in my practice to put all this machinery in. Two: I tried using health information technology, but it was too complicated. Or three: I don't want to invest in this and then get it wrong. I don't want to invest until I know what the standards are. I don't want to take what I call the Betamax risk of investing in the wrong technology.

There is an additional problem, at least for electronic prescribing. The Federal Government insists on doctors maintaining a paper system for controlled prescriptions. If you tried to move to an electronic system, you have to maintain two. It does not make any sense.

The doctors' concerns about health information technology are answered in this recovery package.

First, the bill addresses the cost issue in a number of ways. If you are a doctor who cannot afford to purchase a health information system so that your patients can have an electronic health record of their own that is private and securely theirs, this bill has grant money to help you. If you are a doctor doing well enough not to need a grant but could certainly use a loan to make this happen, the bill has loan money for you. Or maybe you are a doctor who can afford the upfront investment but have not been able to make the business case for the ongoing use of the technology and the change it will require in the day-to-day adminis-

tration of your practice. This bill reverses the backwards incentives that discouraged the use of health information technology and that discouraged quality improvement efforts.

For the first time, Medicare and Medicaid are going to pay for meaningful use of health information technology in doctors' offices. Starting with this recovery bill, keeping people healthy will keep the business of medicine healthy.

Second is the challenge of technology. Health information technology is about much more than digitizing data, more than going from illegible handwriting to clear electronic type. Health IT is about coordinating care between multiple providers. Anybody who has a serious illness is aware of the confusion that surrounds having to deal with multiple doctors. Health IT is about helping patients and their loved ones manage those complex, chronic conditions. Health IT is about using best practice protocols so the wide variation—the wide and unexplained variation—in American medicine can be narrowed down to the best practices we know of and Americans can be assured they are getting the best quality of care. Health IT is about better care for patients who are ill, and it is also about preventive care for patients so they do not become ill.

The recovery bill recognizes that the goal is not health IT in every pot, but higher quality, more efficient care for every single American who interacts with our health care system. The economic recovery bill also recognizes that for some doctors, this is a lofty goal and that they will need more than money to get there.

Everyone knows that new technologies are hard to learn, hard to adapt to, and hard to incorporate into an existing system. You can be a brilliant doctor, a master at the healing arts, and still have trouble coping with the demands of a new information technology. It often seems easier to keep doing things as they have always been done. So this bill does not just hand out grants to buy big fancy new boxes of equipment to sit in office closets. This bill includes implementation assistance so the doctors have a little help opening that box, installing that technology, and putting it to work on behalf of their patients.

That assistance will be offered through regional extension centers, not unlike our agricultural extension service that has been helping farmers all over this great Nation for decades. Every Senator in this body from a rural State knows how helpful and effective the agricultural extension model is. And for those of us from urban areas, think of it as a "geek squad" for American doctors.

Third, the standards issue. Our esteemed colleague Dr. COBURN has often noted that the greatest challenge he sees in building up our national health information infrastructure is the lack of national standards. Doctors are

often afraid to adopt new technology before they are sure their health information system will be able to talk to other doctors' health information systems. Fortunately, significant progress has been made in creating a broad set of standards for health information technology products, thanks in large part to the leadership of outgoing HHS Secretary Mike Leavitt. The recovery bill acknowledges that progress and builds upon it, establishing a new health information technology standards committee and establishing a process for the adoption of future standards, implementation specifications, and certification criteria so you know what you are buying meets the standards.

All that said, we all know that health information technology is ultimately about patients. Patients must trust and participate in the health information technology revolution if it is going to reach its full potential. Therefore, the recovery bill includes a number of vital privacy protections to ensure the security and the confidentiality of electronic patient records. These protections include changes in notification policy if there is an unauthorized acquisition or disclosure of health information. It includes the establishment of privacy officers in HHS regional offices, new restrictions on the sale of health information, improved enforcement of violations to privacy law, and other strong provisions.

I am well aware that privacy is a controversial and highly charged area of debate. I think it is important we all view the privacy provisions in this bill as the beginning and not the end of our national discussion about health care privacy.

These provisions will require oversight and, perhaps over time, adjustment. I look forward to this ongoing challenge and remain committed to being engaged in it. But for now, this is a good, strong privacy package. It has, I think, solid agreement in this building.

Last, but certainly not least, I wish to acknowledge the extraordinary work of the man who has been committed to health care in the Senate longer than anyone else—the incomparable Senator from Massachusetts, EDWARD KENNEDY. He has been a tremendous supporter of advancing health information technology for years, and was the primary architect of this language in the Senate. As always, we are in his debt for the expertise and the leadership, the passion and the compassion he provides, and we look forward to his speedy return to the floor.

I will conclude, Mr. President, by saying I know there is an enormous amount of politics now surrounding this economic recovery plan. But in order to try to make the politics look good, let us not hit what is probably the smartest and the best investment in this whole plan, one that not only works to provide jobs in a key Amer-

ican industry today but that lays the foundation for addressing what is probably the next biggest, most dangerous problem that is facing Americans behind this immediate economic crisis. Let us not be fools here in the service of political expedience. Let us stick with these health information technology elements of the bill, support them energetically, and I hope every colleague will see the wisdom of them and support their inclusion in this bill.

I thank the Presiding Officer very much for his courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 140

Mr. COCHRAN. Mr. President, I am bringing to the attention of the Senate my opposition to an amendment that has been offered on this bill. Earlier today, the Senator from Wisconsin, Mr. FEINGOLD, offered amendment No. 140 to create a so-called "earmark point of order" that would lie against appropriations provisions before the Senate. This amendment, if it should be adopted, serves no desirable purpose. In my opinion, on the contrary, it would only serve to weaken the Congress as an institution, and in relationship in particular to the administration, and would yield more authority to the unelected bureaucracy of the Federal Government to make decisions that all of our constituents in all of our States sent us here to make. It is, in effect, a restriction of the power of Congress and the direct representatives of the people and the States.

Individual appropriations bills should be brought to the floor subject to amendment by any Senator, whether a member of the Appropriations Committee or not, without any restrictions. This makes the Senate different from the House of Representatives, as all Senators know. The House has a Rules Committee. When legislation is brought to the floor of the House of Representatives, the originating committee has to go before the Rules Committee and basically get permission to call up the bill and present it to the body. The Rules Committee decides whether amendments will be in order and, if so, which amendments, and how much time for debate on the amendments. Here, we don't have a rules committee; it is not necessary. Each Senator is, in effect, the member of the rules committee. The Senate decides under its rules as a body, with each individual Senator having equal power and equal say as to what amendments can be offered. Any Senator should have the right to offer an amendment to any bill, and it doesn't have to be germane, unless cloture has been invoked.

So what this amendment seeks to do, intentionally or not, is to limit the power of this body to be involved in the process of deciding how taxpayer funds are going to be spent by the Federal Government and for what purposes. So this is an unnecessary abrogation of a

constitutionally vested responsibility in the Senate. It subrogates the Senate to the power of the executive, and this amendment should be defeated.

The bill that contains the legislation offered by the Senator would not do anything about \$100 billion in new programs that are being funded in this stimulus bill to which the amendment is being offered. There are 128 pages of legislation in the bill before the Senate dealing with health information technology, and \$23 billion of funding is associated with that language—\$23 billion. It is a new program that has not been authorized by the relevant committee. Is that subject to a point of order, I ask the Senate? I don't think so. But under the language of this amendment by the Senator from Wisconsin, I suppose it would be subject to a point of order, but nobody is demanding a point of order against the bill containing that provision.

Since I have been in the Senate, I have served on authorizing committees and the Appropriations Committee. The authorization process is an important function of our Senate. The Appropriations Committee works closely with authorizing committees. If any Senator opposes authorizing language that is contained in an appropriations bill, the Senator can offer an amendment to strike it. The Senate can strike the language if it determines that is the appropriate thing to do.

Now, all the committees produce earmarks, not just the Appropriations Committee. When I served on the Agriculture Committee, the farm bill customarily contained specific authorizations for expenditures of funds—entitlement to Federal dollars by certain classes of producers of agriculture products. If any Senator had an objection to any portion of that authorizing bill, he or she could offer an amendment to strike it or amend it. Individual Senators are free and have the power to modify any bill before the Senate, and appropriations bills are no different. But to give a Senator a point of order to raise over some provision with which they disagree is not an appropriate change in the rules of the Senate and should not be tolerated in this legislation. It should be stricken. My experience has shown that because a program is authorized doesn't necessarily mean it is a good idea or that it will be funded. And that is another point.

Supporters of the amendment have made it clear their goal is to get rid of all earmarks—however earmarks may be defined by them—regardless of what committee may produce them, regardless of whether they have been specifically authorized. This amendment is a step toward that goal, in my opinion. So I suggest that the Senate should look carefully and consider seriously the impact that this amendment may have, and when it is called up, if it is, I hope the Senate will vote it down.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, one specific area of this cobbled-together bill is spending. The bill provides significant increases in Medicaid spending. There is \$87 billion in Medicaid funds in this bill. There is a fundamental change to Medicaid that is in the House bill waiting to be put into the Senate bill when it comes to conference.

There are numerous amendments to try to fix some of the problems with the Medicaid provisions of this bill, and I wish to discuss some of those at this point. I start with this \$87 billion of FMAP money they have referred to. This is a huge payment to States. Now, some will say that \$87 billion in Medicaid payments in this spending party bill is meant to help States pay for people already enrolled, but the facts tell a different story.

In January, the Urban Institute produced a report for the Kaiser Commission on Medicaid and uninsured titled "Rising Unemployment, Medicaid and the Uninsured." The Urban Institute's research asserts that for every 1 percent increase in nationwide unemployment, Medicaid and Children's Health Insurance Programs will see an increase of 1 million additional beneficiaries nationwide.

I want to make clear that for the unemployed who qualify, we ought to provide enough money in Medicaid to take care of it, but we are raising questions about money beyond that. So we have this formula that is kind of a benchmark—this Urban Institute research. Using that formula and the unemployment baseline that is in the bill, I had the Congressional Budget Office prepare a cost estimate for an amendment giving States additional funding based on the Urban Institute's published research. This amendment would provide for an additional per capita Federal payment to States for every new enrollee—every new enrollee—that the Urban Institute research assumes will go on Medicaid or SCHIP during the 27 months contemplated in this bill.

Everyone watching probably knows that the Urban Institute is not exactly a conservative think tank, so their research should be credible to my friends on the other side of the aisle. Now, remember, the cost of the additional Medicaid funds for States in this bill is a whopping \$87 billion. The cost of my amendment to take care of the unemployed going on SCHIP or on Medicaid—\$10.8 billion. That is \$10.8 billion for what the Urban Institute suggests are enrollment-driven increases in Medicaid spending due to the recession.

So the question is: Why does this bill provide almost eight times what the States actually need for new enrollments resulting from this economic downturn? The Senate is considering \$87 billion in funding because States are facing deficits of as much as \$312 billion in the aggregate over the next 2 years. So let us not kid ourselves. What this is all about is a bill giving States money to help them fill their

deficits. This outlandish sum of money is not needed for Medicaid. It might be needed for something else—and we ought to discuss it in terms of the something else—but not for Medicaid.

So you may want to ask: What commitment is Congress getting from the States in exchange for \$87 billion, of which only \$10.8 billion might be used for the need for which is supposedly in this legislation? Congress is giving States \$87 billion and hoping that States don't take actions contrary to Medicaid actually providing the care that people need. I use the word "hope" because the underlying bill doesn't do enough to make sure the States do what is best for Medicaid. Does the bill prevent States from cutting their Medicaid Programs? It does not. The bill only prevents States from cutting Medicaid income eligibility. But if Congress is giving States \$87 billion and telling them not to cut Medicaid eligibility, I think it is very important we in Congress also tell the States that they can't cut benefits. But this bill doesn't do that. If Congress is giving States \$87 billion and telling them not to cut Medicaid eligibility, shouldn't Congress also tell States they can't cut payments to providers? So you have eligibility, you have providers, you have benefits—and we are only dealing with eligibility in this bill—and, yet, giving out \$87 billion of which almost \$11 billion is needed for the purpose of unemployed going on Medicaid.

States cannot change income eligibility, but under this bill as written they can cut provider payments to doctors, pharmacists, dentists, and benefits to providers.

Will there be Medicaid beneficiaries who are elderly or disabled, able to receive home- and community-based services? If we want to keep seniors and the disabled in their homes rather than in institutions, paying direct care workers to provide home- and community-based services is very critical to that goal.

Will there be enough pharmacists taking Medicaid? Will there be enough rural hospitals and public hospitals taking Medicaid?

I had one member of the Senate Finance Committee on my side of the aisle tell me in that State, their State legislature owes \$400 million to hospitals. Shouldn't we be taking care of problems like that?

Will there be enough community health centers taking Medicaid? Will Medicaid beneficiaries who are elderly or disabled get into nursing homes if they need to do that?

Will States cut mental health services because Congress didn't prevent them from doing so in this bill, even at the same time giving them \$87 billion, which is about \$76 billion more than the demands of Medicaid because of unemployment?

Will there be pediatricians or children's hospitals there for children on Medicaid?

If the Senate does nothing to protect access to these vital providers, nobody

will be able to assure the people who count on Medicaid that the care they need will be there for them. I have filed an amendment that prevents States from generally cutting eligibility and benefits and provider payment rates while they are receiving the \$87 billion in additional aid. In other words, I go beyond just a requirement in the underlying bill that eligibility can't be changed. We go to benefits and we go to protecting providers.

If we want to protect Medicaid, then we ought to really protect Medicaid. I hope we will do that by adopting this amendment.

As written, the bill gives States \$87 billion, also in the hopes that States do not take action that is contrary to economic growth. Here again, I use the word "hope" because the bill doesn't do enough to make sure States do what is best for the economy either. We should ask for more guarantees that States will spend the money appropriately and not make decisions that work against economic recovery. If Congress gives States \$87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise taxes because, if States react to their deficit by increasing taxes—even in view of getting this \$87 billion—they will defeat the goal of economic recovery that we in Congress are trying to make happen through this legislation. For sure you do not increase taxes at a time of economic distress because it is going to make that distress worse. It makes no sense for us to leave the door wide open then for States to raise taxes while getting a \$87 billion windfall from the Federal Government.

I have an amendment that prevents States from raising income, personal property, or sales taxes as a condition of the receipt of \$87 billion in Federal assistance. If Congress gives States \$87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise tuition at State universities? There is a report out just today that I heard about on the news about how unaffordable college is becoming, particularly to middle-income Americans. People are not going to go to college even though a college degree is very essential for success in our society, and we are here giving \$87 billion to States without any direction to the States whether or not they increase tuition once again, as they tend to do every year.

If States can price young people out of an education, that does nothing for preparing our workforce for the 21st century. So I also have an amendment that prevents States from raising tuition rates at State colleges and universities as a condition of the receipt of the \$87 billion of Federal assistance.

For \$87 billion—we are talking about \$87 billion, just to give to the States—shouldn't Congress expect States to modernize their Medicaid Program? We have heard my friend and colleague, Dr. COBURN, having an amendment requiring States to improve chronic care



in Medicaid and develop medical homes as a condition of the receipt of \$87 billion in Federal assistance—because these things are some of the best advancements you can make in the practice of medicine that are going to improve the quality of life, but more important they save taxpayer dollars or even private dollars. For \$87 billion, what does this bill do to ensure that all those Federal taxpayers' dollars are being spent appropriately? Almost nothing.

During the markup we were able to get funding for the Department of Health and Human Services Office of Inspector General increased by \$3.25 million. For those of you doing the math back home, \$3,250,000 is just under four one hundredths of 1 percent of the \$87 billion Medicaid spending on the bill. Senator CORNYN and I have an amendment that requires States to do something to improve their waste, fraud, and abuse rates in exchange for the \$87 billion in Federal taxpayers' money. That is what that money for the inspector general is all about. It provides a list of eight options to combat waste, fraud, and abuse, and the Secretary can provide more options at his or her discretion as well.

States are given time to plan and implement options. States can choose to make their payments transparent. States can choose to implement recovery audit contractors—as is used very successfully in Medicare. States can choose the Medicare/Medicaid data matching program. States can implement third party liability programs that find other insurers who should pay before Medicaid pays out of the public fisc. States can implement electronic verification systems to limit fraud and abuse. States can implement the recently passed Paris system to protect the integrity of the program. States can comply with the recently implemented disproportionate share hospital audit requirement. States can choose to increase their budget for Medicare fraud control units. These are all very reasonable steps that States could and should take, if Congress is going to send them \$87 billion in additional Medicaid dollars, when only \$10.8 billion of that is necessary to take care of the people who will go on Medicaid because they are unemployed.

They do not have to do all these options I just gave. They only have to do four of these many options; just show the American people that States can take four simple steps to reduce fraud, waste, and abuse. Shouldn't Congress at least ask that much of the State, for \$87 billion? If Congress is going to give States \$87 billion in Medicaid funds, shouldn't the formula be fair?

While I admire the hard work devoted to the exceedingly complex formula in this bill, it simply is not fair to certain States. States with low unemployment rates, States that have not seen the recession hit in full yet—those States will see less of the \$87 billion than other States.

Senator BINGAMAN started down this road to correct this in our Finance Committee markup. You have an amendment that picks up the baton and drives it the rest of the way home. Each State gets a flat 9.5-percent increase in their FMAP payment and States can choose which 9 consecutive quarters in an 11-quarter period best fits the economic needs of their specific State. This is a better, this is a fairer way to spend \$87 billion.

If Congress passes all of this Medicaid spending, what guarantee do we have that the fiscal challenges facing Medicaid in the future will be solved? Sooner rather than later, we all must recognize our entitlements are unsustainable as currently constructed.

President Obama has acknowledged this himself on numerous occasions recently. One of my concerns about the additional Medicaid funding that is in this bill is that it places too much emphasis on Medicaid in the here and now, the short term, and ignores future fiscal challenges down the road, the next two or three decades.

Just last year the Center for Medicare Services Office of Actuary reported that Medicaid costs will double over the next decade. That is simply unsustainable, and I think every Senator knows that. It is critical that both the Federal Government and States recognize the fiscal challenges we face and the need to take action right now. Senators CORNYN and HATCH and I have an amendment that requires States to submit a report to the Secretary detailing how they plan to address Medicaid sustainability. It is critical that we look at the future of Medicaid if Congress is to give States \$87 billion in additional Medicaid funding when it is only going to take about \$10.8 billion to take care of the uninsured because of the economic recession we are in.

The House bill has a provision that fundamentally changes Medicaid. Medicaid is a program that is generally, as we know, for low-income pregnant women, children, and low-income seniors. Under the House bill, the Federal taxpayer would step in to pay the full cost to provide Medicaid coverage to people who lose their jobs and are not eligible for continuing coverage from their employer. Normally, Medicaid is supposed to be a shared State/Federal responsibility, with the States and the Federal Government sharing the costs on a national average—57 percent to 43 percent. In my particular State, the Federal Government pays 62 percent—but not in this new Medicaid Program the House would create because under the House bill—get this—the Federal Government, for the first time ever, would pick up 100 percent of the costs. The House bill transforms Medicaid into a coverage for anyone who loses their job if they do not have access to COBRA coverage from their former employer, and the House bill would offer this taxpayer-paid Medicaid coverage regardless of how wealthy they might be.

Now Medicaid is for low-income people, but it is being expanded in the House to, no matter how wealthy you might be, but being unemployed, you could qualify for Medicaid. Tell me if that is not a waste of taxpayers' money. It is taxing low-income people to help wealthy people, just the opposite of what we normally do in this country.

With all the fiscal challenges this country faces, and with entitlement spending already out of control, this ought to be seen by every Member of the Senate as an outrage. Obviously, it was not an outrage to the 244 people who voted for it in the other body. I hope folks on the other side of the aisle will come to the floor and defend a policy that, if you are unemployed—I suppose if you are an unemployed CEO who previously made \$5 million, you can walk into the State office and get Medicaid. I don't understand it.

My bigger concern is what happens in 2 years when the money goes away. On December 31, 2010, what happens to all the people who have been covered by this massive expansion of Medicaid entitlement? What happens to all of the people who have been added to the rolls in States that expand coverage with the \$87 billion influx in this bill, when only \$10.8 billion is needed, according to CBO, based on the Urban Institute program, for those who are going to be unemployed? Mr. President, \$76 billion more is going to be spent someplace.

Someone on the other side needs to convince me that this policy we are putting in place is truly temporary. I do not buy that it is temporary. Every one of us knows the States will be coming back in the middle of next year to beg for an extension so they don't have to cut Medicaid rolls. There are too many former Governors in this Chamber for anyone to argue that it is not going to happen.

I know a lot of people have worked very hard putting this bill together. I respect that they have worked hard. I wish they would have worked smarter. Giving States \$87 billion even though that is about eight times what they need to stay ahead of enrollment-driven Medicaid increases is not well thought out. Giving States \$87 billion while still allowing them to cut their Medicaid Program is not well thought out. Giving States \$87 billion while still allowing them to raise taxes or tuition is not well thought out. Giving States \$87 billion without requiring them to do a better job of addressing fraud, waste, and abuse is not well thought out. Giving States \$87 billion without making them address the fiscal sustainability of their Medicaid Program is not well thought out. A massive expansion of the entitlements under the guise of the word "temporary" is not well thought out.

This bill is cobbled together—a spending party. It is not well thought out. It is out of control. The Senate should support numerous amendments, as I have discussed this afternoon, to

address the shortcomings that occur when partisan bills are moved too quickly.

I filed what is referred to as a Grassley-Schumer amendment to amend the American Opportunity Tax Credit work. In my opinion, the amendment makes the American Opportunity Tax Credit better. Senator SCHUMER agrees with the me, or obviously he would not be cosponsoring this with me, because he is joining me.

I thank Senator SCHUMER for his support and look forward to working with him on simplifying the education tax credit Congress has put into the Tax Code. I have long been an advocate for helping Americans afford college through the Tax Code. So when I was chairman of the Finance Committee, I successfully included a number of education measures in that tax bill of 2001. These measures were enacted into law as part of a bipartisan agreement—I want to emphasize, bipartisan agreement. Now Americans can take an above-the-line deduction for the cost of higher education expenses because of that bill. In addition, people with student loans have greater flexibility when deducting student loan interest. I have also promoted section 529 qualified tuition programs by repealing the sunset provisions Congress imposed back in 2001.

The other education tax provisions we included in the 2001 bipartisan tax legislation should also be made permanent. Several provisions would fall into that category, but that debate will be left to another day. We are not pursuing that on this bill.

Today, Senator SCHUMER and I are here to build on the American Opportunity Tax Credit included in the legislation we are debating today. This is how we do it. The amendment Senator SCHUMER and I are offering would increase the tax credit while maintaining a refundable portion of the tax credit, which will help low-income individuals with college expenses. The amendment would also spread out the way the tax credit is calculated. Under this amendment, more Americans will receive a more robust and uniform tax credit regardless of income. In addition, taxpayers currently claiming the HOPE scholarship credit will get a bigger tax benefit. Again, low-income individuals will continue to benefit from the credit's refundability feature, which I will note has never been done in the area of education tax until now.

If my Senate colleagues argue that the Grassley-Schumer amendment adds to the cost of the stimulus package—which, in full disclosure, the amendment adds \$3 billion to the existing \$10 billion price tag on the American Opportunity Tax Credit—I will tell them to cut wasteful spending that is included in the bill.

The Grassley-Schumer amendment is stimulative. The same cannot be said for the spending provisions in the bill, including millions upon millions of dollars for parking garages or millions

upon millions of dollars for swimming pools, water slides. This spending does not pass the stimulative test.

The Joint Committee on Taxation has even said that under the Grassley-Schumer amendment, we will “lower the cost of higher education, which will induce more individuals to enroll in higher education programs.”

So I hope everybody agrees that this is a very good thing, particularly considering the fact that there was this report on the news today where there is, particularly because of the recession we are in, not enough middle-income people going to college because of the problems we have. So we need to make more help available for people going to college, especially for displaced workers who would like to go back to school for training in another career. That is more essential during an economic downturn like we now have. An education means jobs, and that is what a large part of this stimulus package is all about.

I urge my colleagues to support the Grassley-Schumer amendment.

Lastly, and then I will yield the floor, I have a statement I wish to read entitled “CBO Analysis” that shows stimulus bill jobs to cost as much as \$300,000 each. A preliminary analysis by the Congressional Budget Office shows that the jobs created by the economic stimulus legislation being debated in the Senate will cost taxpayers between \$100,000 and \$300,000 apiece. These numbers should be contrasted to those under the January baseline of the Congressional Budget Office in which there is no stimulus. That shows the gross domestic product per worker is about \$100,000. The new analysis indicates the cost of each stimulus job to be as much as three times more than jobs created without the stimulus bill.

There has been a lot of talk about bang for the buck, but there is no talk about actually making sure it happens so that Americans get the help they need. Before Congress spends another \$1 trillion, we ought to make sure we are getting our money's worth. Congressional leaders should postpone a final vote on a stimulus bill until the Senate has had the opportunity to carefully review a full analysis of the Congressional Budget Office.

Mr. President, I ask unanimous consent to have the February 4, 2009, CBO report printed in the RECORD.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, February 4, 2009.

Hon. CHARLES E. GRASSLEY,  
Ranking Member, Committee on Finance,  
U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office (CBO) has conducted an analysis of the macroeconomic impact of the Inouye-Baucus amendment in the nature of a substitute to H.R. 1. CBO estimates that this Senate legislation would raise output and lower unemployment for several years, with effects broadly similar to

those of H.R. 1 as introduced. In the longer run, the legislation would result in a slight decrease in gross domestic product (GDP) compared with CBO's baseline economic forecast.

#### EFFECTS ON OUTPUT AND EMPLOYMENT

The macroeconomic impacts of any economic stimulus program are very uncertain. Economic theories differ in their predictions about the effectiveness of stimulus. Furthermore, large fiscal stimulus is rarely attempted, so it is difficult to distinguish among alternative estimates of how large the macroeconomic effects would be. For those reasons, some economists remain skeptical that there would be any significant effects, while others expect very large ones.

CBO has developed a range of estimates of the effects of the Senate legislation on GDP and employment that encompasses a majority of economists' views. According to these estimates, implementing the Senate legislation would increase GDP relative to the agency's baseline forecast by between 1.2 percent and 3.6 percent by the fourth quarter of 2010. It would also increase employment at that point in time by 1.3 million to 3.9 million jobs, as shown in Table 1. In that quarter, the unemployment rate would be 0.7 percentage points to 2.1 percentage points lower than the baseline forecast of 8.7 percent. The effects of the legislation would diminish rapidly after 2010. By the end of 2011, the Senate legislation would increase GDP by 0.4 percent to 1.2 percent, would raise employment by 0.6 million to 1.9 million jobs, and would lower the unemployment rate by 0.3 percentage points to 1.0 percentage point.

Those estimated effects differ modestly from CBO's estimates for H.R. 1 as introduced. In particular, the effects on output and employment are slightly higher in 2009 and 2010, but slightly lower in 2011. The differences stem from three main sources. First, the Senate legislation's provisions regarding the alternative minimum tax (AMT), which do not appear in the House bill, would add stimulus to the economy, especially in 2010. Second, the Senate legislation would allow faster spending from the State Fiscal Stabilization Fund, increasing such spending by about \$20 billion over the 2009-2010 period compared with that under the House bill (and decreasing spending correspondingly in the following years). And last, the estimated decrease in withholding (and thus the reduction in revenues) associated with the Making Work Pay Credit would be greater in 2009 under the Senate legislation than under H.R. 1.

#### EFFECTS OF VARIOUS TYPES OF LEGISLATIVE PROVISIONS ON OUTPUT

Although the Senate legislation has numerous detailed provisions, the macroeconomic effects can be illustrated by considering the provisions in seven categories. Table 2 shows the range of estimated effects on the economy—the multiplier effects—of a one-time increase of a dollar of additional spending or a dollar reduction in taxes. For all of the categories that would be affected by the Senate legislation, the resulting budgetary changes are estimated to raise output in the short run, albeit by different amounts.

The numbers in Table 2 indicate the cumulative impact on GDP over several quarters. For example, a one-time increase in federal purchases of goods and services of \$1.00 in the second quarter of this year would raise GDP by \$1.00 to \$2.50 in total over several quarters, with most of that effect in the first two quarters and little effect beyond a year.

As shown in the first two categories in the table, direct purchases of goods and services by governments, including investment in infrastructure, tend to have relatively large effects on GDP. Because infrastructure spending takes time to occur, increased funding

for that purpose would not boost outlays or GDP much this year, but it would probably provide significant stimulus from 2010 through 2012.

Grants to state and local governments (such as increased assistance for education) might not increase state spending for the programs designated in the grants but, instead, might free up funds that the states would otherwise spend on those programs. States could use those extra funds in a variety of ways: direct purchases of goods and services (or smaller cuts in such purchases), tax cuts (or smaller tax increases), transfer payments, or reduced borrowing. The impact of grants therefore would depend on how states used them.

Transfers to persons (for example, unemployment insurance and nutrition assistance) would also have a significant impact on GDP. Transfers have a relatively strong effect on consumption because they tend to go to people, such as the poor or unemployed, who are likely to spend much of any additional income. For that reason and because transfers can be increased quickly, they are estimated to have a significant impact on GDP by early 2010. Transfers also include refundable tax credits, which have an impact similar to that of a temporary tax cut.

A dollar's worth of a temporary tax cut would have a smaller effect on GDP than a dollar's worth of direct purchases or transfers, because a significant share of the tax cut would probably be saved. The amount saved, and therefore the size of the effect on GDP, would depend on who received the tax cut and how temporary it would be. Most households probably save most of a temporary tax cut, to keep their purchases relatively smooth over time. However, the predominantly lower-income households that spend all of their income and would like to borrow funds to spend more if they could (that is, households that are "liquidity constrained") probably spend a large share of temporary boosts to income. In addition, the longer a tax cut is expected to last, the greater the impact on total after-tax income, and the larger the likely effect on consumption.

CBO's analysis divides the temporary tax cuts in the Senate legislation into those that would go primarily to higher-income households and last for only one year (mostly the provisions affecting the AMT) and those that would go primarily to lower- and middle-income households and last for two years (predominantly the Making Work Pay Credit), with the former having a considerably lower range of multipliers than the latter. Taken together, the temporary nonbusiness tax cuts in the Senate legislation would reduce revenues much more in 2010 than in 2009 because much of the reduction in taxes would be realized by households when they filed their returns in 2010.

The provision for greater tax-loss carrybacks would result in a large up-front cost to the government, but the effect of that provision on business spending would probably be small because it primarily would affect firms' after-tax income rather than their marginal incentives for new investment. Therefore, the effect of the provision on revenues would be significantly greater than its effect on the economy.

#### THE RELATIONSHIP BETWEEN OUTPUT AND EMPLOYMENT

CBO derived its estimates of the effect of the Senate legislation on employment from the estimated effect on GDP. Historical evidence suggests that GDP growth that is 1 percentage point faster over a year (relative to a baseline forecast) will cause the unemployment rate to decline by a little more

than half a percentage point (relative to a corresponding baseline forecast). The fall in the unemployment rate leads more people to enter the labor force and seek jobs and fewer to drop out. Therefore, employment rises both from a decline in the number of unemployed workers and a decline in the number of people out of the labor force. In addition, some workers otherwise working part time move to full-time status.

The change in employment relative to the change in GDP in CBO's estimates is small compared with that in most industry-based studies of stimulus. By the end of 2010, CBO estimates, about \$140,000 of additional GDP would lead to one additional person employed. That relationship is similar to those indicated by other macroeconomic studies of stimulus proposals. However, a number of other sorts of studies imply more employment per dollar of additional GDP. Because the macroeconomic studies use the historical relationship between changes in economic growth and changes in jobs, they incorporate a number of broad economic effects. For example, output per employee tends to fall in a recession because employers try not to fire their best workers even as they cut production in response to decreased demand. Therefore, as fiscal stimulus increases demand, firms can ramp up production without increasing employment proportionally. Historical evidence thus suggests that fiscal stimulus boosts both productivity and hours of work as well as employment. Studies that ignore those effects are likely to overstate the impact of fiscal stimulus on employment.

#### LONG-RUN EFFECTS ON OUTPUT

Most of the budgetary effects of the Senate legislation occur over the next few years. Even if the fiscal stimulus persisted, however, the short-run effects on output that operate by increasing demand for goods and services would eventually fade away. In the long run, the economy produces close to its potential output on average, and that potential level is determined by the stock of productive capital, the supply of labor, and productivity. Short-run stimulative policies can affect long-run output by influencing those three factors, although such effects would generally be smaller than the short-run impact of those policies on demand.

In contrast to its positive near-term macroeconomic effects, the Senate legislation would reduce output slightly in the long run, CBO estimates, as would other similar proposals. The principal channel for this effect is that the legislation would result in an increase in government debt. To the extent that people hold their wealth as government bonds rather than in a form that can be used to finance private investment, the increased debt would tend to reduce the stock of productive capital. In economic parlance, the debt would "crowd out" private investment. (Crowding out is unlikely to occur in the short run under current conditions, because most firms are lowering investment in response to reduced demand, which stimulus can offset in part.) CBO's basic assumption is that, in the long run, each dollar of additional debt crowds out about a third of a dollar's worth of private domestic capital (with the remainder of the rise in debt offset by increases in private saving and inflows of foreign capital). Because of uncertainty about the degree of crowding out, however, CBO has incorporated both more and less crowding out into its range of estimates of the long-run effects of the Senate legislation.

The crowding-out effect would be offset somewhat by other factors. Some of the Senate legislation's provisions, such as funding for improvements to roads and highways, might add to the economy's potential output

in much the same way that private capital investment does. Other provisions, such as funding for grants to increase access to college education, could raise long-term productivity by enhancing people's skills. And some provisions would create incentives for increased private investment. According to CBO's estimates, provisions that could add to long-term output account for roughly one-quarter of the legislation's budgetary cost.

The effect of individual provisions could vary greatly. For example, increased spending for basic research and education might affect output only after a number of years, but once those investments began to boost GDP, they might pay off over more years than would the average investment in physical capital (in economic terms, they have a low rate of depreciation). Therefore, in any one year, their contribution to output might be less than that of the average private investment, even if their overall contribution to productivity over their lifetime was just as high. Moreover, while some carefully chosen government investments might be as productive as private investment, other government projects would probably fall well short of that benchmark, particularly in an environment in which rapid spending is a significant goal. The response of state and local governments that received federal stimulus grants would also affect their long-run impact; those governments might apply some of that money to investments they would have carried out anyway, thus freeing funds for noninvestment purposes and lowering the long-run economic return to those grants. In order to encompass a wide range of potential effects, CBO used two assumptions in developing its estimates: first, that all of the relevant investments together would, on average, add as much to output as would a comparable amount of private investment, and, second, that they would, on average, not add to output at all.

In principle, the legislation's long-run impact on output also would depend on whether it permanently changed incentives to work or save. However, according to CBO's estimates, the legislation would not have any significant permanent effects on those incentives.

Including the effects of both crowding out of private investment (which would reduce output in the long run) and possibly productive government investment (which could increase output), CBO estimates that by 2019 the Senate legislation would reduce GDP by 0.1 percent to 0.3 percent on net. H.R. 1, as passed by the House, would have similar long-run effects. CBO has not estimated the macroeconomic effects of the stimulus proposals year by year beyond 2011.

#### OTHER EFFECTS OF STIMULUS PROPOSALS

It is important to note that effects on GDP, the aggregate domestic output of the economy, do not necessarily translate into effects on people's well-being. First, the part of GDP that contributes directly to people's welfare is consumption. However, changes in GDP do not necessarily imply corresponding changes in consumption. For example, if GDP rises because foreigners finance greater investment, much of the additional income generated by the investment will flow overseas as payments to foreigners and will not be available to support higher consumption.

More fundamentally, many things that make people better off do not appear in GDP at all. For example, healthier children or shorter commute times can improve people's welfare without necessarily increasing the nation's measured output in the long run (though spending in those areas would still provide short-run stimulus). Even legislation explicitly intended to affect output may also seek to accomplish other goals and can be evaluated accordingly.

I hope this information is helpful to you. If you have any further questions, I would be glad to answer them. The staff contacts for

the analysis are Ben Page and Robert Arnold.

Sincerely,  
DOUGLAS W. ELMENDORF,  
Director.

TABLE 1.—ESTIMATED MACROECONOMIC IMPACTS OF THE INOUE-BAUCUS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1, FOURTH QUARTERS OF 2009, 2010, AND 2011

	2009	2010	2011
GDP (Percentage from baseline):			
Low estimate of effect of plan	1.4	1.2	0.4
High estimate of effect of plan	4.1	3.6	1.2
GDP Gap <sup>a</sup> (Percent):			
Baseline	-7.4	-6.3	-4.1
Low estimate of effect of plan	-6.1	-5.2	-3.7
High estimate of effect of plan	-3.7	-3.0	-2.9
Unemployment Rate (Percent):			
Baseline	9.0	8.7	7.5
Low estimate of effect of plan	8.5	8.1	7.2
High estimate of effect of plan	7.7	6.7	6.5
Employment <sup>b</sup> (Millions of jobs):			
Baseline	141.6	143.3	146.2
Low estimate of effect of plan	142.5	144.6	146.8
High estimate of effect of plan	144.0	147.2	148.1

Source: Congressional Budget Office.  
<sup>a</sup> The GDP gap is the percentage difference between gross domestic product and CBO's estimate of potential GDP. Potential GDP is the estimated level of output that corresponds to a high level of resource—labor and capital—use. A negative gap indicates a high unemployment rate and low utilization rates for plant and equipment.  
<sup>b</sup> Figures for employment are based on surveys of households.

TABLE 2.—POLICY MULTIPLIERS: THE CUMULATIVE IMPACT ON GDP OVER SEVERAL QUARTERS OF VARIOUS POLICY OPTION

	High	Low
Purchases of Goods and Services by the Federal Government	2.5	1.0
Transfers to State and Local Governments for Infrastructure	2.5	1.0
Transfers to State and Local Governments Not for Infrastructure	1.9	0.7
Transfers to Persons	2.2	0.8
Two-Year Tax Cuts for Lower- and Middle-Income People	1.7	0.5
One-Year Tax Cuts for Higher-Income People	0.5	0.1
Tax-Loss Carryback	0.4	0

Note: For each option, the figures shown are a range of "multipliers," that is, the cumulative change in gross domestic product over several quarters, measured in dollars, per dollar of additional spending or reduction in taxes.  
 Source: Congressional Budget Office.

Mr. LIEBERMAN. Mr. President, I rise to address comments made by my colleagues regarding several measures for the Department of Homeland Security in the American Recovery and Reinvestment Act: the \$248 million provided for the construction of a consolidated headquarters, and the \$500 million provided to fund construction and renovation of fire stations. These are both projects that will save lives, save money, and most importantly for this bill, create jobs.

The Senator from South Carolina has included funding for the DHS headquarters project among a list of what he refers to as "cats and dogs" which he is intent on stripping from the bill. But the DHS consolidation project is far more important to our Nation than those comments might suggest.

DHS is responsible for leading a unified, national effort to secure the United States, yet the Department does not have all the necessary tools to do so, including an adequate headquarters. DHS is currently spread throughout more than 70 buildings located on 40 sites across the national capital region making communication, coordination, and cooperation among DHS components a significant challenge. Moreover, the existing space housing the Office of the Secretary, Intelligence, and other key functions is grossly inadequate, contributes to recruitment and morale problems, and is simply not befitting a cabinet agency critical to Americans' security.

Some of my colleagues have argued that funding this important homeland security project is not appropriate in the stimulus bill. I respectfully disagree.

The DHS headquarters project will create jobs. The final environmental impact statement for the headquarters plan found that the overall project would create direct employment opportunities for over 32,000 people in the national capital region. Put another way, the economy would gain payroll earnings of approximately \$1.2 billion during construction and renovation of the St. Elizabeths West Campus plus approximately \$3.8 billion in additional expenditures during the construction phases.

Funding this project through the stimulus will also expedite the creation of these jobs. DHS estimates that the funding included in this bill will allow the headquarters project to be completed 12 months earlier than previously planned. This means funding will be spent into the local economy earlier creating real jobs and stimulating economic growth in DC, Maryland, and Virginia when it is most needed.

This bill will also save money. Accelerating the project will reduce the cost of the overall headquarters project by \$18 million. Moreover, the Federal Government will be able to negotiate better prices with contractors because they can sign larger contracts up front which will result in additional cost savings.

In short, this project creates a win-win situation by creating jobs today and saving money for the taxpayer in the long run. And, most importantly, by fostering a more efficient and effective Department of Homeland Security, it will make our country safer.

I would also like to take a moment to address the mischaracterization by some of my colleagues and members of

the media that this money will only be spent on furniture. The \$248 million allocated to DHS will fund construction, IT infrastructure, security, and a host of other activities associated with constructing a building. Furniture is one allowable use of the funding, however less than 7 percent of the total funding proposed for the headquarters in this bill would be allocated towards furniture.

And I would also like to address the comments of my colleague from Oklahoma regarding the value and the appropriateness of providing funds for the construction of fire stations. I would argue that as an issue of security, safety, and of job creation, there is nothing more valuable or appropriate.

The Nation's fire houses are in dire need of attention. In cities and towns across America, they are too few in number, aging, and crumbling, and as a result, they are inadequate to provide the necessary protection to families and communities. The U.S. Fire Administration—a part of the Department of Homeland Security—has provided a grim picture in its second needs assessment of the U.S. Fire Services. Consider the following: 60 to 75 percent of fire departments have too few stations to provide an optimal response; 36 percent of fire stations in the United States are over 40 years old; 54 percent of fire stations lack backup power; and 72 percent of fire stations are not equipped for exhaust emission control.

These figures show that our country's fire stations are just not able to ensure that firefighters can serve the needs of their communities with the adequate safety and effectiveness.

These infrastructure problems are spread across the country, in communities large and small. Permit me to address the need for building more fire stations, from the ground up, to ensure that there are enough to protect the public.

Without an adequate number of fire stations, the response time of firefighters may increase significantly in incidents where every moment counts. A fire doubles in size every 60 seconds. A heart attack victim suffers irreversible brain damage after four minutes. So imagine the impact on a neighborhood where the fire houses are spread too far apart—imagine the increase in risk of death, injury, and property damage. This is a risk we cannot afford to take.

This funding, which would be distributed by the Department of Homeland Security to the communities with the greatest need, could be applied immediately to projects in need of attention right now. The U.S. Conference of Mayors has identified over 100 fire station construction or renovation projects that are “Ready to Go,” so thousands of jobs would be created immediately with this \$500 million. This is funding that we cannot afford to trim from this bill—both for the jobs it creates, and the safety and security it will provide for our communities.

I encourage my colleagues to look at the facts. These projects, which are essential to the security of our Nation and our communities, will also create jobs and stimulate the economy. It is not wasteful spending and belongs in the stimulus bill we are considering today.

Mr. INOUE. Mr. President, earlier today Senator MCCONNELL singled out for criticism funding in this bill for upgrades of outdated information technology at the State Department and U.S. Agency for International Development.

He said: “\$524 million for a program at the State Department that promises to create 388 jobs . . . that comes to \$1.35 million per job.” He went on to say: “\$100 million for 300 jobs at the U.S. Agency for International Development, \$333,333 per job.”

With all due respect to my friend, the minority leader and former chairman of the State and Foreign Operations Subcommittee who was a strong supporter of these programs in the past, that is a simplistic statement which does not tell the whole story.

First, it undercounts the number of jobs these funds will generate, as I will explain. And second, it implies that the only value of a stimulus project is the jobs created, as if the resulting product is of no value. If we adopt that standard, I hate to think what the minority leader would say about other Federal projects, whether the cost of building the Washington Monument or a project in his State.

Computer systems are inherently not personnel intensive, but they do have a significant impact on the supply chain economy.

The State Department’s and USAID’s estimate of the number of jobs related to information technology upgrades is approximately 688 jobs. I doubt the unemployed citizens of Kentucky, any more than the citizens of Hawaii, would scoff at that number.

But this does not take into account the jobs created across the country when a Federal agency has a major investment in computer technology and systems. Much of the hardware would be manufactured by workers here in the U.S. Other components are made overseas and shipped to our ports, like Long Beach, CA.

U.S. workers unload the container ships and load the computer parts onto trucks or rail cars. Those trucks or trains travel across the country, and their drivers purchase fuel and food. The components are then unloaded and delivered to their final destination.

The 688 jobs cited by the Senate Appropriations Committee were merely those jobs directly identified with installing these computer systems and providing services to these Federal agencies. It does not take into account the impact of manufacturing, purchasing, and transporting new equipment.

But this funding will do more than create jobs.

The information technology upgrades proposed in this bill would improve the worldwide technology capabilities of two Federal agencies which are out of warranty and not up to current user demands. These technology systems form the core of communications between Washington and posts overseas.

Some of these funds would be used to upgrade secure phones as the current secret level phones are no longer supported by the available technology.

The Department has identified serious weaknesses in cybersecurity which these funds will address. Recent legislation mandating the Comprehensive National Cybersecurity Initiative requires all Federal agencies to become compliant with new standards to prevent cybercrime.

Federal agencies working overseas are particularly vulnerable to attack from foreign agents attempting to hack into the State Department’s computer system. Sometimes this is to gain intelligence, but recently entire government computer systems have been taken down by malicious actors.

We cannot take this risk, which is why the Congress supported legislation last year to improve cybersecurity measures. Funds in this bill would address that need. Without these funds the State Department would not likely be able to make these critical investments for some years.

Funds will also be used to construct a back-up site for the worldwide information technology system, to prevent a single-point failure in communications. This need was identified after the 9/11 attacks by many independent reviews, but there have not been sufficient funds in the budget. This invest-

ment would ensure that the State Department’s technology system, which supports 265 embassies and consulates in 154 countries, would not shut down if there is a major incident on the east coast of the U.S., like a power failure.

No. 1, the bill includes funding for many Federal agencies and departments to upgrade facilities or technology, and the State Department funding is in line with these same types of projects.

No. 2, this funding included for the State Department and USAID is for existing construction projects and upgrades that have been under-funded or deferred for years.

No. 3, these will support only domestic facilities which will improve the efficiency of the State Department’s operations and create jobs in the U.S.

No. 4, in several instances, like the diplomatic security training facility and cybersecurity upgrades, the funds will strengthen security for U.S. diplomats posted overseas.

No. 5, all of the funds will be spent domestically at facilities in the U.S.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that at 5:45 today, the Senate proceed to vote in relation to the amendments specified in this agreement in the order listed; that no amendment be in order to any of the amendments prior to the vote; that there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote; and that after the first vote, the succeeding votes be limited to 10 minutes each: Vitter amendment No. 179; Isakson amendment No. 106, as modified; Cardin amendment No. 237; DeMint amendment No. 168; Thune amendment No. 238; Martinez amendment No. 159, that the amendment be modified with the changes at the desk; McCain amendment No. 278, that the amendment be modified with the changes at the desk; Bond amendment No. 161; Inhofe amendment No. 262; Cornyn amendment No. 277; Bunning amendment No. 242; Dorgan amendment No. 300; and McCain amendment No. 279.

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

The amendments (Nos. 159 and 278), as modified, are as follows:

AMENDMENT NO. 159

At the end of division B, add the following:

**TITLE VI—FORECLOSURE MITIGATION**

**SEC. 6001. SHORT TITLE.**

This title may be cited as the “Keep Families in Their Homes Act of 2009”.

**SEC. 6002. DEFINITIONS.**

For purposes of this title—

(1) the term “securitized mortgages” means residential mortgages that have been pooled by a securitization vehicle;

(2) the term “securitization vehicle” means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-

backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term “servicer” means a servicer of securitized mortgages;

(4) the term “eligible servicer” means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term “eligible mortgage” means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term “Secretary” means the Secretary of the Treasury;

(7) the term “effective term of the Act” means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term “incentive fee” means the monthly payment to eligible servicers, as determined under section 6003;

(9) the term “Office” means the Office of Aggrieved Investor Claims established under section 6004(a); and

(10) the term “prepayment fee” means the payment to eligible servicers, as determined under section 6003(b).

#### SEC. 6003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the Act, to make payments to eligible servicers in an amount not to exceed an aggregate of \$10,000,000,000, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the Act, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed \$60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

#### SEC. 6004. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this title; and

(B) damages described in subsection (d)(3), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this title;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this title for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this title by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this title that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(1) 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.

(1) 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 begin-

ning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to \$1,700,000,000, to remain available until expended.

**SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

**SEC. 6006. SUNSET OF AUTHORITY.**

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

AMENDMENT NO. 278

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

**SEC. \_\_\_\_ . REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS’ DEBT OBLIGATIONS.**

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

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

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

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

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

“(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

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

“(2) MAXIMUM DEFICIT AMOUNTS.—

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

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

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

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

“(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 253 of this Act and any procedure with respect to such

sections in this Act shall be effective beginning on the date of enactment of this subsection.”.

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

The **PRESIDING OFFICER.** The Senator from Missouri is recognized.

Mrs. **MCCASKILL.** I would like to talk about a few of the amendments I will be offering to this very important piece of legislation. Let me say this again: This is a very important piece of legislation. I think everyone needs to take a moment, take a deep breath, and consider what the alternatives are. Either we come together in the Senate over the next few days and pass this bill or we do nothing—or we do nothing. I will tell you, where I live in Missouri, “nothing” is not an option. If people think we can do nothing and this problem will begin to take care of itself, they do not understand the economic situation we are facing. So I have no problem with a full debate. I have no problem with us looking at every line and figuring out whether there is money we can take out that is wasteful or not stimulative. But at the end of the day, this notion that we are going to put this on the shelf—are you kidding me? Put it on a shelf.

We have a crisis in this country. We are in a dramatic recession. The Government must act to stimulate job creation. If we do not, then we are going to have some explaining to do. Being brave and bold enough to do something is always harder than finding something wrong with something. And we will always be able to find something wrong in everything we do around here. So buck up. Be strong. Move forward for the American people because that is what they said to us last November. That is what they want. They wanted it to be a new day.

I am glad we are talking with each other. I am glad we are debating amendments. I am glad we are working in a bipartisan fashion to try to pull some of the things out of this bill that have distracted the conversation about the Economic Recovery Act. They have distracted us. They put us on defense. Excuse me, we are on offense. We are trying to help our economy. Sitting back and shooting that thing is not going to get us there.

There are some things I think we can do to make it better, and several of the amendments I have offered have to do with our ability to make this process transparent and to make sure we are accountable for the money.

First, I have submitted an amendment to strengthen the whistleblower protection. We have to make sure our whistleblowers are well taken care of. Some of the best information we get in cleaning up Government comes from inside the companies that work for the Federal Government. We gave these protections to defense contractors in last year’s Defense Authorization Act. We need to give it to every Federal

contractor so that we can get the best information possible about what is going on internally in these companies as they spend public money.

Another amendment improves the transparency requirements for the public database Web site.

We need this public database to work, because it is a new tool to allow us to track all the money to make sure the money is going where it was intended to go, to make sure we don’t have fraud, waste, and abuse in these contracts and programs, as we fund the various infrastructure needs of the country, whether it is building a school, a bridge, or an electric grid.

Another amendment I have will boost the resources for the inspectors general. Those are our cops in terms of accountability. We cannot do this kind of government spending without giving the same kind of increase to the inspector general community for them to do their jobs.

Also additional funding for acquisition personnel is included. Acquisition personnel are going to be called to this cause in a dramatic fashion. As we spend this money, we have to make sure we have enough folks that we can monitor the contracts, make sure the contracts are drafted in a way that protects taxpayer money. So we need to increase both acquisition personnel and inspector general resources.

There is also another technical amendment I will be offering that has to do with a vagary in Missouri law and another State’s laws as it relates to the ability of my State and another State to use water and sewer funding.

Let me say this before yielding the floor. I compliment the President today on the dramatic steps he took on curbing executive pay in the various companies that have received Federal money. The proposal he laid out today is aggressive. It is broad in scope. It is just what the doctor ordered. I am so pleased that not only the President but Senator **WYDEN** and Senator **SNOWE** offered another amendment in the area of taxing some of the excessive bonuses that have occurred. We are watching Wall Street. We are paying attention. Please behave as you should, if you have taken this kind of public money. Please understand it is not business as usual. It is not luxury retreats and fancy parties and big-time bonuses. It is a new day. Please start behaving as if you get it. Because if we cannot convince the American people that we are looking after them, we will never get the recovery we must have so that everyone has the opportunity to succeed. That is all it is about, that opportunity that is unique to America—that everyone can have a chance to succeed.

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

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 179

Mr. **VITTER.** Before we start voting in a little less than an hour, I encourage all colleagues to look seriously at and to support the Vitter amendment which will be voted on tonight. The Vitter amendment is an attempt to start the important work of cutting out some of the clearly nonstimulative parts of this bill. Fundamentally, it does two things. First, it cuts out \$35 billion of spending, which is not stimulative, which is not focused on quick job creation and economic stimulus. It takes that out of the bill. Secondly, it takes out the Davis-Bacon language, which is not part of any reasonable stimulus program and which will, in fact, cost the Government more money by significantly increasing labor costs on many projects. That has been estimated to cost about \$17 billion. The American people get it. This is a big debate, an important matter they have been watching carefully. Every day that goes by, they understand ever more clearly that this is a big spending bill with the whole spectrum of traditional big government Washington spending items, a laundry list, and that is not the same animal at all as real focused job creation, economic stimulus.

There is now a plurality of all Americans who think this is a bad bill, not stimulative, and it should be either dramatically changed—not at the margin but at the core—or defeated. Quite frankly, that plurality is growing every hour of every day. They are staggered, the Louisianians I have talked to, by two things. First, the enormous size and cost of the bill. This is a direct cost. There is no argument that we can recoup this as possibly we can recoup some of the TARP money. This is a direct cost. It adds on to the debt and the deficit penny by penny. A trillion dollars is a lot of money. As one of my colleagues said: A trillion dollars or nearly that surely is a terrible thing to waste. This current stimulus bill of almost a trillion dollars is the largest spending bill ever enacted by Congress. It makes the entire New Deal, even adjusted for inflation, look small. If it would be divvied up equally, the \$825 billion, it would be like every family in America borrowing \$10,520. That is not an analogy drawn from the air. In fact, we are collectively borrowing every cent of this money. Every dollar is another dollar of deficit and debt. We are borrowing that, \$10,520 for every American family. If all of our families were asked to equally shoulder that burden, this would be the equivalent of what each average family roughly spends on food, clothing, and health care in a year.

The bill, if it were a country with a GDP, would be the fifteenth largest GDP in the world, right between Australia and Mexico, greater than the gross domestic products of Saudi Arabia and Iran put together. It does cost well over \$1 billion for every page it is



printed on, \$400,000 for every job it hopes or even claims to save or create.

This is about job creation. A lot of us have questions, if any of these goals are going to be met. But let's assume the stated goals are met of saving and creating jobs, \$400,000 per job. Of course, I don't think it will ever meet those goals. Altogether, by the analysis of many expert analysis, only 11 percent of this bill has anything to do with recovery or reinvestment. Fact one is the enormous size and cost of this bill which is staggering and frightening to so many Americans. Part two is that Americans get it. It is common sense, and they can tell the difference between a laundry list of spending items, traditional Washington, big government items. Virtually every major item we find in the Federal Government's budget every year, they can tell the difference between that, which this bill is, which the House bill is, and true focused job creation, economic stimulus. They know the difference. They know this is a laundry list of spending.

The Vitter amendment would begin to try to change that. It would not be enough, but it would begin to make a dent in that by cutting \$35 billion of spending that is line item spending, nothing particularly focused on job creation, economic development. That spending is in a number of different categories. I invite Members to look at all details of the amendment. It starts with the truly inane. For instance, \$20 million for the removal of fish barriers. Let me clarify, small and medium-size fish barriers, in case one was wondering. What the heck is that, to begin with? I would venture to say 95 percent of the Senate has no idea, but we are going to throw \$20 million at that issue. How many jobs will that save or create?

That is similar to some of the items in the bill as originally introduced: An enormous amount of money for honeybee insurance; \$400 million for the prevention of sexually transmitted diseases; \$70 million still in the bill for supercomputing related to global climate change models. I am starting with what is the truly ridiculous and inane. From there we go to a lot of other items we can debate, which we may have to do, we may have to consider, but it is not stimulus. It is traditional Washington spending. How about \$1 billion for the 2010 census. We just threw \$210 million at the new census a few months ago. We are going to throw a billion dollars more. I don't know if that is needed. I don't know if that is a good idea. But I know with absolute certainty, as does everyone in this body, that that is normal spending. That is a normal appropriations matter, not job creation, economic recovery, economic stimulus.

There are so many examples like that. FBI construction. I am a big supporter of the FBI. They may have capital needs. It is not economic stimulus. NIST construction. Most Americans don't know what NIST is, the National

Institute of Standards and Technology. Maybe they have capital needs. It is not significant job creation and economic stimulus. The Commerce headquarters, we are going to spend \$34 million there under this bill. DHS, Department of Homeland Security, consolidation, reorganization, streamlining, saving. That is going to save money; right? Not exactly, \$248 million to streamline and consolidate. USDA modernization, let's modernize that Department for \$300 million.

Some of these may be good ideas. Some of this spending may be worthy. I don't know, as I stand here today. But I absolutely know—and I daresay everybody in this body knows—it is not job creation. It is not economic stimulus. It is pent-up Washington demand for government spending. Most of what I am talking about right here in our Nation's capital, in the heart of the megabureaucracies. State Department training facility, that is another \$75 million; State Department capital investment fund, \$524 million. That is almost a billion dollars. How many jobs in the heartland of America will that create? How much impact in terms of real people in the real world in mainstream America will that have in stimulating the economy? My answer is zero. That is the obvious answer on the minds of Americans. The District of Columbia sewer system, \$125 million. Are communities around the country getting the same treatment? No. The Economic Development Assistance Program, and another biggie, Amtrak, almost a billion dollars. Again, we deal with Amtrak in the normal appropriations process every year. We have an important debate about whether to continue to subsidize Amtrak. We need to have that debate. We need to get it right. I don't know what the precisely right answer is, but I know it is a normal spending item. It is not job creation. It is not economic stimulus. It is just turning this bill into a whole other year of appropriations inserted somehow magically between 2009 and 2010.

NASA climate change studies, a cool half a billion dollars. It is nice to use round figures like half a billion—neighborhood stabilization, historic preservation, fish and wildlife resource construction, comparative research, the pandemic flu, the smart grid.

People might say: You are not worried about a pandemic flu and the threat that causes to our Nation? I am. That is a serious subject. We need to address it. We have debated it and begun to address it in the normal appropriations process. Maybe we need to do more; I do not know. But I do know one thing. That is average spending and typical spending that is nothing to do with job creation and economic stimulus. Yet this bill is littered line after line after line with all of those items. Many are ridiculous. Some are obscene. Others are debatable as spending items, but they are clearly not job creation and economic stimulus.

So I hope this vote tonight on the Vitter amendment will be the begin-

ning of fundamentally changing this bill so it is no longer simply a laundry list of traditional Washington, big government spending items.

Again, the American people get it. No. 1, they know a trillion dollars is a terrible thing to waste. And, No. 2, they know this bill, as it stands now, just like the House bill, is simply a laundry list of spending items, traditional Washington, big government spending, pent-up demand for spending here in the Nation's Capital. It has been pent up and building for several years. It is not focused, disciplined, economic stimulus, or job creation.

There is a big difference between the two, and the American people, with their common sense, can spot that difference a mile away; and they have because they have been making their voices heard. Scientific polls, several polls—not one here, not one there—several across the board say that a plurality of the American people now say this is a bad idea. This bill should be changed at its core, not at the margins but at its core, or it should be stopped, and we should start over. That is what we need to do.

The speaker immediately before me, the distinguished junior Senator from Missouri, said that not acting, doing nothing, is not an option. She said that with great passion and great focus. I agree. I am a little puzzled about how animated she was about that because I do not know anyone, at least in this body, who thinks or says that inaction is an option. The choice being laid out that it is this bill even after the amendments or nothing is a superficial, false choice. Nobody thinks it is this bill even after amendments or nothing.

We have to act. But this is not the universe of possibilities. We need to change this bill at its core or, if we cannot, we need to say no. We will stay on the subject. We will focus on the economy. We will start over. We will act with real focus and speed. But it is not worth saying yes to a bad bill, particularly at the cost of nearly a trillion dollars.

So I urge all of my colleagues, Republicans and Democrats, to begin that bipartisan path forward toward making this a fundamentally different and worthy bill, and beginning that by adopting the Vitter amendment tonight.

With that, Mr. President, I yield back my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TESTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 179 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I would urge all of my colleagues to support this amendment. This would be an important start—not a finish but a start—to trimming down this bill and trimming down pure spending items out of the bill which are not job creation and economic stimulus. The whole savings would be about \$35 billion of spending in the bill. That is obviously outlined and delineated in the amendment. In addition, it would omit the Davis-Bacon language which would cost the Government in terms of increased costs of projects another \$17 billion.

The American people know the difference between a long laundry list of traditional Washington big government spending items and true, focused job creation and economic development. They know this bill right now is the former, not the latter. Let's begin to change that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, if there are no other speakers, I ask for the yeas and nays.

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

The question is on agreeing to amendment No. 179.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—32

Alexander	Cornyn	Kyl
Barrasso	Crapo	Martinez
Bennett	DeMint	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Risch
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Chambliss	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Wicker
Corker	Johanns	

NAYS—65

Akaka	Feingold	McCaskill
Baucus	Feinstein	Menendez
Bayh	Gillibrand	Merkley
Begich	Hagan	Mikulski
Bennet	Harkin	Murkowski
Bingaman	Hutchison	Murray
Boxer	Inouye	Nelson (FL)
Brown	Johnson	Nelson (NE)
Burr	Kaufman	Pryor
Byrd	Kerry	Reed
Cantwell	Klobuchar	Reid
Cardin	Kohl	Rockefeller
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Collins	Leahy	Shaheen
Conrad	Levin	Shelby
Dodd	Lieberman	Snowe
Dorgan	Lincoln	Specter
Durbin	Lugar	Stabenow

Tester	Voinovich	Whitehouse
Udall (CO)	Warner	Wyden
Udall (NM)	Webb	

NOT VOTING—2

Gregg  
Kennedy

The amendment (No. 179) was rejected.

AMENDMENT NO. 106

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No.—the Senator from Montana is recognized.

Mr. BAUCUS. We are now going to vote on the Isakson-Lieberman amendment, No. 106, the housing tax credit. I am prepared to accept the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, I want to add my voice to that of our colleague from Georgia, Senator ISAKSON, in support of his amendment. This is an idea that is not inexpensive to do, but I think it may be the kind of confidence-building measure that is necessary to free our credit markets and begin to get the housing issue moving again. It is not the only answer. I think it is a critical component and element in achieving the results we all desire.

I think our colleague from Georgia came up with an idea worth our support. Therefore, I am going to be a co-sponsor as chairman of the Banking Committee, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I thank the chairman of the Banking Committee and other Members on both sides of the aisle who worked on this amendment. I am happy to accept his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 106) was agreed to.

AMENDMENT NO. 237

Mr. BAUCUS. Mr. President, next is the Cardin amendment, No. 237. I understand the chairman and ranking member of the Small Business Committee agree to this. I don't see the chairman. I see Senator CARDIN on the Senate floor. I urge him to speak to the amendment. Otherwise, I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I thank the chairman. This amendment will make it easier for small businesses to be able to get surety bonds in order to participate in these contracts with

Government. It has the support of the chairman and ranking member of the Small Business Committee. I am prepared to accept a voice vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 237) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Montana.

AMENDMENT NO. 168

Mr. BAUCUS. Madam President, I understand the next amendment is DeMint amendment No. 168, the tax cut substitute.

This amendment is very simple. It strikes the entire bill. Then it replaces the entire bill with a \$2.5 trillion increase in the national debt, according to the Joint Committee on Tax. With debt service and added tax provisions, it increases the national debt over 10 years by \$3 trillion because it is a massive tax cut.

Again, it replaces the underlying bill, which means no aid to States, no energy provisions, no infrastructure provisions, nothing that is in the bill, replaced by a tax cut which takes effect in 2011. Joint Tax scores this, adding interest on the debt, about a \$3 trillion increase in the national debt over 3 years.

I strongly urge this amendment not be adopted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, how long do I have?

The PRESIDING OFFICER. One minute.

Mr. DEMINT. Madam President, what this bill does is probably one of the most important things we need to do in this economic debate, and it is stop the planned tax increases that are going to happen in 2011 for every American.

The large score that is being thrown around here assumes we are going to let those taxes go up, but we are not. This is a misrepresentation of the cost of this bill. This bill stops the current tax increases that are planned in 2011, keeps the current tax rate the same. The only change it makes is it lowers the top marginal rate from 35 to 25 percent for businesses, for investors, and for individual Americans.

We call it the American option because it leaves money in the hands of the American people and businesses, rather than bringing it to Washington and distributing it our way.

I encourage everyone to stop the planned tax increases with the American option.

Mr. GRASSLEY. Madam President, I will vote for DeMint Amendment No. 168 because it provides long-term tax relief. However, I do not agree that

State and local tax deductions and other itemized deductions should be eliminated. If the amendment passes, I would work in conference to restore the State and local tax deductions, as well as other itemized deductions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. DEMINT. Madam President, I move to waive the applicable portion of the budget.

Mr. BAUCUS. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—36

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

NAYS—61

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

NOT VOTING—2

Gregg Kennedy

The PRESIDING OFFICER. On this vote the yeas are 36, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

AMENDMENT NO. 238

The PRESIDING OFFICER. There will now be 2 minutes of debate evenly divided on the Thune amendment. The Senate will be in order.

Mr. THUNE. Madam President, what my amendment very simply says is that any of the funding in this bill that was not authorized as of February 1 of this year could not be funded under the bill. The point very simply is that, in order for a stimulus to be effective, it has to be timely, it has to be targeted, it has to be temporary. Funding in this or programs in this that are created that are new programs are going to be none of the above. It is going to take a long time, as we all know, to get regulations in place and create the bureaucracies. All these programs that are new programs included in this legislation are going to take a very long time to implement and, therefore, I do not believe ought to be considered stimulus and they ought not be funded as a part of this stimulus bill.

My amendment simply says any program that was not authorized as of February 1 of this year will not be funded under the stimulus bill. It is a way of trimming the cost of this bill back and doing something that actually I think eliminates a lot of the extraneous spending that is included in the bill. I urge my colleagues to support it.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Hawaii is recognized.

Mr. INOUE. Madam President, I rise in opposition to this amendment. This amendment says any item, unless the project was authorized prior to February 1 of this year, would be thrown out. No authorization bills have passed this Senate so far this year, so many worthwhile items might not meet the terms. In addition, there are new programs which were authorized but not before February 1, such as the \$9.5 billion for energy loan guarantees, \$3.2 billion for western area power, \$5.5 billion for competitive grants. These are dead.

I urge all of you, keep in mind that this is not an easy amendment. This is a tricky one. I vote no.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. THUNE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 35, nays 62, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—35

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

NAYS—62

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

NOT VOTING—2

Gregg Kennedy

The amendment (No. 238) was rejected.

AMENDMENT NO. 159

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on amendment No. 159 offered by the Senator from Florida, Mr. MARTINEZ.

Mr. MARTINEZ. Madam President, the housing crisis got us into this problem we are in today which necessitates the need for a stimulus bill. Until we deal with housing problems, we are not going to be out of this problem.

My proposal creates a situation where, for 3 years, it compensates private servicers of mortgages so they can be incentivized to work out mortgages for families who are in trouble, so that they might be able to stay in their homes and not be foreclosed.

This is a way to utilize the private sector, with some incentives from government money, to make sure we do not foreclose on more families. Two things will be accomplished. It also provides a safe harbor for the servicers, so that they are beyond legal liability for anything they might do in those workouts.

At the end of the day, what we will do is stabilize home prices by freezing foreclosures. Not only will we be helping families, but we will also be trying to put a floor on the housing economy, on housing prices, which continue to decline. This will stabilize housing prices, it will avoid future foreclosures, and it will begin to turn us around and create the kind of housing economy we need in order for the American economy to come back.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, first, I want to commend my colleague from Florida. This is a well-intended proposal. Here is the one problem with it that I tell my colleague: It breaks contracts. There is a constitutional issue here, where servicers could sue.

What we are doing with this amendment, if I understand it correctly, is that the compensation due to a servicer would now fall on the taxpayer. So we would have to set up a bureaucracy to pay the servicer where the legal liability was determined. That poses some real problems.

The other part of the amendment I totally agree with. In fact, we try to cover it. In fact, we established a safe harbor, my colleague will recall, in the bill we did together, and also trying to figure out a way to deal with this.

But I am nervous. There is \$1.7 billion dollars in the amendment. No one can say with any certainty whether that would be an adequate amount to cover the government costs were these determined to be liabilities of the government. So I am uneasy about establishing a new bureaucracy here, and also the constitutional question of breaking these contracts which raises some very serious issues.

But what I recommend to my colleague is, we have got an amendment coming up in a little while, maybe tomorrow, where we can work together to try to accommodate this to deal with exactly what he is talking about. But I have a very difficult time accepting this for the reasons I have described.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KYL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this moment there is not a sufficient second.

AMENDMENT NO. 159 WITHDRAWN

Mr. MARTINEZ. Madam President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 278

Under the previous order, there will now be 2 minutes of debate equally divided on the McCain amendment No. 278.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, every dollar of the \$1.2 trillion we are contemplating spending with this legislation would add to the national debt. The national debt has already climbed to more than \$10.2 trillion. This amount does not include any of the funding provided in the legislation we are considering. After achieving economic growth for two quarters, then, according to this legislation, the President shall submit in his first budget, after the restoration of economic growth, fixed deficit targets that would achieve a balanced budget not later than 5 years from that date.

The discretionary spending caps are restored in the first fiscal year after the restoration of economic growth for 5 fiscal years at a level equal to the budget baseline, excluding any and all portions of the Economic Recovery and Reinvestment Act.

Basically, this legislation calls for, as soon as there are two quarters of GDP growth after inflation, that we embark on an effort to balance the budget. We are mortgaging our children's future.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I strongly share the desire of the Senator from Arizona to put the budget back on track, and put it on a path to balance. But I do not think this proposal has received the consideration it deserves. It has not had a hearing before the Budget Committee, yet includes a proposal to create deficit targets that were badly gamed during the Gramm-Rudman era, and turned out to actually cover for additional deficits. So I think that would be a profound mistake. We need a process that works. It deserves the consideration of the President and the Budget Committee.

I strongly urge my colleagues to oppose this amendment at this time.

I raise a point of order that this amendment violates section 306 of the Congressional Budget Act.

Mr. MCCAIN. Madam President, I move to waive the applicable portions of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—44

Alexander	DeMint	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Hatch	Roberts
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Coburn	Johanns	Specter
Cochran	Kyl	Thune
Collins	Lieberman	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Wicker
Crapo	McCain	

NAYS—53

Akaka	Bennet	Brown
Baucus	Bingaman	Burr
Begich	Boxer	Byrd

Cantwell	Kaufman	Reed
Cardin	Kerry	Reid
Carper	Klobuchar	Rockefeller
Casey	Kohl	Sanders
Conrad	Landrieu	Schumer
Dodd	Lautenberg	Shaheen
Dorgan	Leahy	Stabenow
Durbin	Levin	Tester
Feingold	Lincoln	Udall (CO)
Feinstein	Menendez	Udall (NM)
Gillibrand	Merkley	Warner
Hagan	Mikulski	Webb
Harkin	Murray	Whitehouse
Inouye	Nelson (FL)	Wyden
Johnson	Pryor	

NOT VOTING—2

Gregg	Kennedy
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The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is sustained, and the amendment fails.

The Senator from Montana.

AMENDMENT NO. 161

Mr. BAUCUS. Mr. President, it is my understanding the next amendment is Bond amendment No. 161. I have checked with our side. Our side is willing to accept this amendment. I understand it is also acceptable by the other side, but I will let Senator BOND speak to that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have to do a couple things, and I just want to tell you, thanks so much for agreeing to support this bipartisan amendment cosponsored by my partner on the Transportation and Housing and Urban Development Subcommittee, Senator MURRAY, and Senator DODD, Senator REED of Rhode Island, and Senator KOHL.

Mr. President, I ask unanimous consent that Senators VOINOVICH and BROWBACK be added as cosponsors to the amendment.

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

Mr. BOND. Some people are a little confused. In 30 seconds—50 seconds maybe—let me tell you, this is \$2 billion in direct equity that goes to State housing finance programs to produce affordable housing. The funds come from the home moneys in the bill. The funds go to shovel-ready projects that have already been approved by State credit agencies. Why can't they go forward? Because of the credit crisis and the crunch, the tax credits are no longer worth what they used to be worth. This amendment allows to fill in the hole. It makes the projects viable. There will be tens of thousands of new units and tens of thousands of new jobs.

I appreciate very much my colleagues on the other side.

I yield to my colleague from Washington.

Mr. BAUCUS. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment.

The amendment (No. 161) was agreed to.

## AMENDMENT NO. 262

The PRESIDING OFFICER. Under the previous order, there will be now 2 minutes of debate equally divided prior to a vote on amendment No. 262, offered by the Senator from Oklahoma.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that Senators MARTINEZ, CHAMBLISS, ROBERTS, BROWNBACK, and BUNNING be added as cosponsors to the amendment.

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

Mr. INHOFE. Mr. President, there has been a lot of discussion and complaints about there not being enough funds in terms of infrastructure—roads and buildings and all that. Actually, it is under 4 percent in this bill. We have talked about that. What we have not talked about is the need for military procurement.

In a Washington Post article, Martin Feldstein talked about the fact that infrastructure spending on domestic military bases and procurement is one of the things we could do that would be very helpful, citing there are 655,000 employees in the aerospace industry alone.

Now, what I am trying to do with this amendment is to increase procurement by \$5.3 billion. It is offset. So you have a decision: Do you want to spend \$20 million for fish passage barrier removal, \$34 million to renovate the Department of Commerce, or have a strong national defense? Do you want to spend \$13 million to research volunteer activities or have a strong national defense?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I urge adoption of my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment adds \$5.2 billion for defense. It pays for it by cutting a long list of programs out of the bill: energy-efficient motor vehicle fleet—that is one I see right here—grants for the National Passenger Rail Corporation, among others.

On behalf of Senator INOUE, I make a point of order that the pending amendment violates section 302(f) of the Budget Act.

Mr. INHOFE. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 41 Leg.]

## YEAS—38

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

## NAYS—59

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

## NOT VOTING—2

Gregg Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, we have four more votes tonight, and then we will have no more votes tonight after those four.

What I wanted to talk about a little bit is tomorrow. We started on this bill Monday evening. Everyone who has stood to give a speech on this—Democrat or Republican—has talked about the financial crisis our country is in. There are different ways of addressing it, and we understand that. I wanted to do everything I could to make sure there is an open process, and there has been. There have been no restrictions on amendments. There have been no complaints from us as to subject matter of amendments. However, the stark reality is we need to complete this bill. We have stated and the Speaker has stated that we need to finish this bill before the Presidents Day recess. To do that, to jump through all the hurdles, is very difficult.

In my last conversation with the Republican leader, he indicated that he would like to go to conference. I am not holding him to that. Something could go wrong the next couple of days or today or tomorrow, but that is our intention. If we don't go to conference, then we will do what we have done in the past: send something back over

here. I would rather we did a conference. I think it would set a good tone. But conferences are sometimes slow and a little bit tedious. We have to get two different committees and maybe as many as three different committees represented in that conference. We have to get everybody together and have a series of meetings.

To solve the financial crisis we have in our country is going to take a lot of cooperation. We know this bill is imperfect. Democrats and Republicans acknowledge it is an imperfect piece of legislation.

Without belaboring the point, we are going to have votes again tomorrow. Now, my colleagues will note that the vast majority of the votes we have had have been Republican amendments. That is fine. We are happy with that. We want to make sure that people with concerns about this bill offer those amendments, but we are now arriving at a point where we are offering amendments upon amendments.

I understand there are two big amendments I know the Republicans have tomorrow. One of them is the Ensign-McConnell amendment dealing with housing. I understand my friend—the man I have been with now going on 27 years; we came to Washington together—JOHN MCCAIN has an important amendment. There are probably other amendments everybody thinks are important. I would at least note those two.

I hope we can look to finishing this legislation tomorrow. That doesn't mean at 5 o'clock. It may be later in the evening—and that is an understatement—but I think we should work to see if we can complete this legislation.

I know we are getting toward the end of amendments being offered because I have been told by my staff that now we are getting into amendments dealing with religious liberty and other things that don't have a lot to do, in my opinion, with this legislation, but we are setting no restriction or parameters on what amendments can be offered.

We all do acknowledge we have a crisis facing the American people. If someone isn't absolutely happy about this legislation, let's vote and move it on to the next program. If we do something in conference that is revolting to the minority, they can stop the conference report. So let's move on. Let's finish this. For us to finish this bill tomorrow or Friday is going to still take a lot of our work so that the President has a piece of legislation on his desk and so we can leave and do our Presidents Day recess.

Now, we don't have to take our recess, but we have responsibilities that are more than in Washington, DC. We have a constituency at home to whom we also have responsibilities. I doubt there is one of us who doesn't have a lot to do during the Presidents Day recess at home. We aren't often able to go home during the week, so there are things I know that I schedule during the breaks that I can't do any other time. Weekends don't do the trick.

So in light of the crisis facing the American people, there is no reason the American people shouldn't expect us to complete action on this bill tomorrow. If people need more time, I am a patient man. Now, we understand—we will take a 60-vote margin. We are happy to have this legislation require 60 votes. I hope we don't have to go through filing cloture and a cloture vote on Saturday or Sunday and 30 hours and all that stuff.

I just think the picture the people have here of the Senate is one where we have really tried these first few weeks, including the time during this legislation, to have the Senate work as it used to. I hope everyone feels—as we start getting the extraneous amendments dealing with matters I don't think conform with what the intention of this bill is, which is economic recovery—that we should be worried about people not having the opportunity to offer amendments. I think we have offered a number of amendments on housing. You name the subject, we have done multiple amendments. I am a patient person, as I have indicated, willing to work with everyone, but my goal is to get this legislation over to the House as soon as we can.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me just say I think the amendment process has been well handled. We had a lot of amendments to offer today, and they are in the process of being voted on. We have a lot more amendments to offer tomorrow, and then I think we can discuss sometime during the day tomorrow exactly what the endgame might be on this legislation.

I am pleased and my Members are pleased, I would say to the majority leader, with the way it has been handled to this point, and sometime tomorrow we will discuss how we might move toward a conclusion.

I yield the floor.

AMENDMENT NO. 277

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 277 offered by the Senator from Texas, Mr. CORNYN.

The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, my amendment reduces the 10-percent marginal income tax bracket to 5 percent—10 percent to 5 percent—in 2009 and 2010. Currently, the 10-percent tax bracket that was created in 2001 by the Economic Growth and Tax Relief Reconciliation Act applies to the first roughly \$8,000 that a single taxpayer earns and \$16,000 for a joint tax return. My amendment provides broad-based relief to more than 105 million taxpayers, including every hard-working American with an income tax liability.

My amendment does not add to the bill's total. Instead, my amendment is paid for by striking the refundable making work pay credit which picks

winner and losers by providing relief to only a select group of taxpayers. It also, I might say, repeats a mistake we made last year, or earlier—I guess last year, last January—when we spent \$150 billion of our children's and grandchildren's money to try to stimulate the economy, and everybody agrees it did not work.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the amendment is very simple. Let me explain the consequence of the amendment.

Those who pay income taxes will get a tax reduction. Those who work but do not pay income taxes—they pay payroll taxes—will not get any benefit from this amendment. That is the portion that is cut out. That is about 50 million Americans. So this amendment would give a tax cut to those who pay income taxes—a modest amount—and to pay for it, it disenfranchises those 49 million, 50 million Americans who will get a tax break under this bill because they work; that is, they pay payroll tax. Those who work but who are not wealthy will spend the money more than people who are wealthier and get a tax cut. So I suggest very strongly that we do not support this amendment.

I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21.

Mr. CORNYN. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—37

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

NAYS—60

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

NOT VOTING—2

Gregg Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

AMENDMENT NO. 242

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on amendment No. 242 offered by the Senator from Kentucky, Mr. BUNNING.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, my amendment is simple. It suspends for the year 2009 the tax increase on Social Security benefits that Congress passed in 1993. This increase taxes seniors above certain income levels on 85 percent of their Social Security taxable income. We should not be in the business of taxing Social Security benefits. It is unfair, and it is punitive.

CRS estimates that at least 12 million seniors pay this tax. This amendment holds the Medicare trust funds harmless. Joint Tax says the amendment scores at \$14.4 billion, so I reduce discretionary spending in the bill, except spending for veterans, by the necessary amount.

Now is the time to fix this problem at least for 1 year. I urge support of the amendment.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment effectively undoes part of the budget agreement that was agreed to in 1993. We effectively balanced the budget and ended up with a \$10 billion, \$11 trillion surplus. The fact is, the amendment reduces taxes only on the top 24 percent, the highest income-earning seniors. Twenty-four percent of the most wealthy seniors—that is highest income—will get a break in taxes. Other seniors will not. The other 76 percent will get no break.

The Senator from Kentucky pays for it by reducing parts of the bill which create jobs. This is highways, this is roads, this is energy, and so forth. Frankly, I don't think that is a wise course of action to take.

Accordingly, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I move to waive the applicable portion of the Budget Act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

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

The yeas and nays resulted—yeas 39, nays 57, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—39

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Specter
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Wicker

NAYS—57

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

NOT VOTING—3

Gregg	Kennedy	Voinovich
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The PRESIDING OFFICER. On this vote the yeas are 39, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Montana is recognized.

AMENDMENT NO. 300 TO AMENDMENT NO. 98

Mr. BAUCUS. The next amendment is the Dorgan amendment, No. 300, which we are prepared to take.

Mr. DORGAN. Mr. President, I ask we consider amendment No. 300.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. BAUCUS and Mr. BROWN,

proposes an amendment numbered 300 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To clarify that the Buy American provisions shall be applied in a manner consistent with United States obligations under international agreements)

On page 430, strike lines 7 through 12 and insert the following:

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

Mr. DORGAN. I offer this amendment on behalf of myself, Mr. BAUCUS, Mr. INOUE, and Mr. BROWN. It simply says the "Buy American" section shall be "applied in a manner consistent with United States obligations under international agreements."

I yield the remainder of my time to Senator BROWN.

Mr. BROWN. I thank the Senator from North Dakota and thank Senators BAUCUS and INOUE for their support.

Americans are willing to reach into their pockets and spend billions of dollars for infrastructure to build bridges and highways and water and sewer and put people back to work. All that Americans want is that we provide jobs in this country—jobs, construction jobs—and that what they use for this construction, the materials, are made in America. This is WTO compliant. It follows U.S. and international global trade rules. It is a commonsense amendment.

Some people say "protectionism," but how can you have an \$800 billion trade deficit and call us protectionist? How can you have a \$200-billion-a-day net outflow and say we are closing our borders? It makes sense to vote for the Dorgan amendment.

Mr. MCCAIN. Mr. President, I ask for 1 minute to speak in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, what this amendment does is basically stand in direct contradiction to the amendment itself. It is impossible to say the section would be applied in a manner consistent with the U.S. obligations under international agreements and then say that anything that is manufactured in the United States, whether iron, steel, or manufactured goods will have to be subject to "Buy American."

The reaction to this amendment has been strong and widespread, including the President of the United States, who said, "I think this would be a mistake right now." The President said, "It is a potential source of trade wars that we cannot afford at a time when trade is sinking all over the globe."

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, I am pleased to express my support for the Dorgan amendment that would clarify that the Buy American provisions of this bill shall be applied in a manner that is consistent with our international trade obligations.

The original Buy American language in the bill doesn't specifically provide an exemption for countries that provide reciprocal access for the United States in the area of government procurement. But we are obligated under international agreements to provide such a carveout. This amendment will fix this problem.

The United States has obligations to its trading partners. If we don't live up to our commitments to other countries under trade agreements, we can't expect them to live up to their commitments to us. The last thing that we should do in this time of economic uncertainty is fail to comply with our international obligations.

I would like to thank Senator DORGAN and Senator BAUCUS for working together to craft this amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to be listed as a cosponsor on the Dorgan amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 300) was agreed to.

AMENDMENT NO. 279

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the amendment offered by the Senator from Arizona.

Mr. MCCAIN. Mr. President, nearly 80 years ago, two men—Mr. Smoot and Mr. Hawley—led an effort to enact protectionist legislation in hopes of curing the woes of the American worker. Despite the strong objection of over a thousand leading economists of the time, the Smoot-Hawley legislation was enacted. This bill helped spark an international trade war that turned a severe recession into the greatest economic depression in modern history.

The Buy American provision in the current bill has echoes of the disastrous Smoot-Hawley tariff act. It prohibits the use of funds in this bill for projects unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. These anti-trade measures may sound welcome to Americans who are hurting in the midst of our economic troubles and faced with the specter of layoffs. Yet shortsighted protectionist measures like Buy American risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the Buy American provisions in this bill will actually cost the United States more jobs than it will generate.

Some of our largest trading partners, including Canada and the European Union—who account for hundreds of billions of dollars in annual trade—have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth. And it seems

clear that this provision violates our obligations under more than one international agreement, including the WTO Agreement on Government Procurement and the procurement chapter of the North American Free Trade Agreement.

Just last November in Washington, the U.S. signed a joint declaration with members of the G-20 pledging that "within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services." Yet barely 2 months later, we are contemplating whether or not to go back on a commitment to some of our closest allies and trading partners, potentially damaging our credibility to uphold future agreements.

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

We know the lessons of history, and we cannot fall prey to the failed policies of the past. We should not sit idly by while some seek to pursue a path of economic isolation, a course that could lead to disaster. It didn't work in the 1930s, and it certainly won't work today. I hope all senators will support this amendment, which would strike the existing Buy American provision and replace it with a limitation on Buy American clauses in this bill.

As I said, the President of the United States said it would be a mistake right now. It sends a message to the world that the United States is going back to protectionism.

I ask unanimous consent the comments of literally every leader in the world, including the Canadian leader, the European leader, and over 100 major industries in the United States of America in opposition to this amendment and an op-ed article by Douglas Irwin be printed in the RECORD at this time.

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

## LETTERS FROM WORLD LEADERS

## CANADA

Ambassador Michael Wilson: "We are concerned about contagion, that is, other countries also following protectionist policies. If Buy America becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930s."

## EUROPEAN UNION

Ambassador John Bruton: "The United States and the European Union should take the lead in keeping the commitments not to introduce protectionist measures taken by the G20 in November 2008. Failing this risks entering into a spiral of protectionist measures around the globe that can only hurt our economies further."

## U.S. INDUSTRY

Over 100 signatories: "Enacting expansive new Buy American restrictions would invite

our international partners to exclude American goods and services from hundreds of billions of dollars of opportunities in their stimulus packages and perhaps to adopt Buy-Local rules or raise other barriers to American goods more broadly across their economies. The resulting damage to our export markets and the millions of high-paying American jobs they support would be enormous."

## QUOTES FROM WORLD LEADERS

## U.K.

Prime Minister Gordon Brown: "The biggest danger the world faces is a retreat into protectionism".

## U.S.

President Barack Obama: It would be a mistake when worldwide trade is declining for the United States "to start sending a message that somehow we're just looking after ourselves and not concerned with world trade."

## QUOTES FROM REPORTS AND NEWS SOURCES

## PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS

Report on 'Buy American': EU spokesman Peter Power stated that "if a bill is passed which prohibits the sale or purchase of European goods on American territory, [the European Union] will not stand idly by and ignore." Buy American provisions would particularly damage US reputation abroad since they would come just a few months after the United States pledged to reject protectionism at the G-20 summit on November 15, 2008.

In a country of 140 million workers, with millions of new jobs to be created by the stimulus package, the number of employees affected by the Buy American provision is a rounding error.

General Electric (GE) Senior Counsel Karan Bhatia: "You would be creating an ample basis for countries to close their markets to U.S. products."

Bill Lane—Caterpillar, Inc. Director of Governmental Affairs: . . . "The so-called Buy America amendment is really an anti-export provision." . . . "At Caterpillar we are doing everything we can to export American-made products to the numerous infrastructure projects being proposed around the world, particularly those in China. Embracing new Buy American restrictions would totally undermine those efforts to increase U.S. exports."

Fred Smith—Chairman of FedEx: . . . "If the Congress passes this buy-American provision, I can assure you—and we operate in 220-some-odd countries around the world and are a huge part of the import-export infrastructure of the United States—we will get retaliation, and it will be American jobs at risk."

## LIST OF COMPANIES AND ORGANIZATIONS IN OPPOSITION TO BUY AMERICAN

(Signatories of attached industry letter)

ABB; The ACE Group of Insurance and Reinsurance Companies; AT&T; Alticor, Inc.; AgustaWestland North America Inc.; Avaya Inc.; BAE Systems, Inc.; BASF Corporation; Boston Scientific Corp.; Case New Holland Inc.; Caterpillar Inc.; Cisco Systems, Inc.; Citibank N.A.; Cummins Inc.; Dassault Falcon Jet; The Dow Chemical Company; Eastman Kodak Company; Forsberg International Logistics, LLC; Fujitsu.

General Electric Company; IBM Corporation; Intel Corporation; International Bancshares Corporation; International Bank of Commerce; ITT Corporation; John Deere; Lockheed Martin Corporation; Manitowoc Company Inc.; The McGraw-Hill Companies, Inc.; McKesson Corporation; Michelin North

America, Inc.; Microsoft Corporation; NEC Corporation of America; Oracle Corporation; Panasonic Corporation of North America; PCS VacDry USA LLC; Philips Electronics North America; The Procter & Gamble Company; SAP America.

Siemens Corporation; TEREX; Texas Instruments Incorporated; Transact Technologies; Trimble Navigation Limited; Unilever United States; United Technologies Corporation; US Trading & Investment Company; Volvo Group North America; XOCO USA; Xerox Corporation; The Advanced Medical Technology Association; Aerospace Industries Association; American Business Conference; American Chemistry Council; American Council of Engineering Companies; Associated Builders & Contractors; Associated Equipment Distributors.

Association of International Automobile Manufacturers, Inc.; Business Roundtable; The Associated General Contractors of America; The Association of Equipment Manufacturers; Brazil-U.S. Business Council; Business Software Alliance; California Chamber of Commerce; Canadian American Business Council; Consuming Industries Trade Action Coalition; The Coalition for Government Procurement; Coalition of Service Industries; Computer & Communications Industry Association; Computing Technology Industry Association; Consumer Electronics Association; Emergency Committee for American Trade.

European-American Business Council; Grocery Manufacturers Association; Hong Kong-U.S. Business Council; Information Technology Industry Council; International Wood Product Association; National Association of Foreign-Trade Zones; National Association of Manufacturers; National Defense Industrial Association; National Electronic Distributors Association; National Foreign Trade Council; Ohio Alliance for International Trade; Organization for International Investment; Retail Industry Leaders Association; Securities Industry and Financial Markets Association; Semiconductor Industry Association; Software & Information Industry Association.

Technology Association of America (formerly AeA and ITAA); Technology CEO Council; Telecommunications Industry Association; United States Council for International Business; US-ASEAN Business Council; U.S.-Bahrain Business Council; U.S. Chamber of Commerce; U.S.-India Business Council; U.S.-Korea Business Council; U.S.-Pakistan Business Council; U.S.-UAE Business Council; Washington Council on International Trade.

[From the New York Times, Jan. 31, 2009]

IF WE BUY AMERICAN, NO ONE ELSE WILL

(By Douglas A. Irwin)

HANOVER, NH.—World trade is collapsing. The United States trade deficit dropped sharply in November as imports from the rest of the world plummeted in response to the financial crisis and global recession. United States imports from China, Japan and elsewhere declined at double digit rates. The last thing the world economy needs is for governments to give a further downward shove to trade. Unfortunately, we may be doing just that.

Steel industry lobbyists seem to have persuaded the House to insert a "Buy American" provision in the stimulus bill it passed last week. This provision requires that preference be given to domestic steel producers in building contracts and other spending. The House bill also requires that the uniforms and other textiles used by the Transportation Security Administration be produced in the United States, and the Senate may broaden such provisions to include many other products.



That might sound reasonable, but history has shown that Buy American provisions can raise the cost and diminish the effect of a spending package. In rebuilding the San Francisco-Oakland Bay Bridge in the 1990s, the California transit authority complied with state rules mandating the use of domestic steel unless it was at least 25 percent more expensive than imported steel. A domestic bid came in at 23 percent above the foreign bid, and so the more expensive American steel had to be used. Because of the large amount of steel used in the project, California taxpayers had to pay a whopping \$400 million more for the bridge. While this is a windfall for a lucky steel company, steel production is capital intensive, and the rule makes less money available for other construction projects that can employ many more workers.

American manufacturers have ample capacity to fill the new orders that will come as a result of the fiscal stimulus. In addition, other countries are watching closely to see if the crisis becomes a general excuse for the United States to block imports and favor domestic firms. General Electric and Caterpillar have opposed the Buy American provision because they fear it will hurt their ability to win contracts abroad.

They're right to be concerned. Once we get through the current economic mess, China, India and other countries are likely to continue their large investments in building projects. If such countries also adopt our preferences for domestic producers, then America will be at a competitive disadvantage in bidding for those contracts.

Remember the golden rule, or the consequences could be severe. When the United States imposed the Smoot-Hawley Tariff in 1930, it helped set off a worldwide movement toward higher tariffs. When everyone tried to restrict imports, the combined effect was a deeper global economic slump. It took decades to undo the accumulated trade restrictions of that period. Let's not make the same mistake again.

Mr. MCCAIN. Mr. President, this amendment may lose. We are making a very dangerous move tonight.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, both Mr. Smoot and Mr. Hawley are dead, but this amendment is a part of a very significant debate that is on the floor of the Senate and across the country. Mr. President, 20,000 people a day are losing their jobs—20,000 people a day. We are going to shove a lot of money out the door of this Congress in support of economic recovery. The question is, Are we going to try to put people back to work? Will we put people back to work on America's factory floors making iron and steel and manufactured products?

We already have a "Buy American" provision under current law. That is not violative of our trade agreements. We just added an amendment that says this section, the "Buy American" section, "shall be applied in a manner consistent with United States obligations under international agreements."

I don't think anyone can credibly argue that somehow this undermines our international agreements. But we do have a \$700-billion-a-year trade deficit, and my hope would be that as we push this money out the door, we do it in support of American jobs.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment.

Mr. MCCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

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

The result was announced—yeas 31, nays 65, as follows:

(Rollcall Vote No. 44 Leg.)

YEAS—31

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Hatch	Risch
Bunning	Inhofe	Roberts
Chambless	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Kyl	Thune
Corker	Lieberman	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—65

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

NOT VOTING—3

Gregg Kennedy Voinovich

The amendment (No. 279) was rejected.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, on behalf of Senator LANDRIEU, I ask unanimous consent that the pending amendments be temporarily set aside, and Senator LANDRIEU's amendment No. 102 be called up and agreed to, and that the motion to reconsider be temporarily laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I have checked with Senator COCHRAN.

Mr. ENSIGN. Mr. President, reserving the right to object, while we are waiting, may I lay down my amendment?

Mr. BAUCUS. Mr. President, on the Landrieu amendment, I withdraw my request.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 353 TO AMENDMENT NO. 98

(Purpose: In the nature of a substitute)

Mr. ENSIGN. I ask unanimous consent that the pending amendments be set aside. I send an amendment to the desk and ask for its immediate consideration.

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

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. MCCONNELL, and Mr. ALEXANDER, proposes an amendment numbered 353 to Amendment No. 98.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BAUCUS. Mr. President, it is my understanding that with the amendment just offered by the Senator from Nevada, tomorrow morning the first amendment to be considered will be the amendment offered by Senator MCCAIN from Arizona. The second amendment will be the amendment offered by the Senator from Nevada, Mr. ENSIGN. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

AMENDMENT NO. 354 TO AMENDMENT NO. 98

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 354 to Amendment No. 98.

The amendment is as follows:

(Purpose: To impose executive compensation limitations with respect to entities assisted under the Troubled Asset Relief Program)

At the end of division B, add the following:

#### TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

##### SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term "senior executive officer" means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term "golden parachute payment" means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term "TARP" means the Troubled Asset Relief Program established

under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term “TARP recipient” means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(6) COMMISSION.—The term “Commission” means the Securities and Exchange Commission.

**SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.**

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(c) SPECIFIC REQUIREMENTS.—The standards established under subsection (b) shall include—

(1) limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period that any obligation arising from TARP assistance is outstanding;

(2) a provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;

(3) a prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period that any obligation arising from TARP assistance is outstanding;

(4) a prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period that the obligation is outstanding to at least the 25 most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

**SEC. 6003. BOARD COMPENSATION COMMITTEE.**

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board

Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

**SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.**

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

**SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.**

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(b) NONBINDING VOTE.—A shareholder vote described in subsection (a) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(c) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue any final rules and regulations required by this section.

**SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.**

(a) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to employees of each entity receiving TARP assistance before the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

Mr. DODD. Mr. President, I will be very brief. I know others want to be heard. I appreciate the consideration of the manager of this part of the bill, Senator BAUCUS.

This amendment would apply to recipients of TARP assistance, stronger restrictions on executive compensa-

tion. I will make some comments this evening and invite my colleagues to look at the language of the amendment.

It is the one that I hope all Members will be able to support. It does not directly apply to the stimulus package, but it is an opportunity for us to speak on the executive compensation issues which are critically important.

The amendment bans bonuses for most highly paid executives of TARP-recipient firms: Prohibits TARP recipients from paying a bonus, retention award, or other similar incentive compensation to the 25 most highly-paid employees “or such higher number as the Secretary of the Treasury may determine is in the public interest with respect to any TARP recipient.”

It requires a retroactive review: The Secretary of the Treasury must review bonus awards paid to executives of TARP recipients to determine whether any payments were excessive, inconsistent with the purposes of the act or the TARP or otherwise contrary to public interest and, if so, seek to negotiate with the recipient and the subject employee for appropriate reimbursement to the Government.

It requires each TARP recipient to include on annual proxy statement a “say on pay” proposal or advisory shareholder vote on the company’s executive cash compensation program.

It allows for the Government to clawback any bonus or incentive compensation paid to an executive based on reported earnings or other criteria later found to be materially inaccurate.

It prohibits compensation plans that would encourage manipulation of reported earnings.

The Board Compensation Committee of each TARP recipient must be composed entirely of independent directors; and requires the committee to evaluate compensation plans and their potential risk to the financial health of the company.

It prohibits golden parachutes to top senior executives.

It prohibits a compensation plan that has incentives for employees to take unnecessary and excessive risks that threaten the value of the company.

This will encourage the companies to use the TARP funds for the purposes they were intended and assure the American taxpayers that their funds are being used properly.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 326.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. BARRASSO. Mr. President, the bill we are looking at today represents a massive Federal investment. It will provide Federal funds for a host of activities at State and local levels. This would be a new experience for many of our States.

The requirements set forth for Federal involvement have caused some State and local officials to take pause. But in the West, we have already learned the lessons of Federal involvement. In my State of Wyoming, we deal with the Federal Government in the day-to-day operations of our land, of our businesses and of our communities. More than 45 percent of the land in Wyoming is federally owned. The Federal Government has introduced major predators into our landscape. The Federal Government controls most of our dams, lakes, and reservoirs. The Federal Government manages the irrigation and grazing for agriculture production. We depend on Federal managers to access Federal lands for hunting and fishing. Living with this heavy Federal involvement in Wyoming, we struggle every day to cut red tape and to get work done. I urge the Members of the Senate to seriously consider the experience of the people of Wyoming.

We in Congress need to face the realities of our Federal system. Bureaucratic delays impact everyday life in Wyoming. Unless we seriously consider legislative alternatives, delays will affect many of the projects proposed for funding through this piece of legislation we are considering. The vast majority of the projects proposed for this funding are subject to environmental laws. These laws provide for measured, thoughtful decisionmaking. They allow public involvement in our Government, but they are not built for speed. Virtually every school to be built, every road, and every bridge in this legislation would require documentation under the National Environmental Policy Act, called NEPA. From my Wyoming experience, NEPA reviews can take years—not weeks, not months but years. Even after NEPA documentation is finalized, activist groups can file appeals and litigation and hold up projects for many years to come.

To address this pressing need, I am proposing an amendment today numbered 326, along with several colleagues, to provide for a streamlined process of approval. The amendment would require that NEPA be completed in 9 months. We require that administrative appeals be combined for expedient consideration. Once the administrative remedies are exhausted, judicial review is available in the Federal Court of Appeals right here in Wash-

ington, DC. This provides a single, clear system to review decisions and provide a fair ruling.

A host of experts have called for Congress to face the reality of NEPA during this stimulus package debate. The nonpartisan Congressional Budget Office, in their January 28 letter to the Senate, gave recommendations for “actions that could accelerate spending.” NEPA is the very first point they offered. CBO wrote that Congress should consider “waiving requirements for environmental and judicial reviews.” CBO is not alone. Governor Schwarzenegger of California, a very moderate Governor, listed waiving NEPA as a priority for his State to succeed with stimulus funding. He wrote that Congress should “waive or greatly streamline NEPA requirements,” in order to speed delivery of the projects. The U.S. Chamber of Commerce, the largest group of businesses in the Nation, called for NEPA reform. These are exactly the people we expect to lift us out of the recession. The U.S. Chamber of Commerce feels that this amendment is necessary for the stimulus package to succeed. The knowledgeable, moderate, hard working people of America are calling on Congress to make this improvement to the stimulus legislation. In fact, some of them are calling for us to go further than this amendment would go.

This amendment is not a waiver of NEPA responsibility. Rather, it requires that NEPA documentation be timely and effective. If bureaucratic delays stand in the way of project completion, it provides for the project to go forward. This amendment is a practical middle ground. I urge Members of the Senate to support it.

This amendment will make the aims of this legislation possible. The Federal Government should not stand in the way of people trying to help out and to help us out of the recession. Community projects should be reviewed quickly and allowed to go forward after a reasonable time. This amendment would prevent bureaucratic delays. Approval of the amendment will allow our transportation, our public land management, and construction goals to be met on time. If the aim of H.R. 1 is to provide quick, efficient funding for projects that will stimulate our economy, we must approve this amendment. If projects are truly shovel ready, if our partners in the agencies, States and local governments have done their homework, they won't depend on this amendment. But by approving this amendment, we will guarantee that no Federal bureaucrat sitting in Washington can waste time and money on endless paperwork. Frankly, I believe this kind of requirement should be available to all of us who struggle with bureaucratic delays in the Federal Government.

I will explain a few of the difficulties we face in Wyoming with Federal delays and bureaucratic red tape. I am sure my fellow cosponsors of the

amendment have similar stories. I hope my colleagues will heed our cautionary tales.

In the Medicine Bow National Forest, we have watched millions of acres of forest die year after year. Bark beetles have infested our pine trees. They spread quickly and leave behind stands of dense, dry timber waiting to burn. We see entire mountain ranges of standing dead timber. This is a health problem, a safety problem for our communities in and around the forest. The Forest Service recognizes the importance of moving quickly to reduce wildfire risk and remove the hazardous fuels. Yet it takes nearly 2 years to plan and review a single project, 2 years before we can even begin work on the projects. Most of that time is consumed by analysis and review in order to reach NEPA compliance. This is a clear example where red tape and bureaucratic requirements are failing the people of Wyoming. These same policies will fail the people of America if we do not include a process of expedited NEPA regulations in this legislation.

The Eastern Shoshone and Northern Arapaho tribes also face delays due to red tape that the Federal Government imposes on transactions involving Indian lands. Almost every proposal to lease or develop the surface minerals, timber, water, and other resources located on Indian land is subject to approval by a Federal official. However, that official's decision cannot be made until the NEPA review and documentation requirements have been fulfilled. The lengthy paperwork must be completed regardless of what the Indian tribe or the landowner wants and regardless of the tribe or the landowner's participation in negotiating the transaction. Those review and documentation requirements take time, even when the process goes smoothly. If there is a court challenge to the NEPA review, the process can be dragged on for many months or even years. The challenge of complying with NEPA has its own impacts on the human environment in the case of Indian lands. It makes Indian lands less attractive to prospective investors and developers, and it can lead to substantial delays and considerable uncertainty.

I am not saying that NEPA has no benefits and that it is all bad. But as we consider this stimulus bill, we in Congress must be honest with ourselves. We must face the fact that NEPA compliance may create significant delays in the spending contemplated by this bill. That should not happen. We should make it clear that NEPA will not be available as a mechanism to block or substantially delay a project authorized by this legislation.

With that in mind, I hope Members of the Senate will support this amendment. We know in Wyoming that delay and red tape are part of every Federal project. If Washington is serious about implementing massive Federal investment in local communities, we must

ask ourselves the same questions being asked by our constituents: How do we make the process effective? How do we harness the most resources in the least amount of time? How can we best serve the people?

If you consider the on-the-ground realities of Federal projects, you see the necessity of this amendment. We need to put an end to bureaucratic delays. We must allow our communities to move forward with projects in a reasonable timeframe. We should allow the public to dispute Federal decisions, but we should limit unending lawsuits and delays. These are improvements that will vastly improve the effectiveness of Federal funding and allow truly shovel-ready projects to proceed without delay.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, at this point, I appreciate that the Senator from Wyoming has an amendment. I wondered if perhaps he could hold off and offer his amendment tomorrow and work out with Senator BOXER the appropriate accommodations for both Senators. That would be my hope. In the meantime, Senator HARKIN has an amendment he would like to offer.

Mr. BARRASSO. Mr. President, I will work on that with Senator BOXER.

Mr. BAUCUS. I thank the Senator for his accommodation.

Mrs. BOXER. Mr. President, I thank Senator BARRASSO. I didn't know about the Senator. As he knows, he is waiving the National Environment Act as it pertains to these projects. I will be glad to work with him to figure out a way to do a side-by-side, however he wants to deal with it, a second degree.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 338 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BARRASSO. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wish to talk about the amendment I will be calling up at some point. There is no doubt that the automobile industry is the heart and soul of America's manufacturing sector. It is absolutely critical to a healthy and diversified, vibrant U.S. economy. Right now this essential industry is on life support, hemorrhaging jobs, slashing production, closing dealerships, and, in the case of GM and Chrysler, dependent on Federal loans to avoid bankruptcy. Chrysler announced a 50-percent decline in January sales compared to a year ago. GM had a 49-percent decline in sales. Ford had a 39-percent decline. Toyota, with major plants in America, suffered a 32-percent decline in U.S.

sales. These numbers are shocking, and people who think this is only an automakers' problem just don't get it.

The auto industry is not just a few assembly plants in Detroit. The Big Three and foreign automakers have plants in Alabama, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

There are car dealerships and auto parts manufacturers in thousands of communities all across America. Directly or indirectly, the auto industry supports one 1 of every 10 jobs in this country.

So let's be very clear, we are not going to have a strong economic recovery in the United States without a strong recovery in the automobile industry. That is why it is important this economic stimulus bill provide a major boost to automakers. The real question is, What is the best way to give a boost to the automakers? Is it giving them money at the top and letting them deal with it as they will? Well, that is like old trickle-down economics; all we have to do is give it to the top and somehow it will all trickle down.

Some of us have a better idea, and I think a better approach. It is to put it in at the bottom and let it percolate up. Here is what I mean by that.

The auto workers want nothing more than to be back on the job producing full time, producing high-quality cars, providing for their families, paying their taxes.

Now, I am offering this amendment which will give low- and modest-income consumers a \$10,000 subsidy for the purchase of a new car that is assembled in America—a car or pickup truck assembled in America.

Now, here are the conditions that apply to this. First of all, the car you are bringing in has to be at least 10 years old. You have to have title for the car in your own possession prior to the date of the enactment of this bill. The new car you are purchasing has to get at least 5 miles per gallon more than the car you are bringing in. The new car must have a fuel economy rating of 25 miles per gallon or better or, in the case of a pickup, 20 miles per gallon or better. And the old car you are bringing in must be relinquished to the Government and be destroyed. This offer, this \$10,000 subsidy, would be available only to individuals with incomes of \$50,000 a year or less or couples with an income of \$75,000 or less.

So let me run through that again. Here is the way it would work. If you have an income of less than \$50,000—or for a couple less than \$75,000—if you have a car that is at least 10 years old, and you have had title to that car since before the enactment of this bill—actually before January of this year—you could take your W-2 form to show your income, take the title of the old car to show you have owned it, show how old

the car is, and you can go to any auto dealer anywhere you want and buy a new car and the subsidy will be \$10,000. You will get \$10,000. All you have to do is relinquish your old car, and that car has to be destroyed.

Well, what would this amendment accomplish? First of all, it will bring a lot of customers back into the auto showrooms, and they will not just be looking, they will be buying. This will be a shot of adrenaline right into the bloodstream of the domestic auto industry. Secondly, it will accelerate the shift from older gas-guzzling vehicles to new high mileage cars. Third, and very important in these tough economic times, it will make it affordable for ordinary working Americans to buy a new car.

Think about it. Think about people who make less than \$50,000 or a couple who makes less than \$75,000 a year. Chances are, they are the ones who have the old clunkers. They need it to go back and forth to work. If you live in a rural area, it is absolutely essential. These are the people who have these old cars, and they put repairs in them—a couple hundred here, a couple hundred there—because they can afford to do that, but they cannot afford to buy a new car. But it is a much different story if the Federal Government is going to give you \$10,000 to buy that new car.

For example, let's take this example: A basic 2009 Chevrolet Cobalt gets 34 miles per gallon on the highway. It has a manufacturer's suggested retail price starting at \$16,330. After the Federal subsidy—assuming you are under the income limits, and you have this 10-year-old car—you will be able to buy that car for \$6,330.

Now, what is also important is that you will be able to get financing under this program. Because the lender, with a \$10,000 reduction in price, will be offering a car loan for far less than the car's worth after it leaves the lot.

We had a session today, and we heard Mr. Larry Summers. We all know who he is down at the White House. He said there are a lot of willing lenders out there, but they do not have worthy borrowers.

Well, now, if you are a person—a low-income, moderate-income person—and you are making \$50,000 a year, and you need a new car—you have an old clunker, and you keep paying for repairs on it, but you wish to buy a new car—let's say it costs you \$20,000 to buy a new car—you can go to your local bank and try to get a loan for \$15,000 or \$18,000 for a \$20,000 car, and you will not get it. You will not get it. But if you go to that bank to try to get a loan for a \$20,000 car and \$10,000 of it is a subsidy from the Government, and you are only borrowing \$10,000 for that car, you will get the financing.

So that is another important thing this amendment will do. It will start opening channels of credit. Money will start to begin to flow through banks

and other lending organizations—savings and loans, credit unions, institutions such as that—for people to buy a car.

This amendment will make it affordable for a modest-income American to buy a new car. Make no mistake about it, it would stimulate a surge in auto sales—not just the automakers, but a broad swath of the economy impacted by the auto industry. Think about all of the other things that go into these cars in almost every community in America.

The Federal Government has given General Motors and Chrysler a few months to come up with a plan to ensure their long-term viability as businesses while producing a greener mix of vehicles. But we have failed to address two big questions.

In the midst of a severe recession, how do you boost demand for cars assembled in America? How do we get rid of that surplus we have out there? Go to any auto lot in your State. There are new cars all over the place, and there is no one buying them. So we failed to address that. How do we boost demand? Secondly, how do we give consumers compelling incentives to purchase fuel-efficient cars, especially at a time when gas prices have fallen dramatically? I was in my home State of Iowa this week, and gas is \$1.77 a gallon. I have not seen it that low for a long time.

So this amendment provides a realistic answer to both questions. It would boost demand incredibly. We estimate that for the \$16 billion this amendment would provide, it would cover more than 1.5 million purchases of new fuel-efficient, domestically assembled cars. It would accelerate the transition of our U.S. vehicle fleet toward more fuel-efficient cars, and this would be a gain for our whole country, reducing the demand for gasoline, reducing the dependence on foreign oil, lowering the operating costs of these new cars.

It will do little good to extend loans to GM and Chrysler if consumer demand for new cars remains dead. Now, we had the Mikulski amendment earlier today—today or yesterday—and that will help a little bit. But it is a tax deduction for modest-income Americans. It probably will not mean that much, maybe \$1,000, \$1,500. It is better than nothing. But if you want to sell those cars, give them \$10,000, give \$10,000 to modest-income Americans. Say: Go buy a car with these conditions.

We are very good around here at passing billions of dollars. What are we up to, \$900 billion now on this bill? There is a lot of good stuff in this stimulus bill, and I support it. We are good at giving a lot of money to Wall Street and banks and GM and Chrysler at the top. We seem to be very good at giving a lot of money at the top. How about giving some money down at the bottom?

You want to talk about rebuilding confidence in America? Think what

would happen to all these modest-income Americans who could now go out and get a new car. Think of all the old clunkers we would take off the road and destroy. That would rebuild confidence. As I mentioned, we would get our lending channels going. There would be a lot of loans made out there for these cars. With lending institutions, my gosh, loaning \$6,000 on a \$16,000 car, that is not everyone breaking a sweat.

So it is going to do little good for us to demand that automakers shift production to fuel-efficient cars if consumers are unwilling to buy them or they cannot buy them because of the recession.

This amendment is designed to address these challenges, to stimulate demand for new fuel-efficient cars, accelerate the shift toward a more fuel-efficient fleet, and help working-class Americans. As I said, you only qualify as an individual if you make \$50,000 a year or less, or for a couple making \$75,000 or less. Let's help working-class Americans. Now, people might say: Gee, that is a lot of money, \$16 billion. But aren't we trying to stimulate the economy?

Again, in closing, I say, you are not going to get economic recovery until we address the automobile sector. That is the big driver in this country, no pun intended, of course. But that is what we have to address. We are not doing it. We keep punting the ball down the field: loans to GM, loans to Chrysler; they come up with a plan. But with all those new automobiles sitting out there, no one is buying them. Well, let's give them a subsidy. Let's give a subsidy to working-class Americans for a change, and give them a little hand up—not a handout, but a hand up. I will tell you, it will reverberate all through our economy if we are to do something like this.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I understand there has been an objection. I am not going to offer an amendment at this point until after this is resolved.

I wish to take a couple of minutes, if I may, on an amendment I will call up either this evening or tomorrow once this has been resolved, this process matter has been resolved. I intend to offer an amendment that would statutorily require a dedication of \$50 billion from the second tranche of the so-called TARP funding to be dedicated to foreclosure mitigation.

As chairman of the Senate Banking Committee—and I am pleased to recognize that the distinguished Presiding

Officer is a new member of that committee—for the last 2 years—in fact, 2 years ago this very week, we had our very first hearing, and I became chairman of the committee on the foreclosure problems in this country and the problems with the residential mortgage market generally. We had witnesses at that time who warned that we might face as many as 2 million foreclosures in the country. I recall when the witness testified to that effect, there were those who scoffed at that prediction, that nothing such as that could possibly happen in the United States. Now it seems like a modest prediction in light of what has occurred over the last 2 years regarding our economy, in this country, all of which began with the residential mortgage market in this Nation.

More so than anything else, it was the predatory lending that drew people into mortgages they were ill-prepared to meet, did not require documentation; they were actually called liar loans, in a sense. Of course, the brokers and the servicers and lenders were all passing on the responsibility with little or no accountability, were being compensated for their efforts, and no longer had any underwriting standards or requirements that would have required that the borrowers meet certain requirements in order to protect that mortgage and that homeowner.

I won't dwell on that this evening except to say that now we have 8 million homes underwater in effect, where the mortgages exceed the value of the homes. It is predicted that several millions more could lose their homes. Mr. President, 10,000 people a day in this country are losing their homes, along with the 20,000 losing their jobs, and there is an increase in the likelihood of further deterioration in the housing market.

I had hoped earlier on, with the first tranche of \$350 billion, that more would be done in foreclosure mitigation. Regrettably, despite promises to the contrary, that never occurred. I am hopeful—in fact, beyond hopeful—because this amendment would require that \$50 billion of that remaining \$350 billion be dedicated to this purpose. I am confident that the new administration is committed to that. They certainly indicated as much in their comments. While not specifically identifying a number, they certainly indicated they intend to dedicate serious resources toward foreclosure mitigation. This amendment would secure, beyond any doubt—that those resources I have identified would be allocated for foreclosure mitigation. There are some other points in the amendment, but that is the major thrust.

Most economists, regardless of ideology or political perspective, have agreed that until we deal with the foreclosure crisis, the economic situation will continue to deteriorate until we get to the bottom of that. There are a variety of different proposals that have been suggested on how we might

achieve that. This amendment I am offering does not insist upon any particular formulation. There are a number of ideas out there. I think Sheila Bair, who is the chairperson of the Federal Deposit Insurance Corporation, has one of the more creative ideas, an idea that has been warmly embraced by the Obama administration. That is not to say they agree with every dotted "I" and crossed "t," but they certainly indicated they think it is more than just a reasonable idea but may very well contribute to putting a tourniquet on this hemorrhaging that is occurring in the residential mortgage market. That is one idea. There are others as well. Several of my colleagues on both sides of this political divide have offered ideas that I think would contribute to the reduction of foreclosures in the country, many of which are very solid ideas. Some may need further work than others, but I think all of us are now aiming in the right direction.

It has been a journey of some length. It was only in the spring of last year that we faced some six filibusters in this Chamber when we tried to fashion a housing program that would reduce some of the problems we saw a year ago. Obviously, the mood has changed dramatically. We now have virtually everyone talking about how to deal with the foreclosure problem. I only regret that same consensus had not developed earlier. Had it done so, in my view, we would not be where we are today. This is not a natural disaster that has occurred; this was an avoidable problem. That is the great tragedy of it. This was an avoidable economic problem that has at its roots the mortgage crisis. Unfortunately, it went unattended for so long despite repeated warnings by many of us.

But here we are at the outset of 2009 with the worst economic crisis since the Great Depression and a problem that has now spread throughout the globe. So it is incumbent upon us to take various steps to try to address this issue. I think the money that was allocated back last fall minimized the problem in a sense that it would have been far worse than it is today without those resources. Unfortunately, the management of those resources has not been as well executed as it could have been. My hope is that this next tranche will be far better managed with far greater accountability, far greater transparency, and far greater controls on such things as executive compensation.

Obviously, the stimulus package is also important. I wish to commend President Obama because he has said this well; that is, these steps we are taking are not in and of themselves going to resolve the economic crisis. What I think they do is minimize further deterioration of our economy. The President said the other day that he wishes these actions would turn the corner for us. What he hopes it will achieve is to stop the deterioration or the flow of this economy moving in the wrong direction.

So I think it is important as we talk about the stimulus package that we talk about these TARP funds. These are all steps that are needed to get us moving in the right direction, to create jobs in the country and stop the tremendous increase in unemployment—as I mentioned, 20,000 jobs a day—and begin to repair our credit market and the financial system in this country.

Far more will need to be done. Anyone who stands on this floor or elsewhere and predicts that because of the steps we are taking we are going to miraculously or immediately cure our economic ills is misspeaking. It will not. But it will get us pointed in the right direction. That is what is important about these steps we are about to take. It will move us in a direction of improving our economy.

I see my colleague from Missouri.

Mrs. MCCASKILL. Mr. President, will the Senator yield for a question?

Mr. DODD. I am pleased to yield.

Mrs. MCCASKILL. Mr. President, through the Presiding Officer, I wish to ask my colleague from Connecticut whether, when we were trying to deal with the foreclosure crisis last year, there were many people in the Chamber who said: Well, let's just shelve that for awhile. Let's forget about that problem right now. We don't need to do anything right now.

My recollection is that is what a lot of the response was from some of our friends.

Mr. DODD. Mr. President, I would say to my colleague from Missouri that she has an excellent memory. I had 82 hearings in the Banking Committee, over a third of them on this subject matter alone. We came to the floor of the Senate at the behest of the majority leader, Senator REID, who was a champion of these issues. We had these hearings prior to the Passover, Easter break in committee, over a third of them on this subject matter alone. We faced six filibusters—almost a record number—on a single piece of legislation. It was after that break that things began to open up and move.

My colleague from Missouri has this exactly right. There were those who were vehemently opposed. There were all sorts of amendments, all sorts of efforts made to obstruct any effort for us to come up with ideas to allow us to mitigate the rising foreclosures in the country. Had we dealt with it then, a year ago, I think it is safe to say to my colleagues that we would not be in the situation we are in today.

Mrs. MCCASKILL. Mr. President, I would ask my colleague, it is almost like what a famous baseball player once said: "It is *deja vu* all over again." Because what I am hearing, if I am correct—and I would certainly ask him this question—I am hearing the same thing now on the economic recovery bill, that we need to shelve it.

I heard one of our colleagues, who I believe is the ranking member on Senator DODD's committee, actually today on TV and the last couple of days saying: We need to shelve this thing.

I would ask the Senator from Connecticut, through the Presiding Officer, I have this feeling that if we shelve it, we will be back here next year and, as with the housing crisis, the economic crisis in this country will do nothing but get demonstrably worse and more painful for the American people.

Mr. DODD. Mr. President, responding to my colleague and friend from Missouri, she is absolutely correct. I think there is a tendency to look at these issues as if they were somehow stovepiped, separate from each other, this dealing with the TARP legislation and dealing with the financial crisis and now dealing with the stimulus package is unrelated. It has been pointed out that there is a likelihood we will lose as much as \$2 trillion out of our economy over the next 2 years. Making up that gap is going to require some effort.

This bill will ultimately, I hope, result in an appropriation of something between \$800 billion and \$900 billion—no small amount but far short of what will be lost in our economy over the next 2 years. If we defeat this or shelve this, as has been suggested, we exacerbate the economic problems of this Nation to a significant degree, which would require this body coming back at a later date with something that none of us even wants to contemplate at this point.

So this is not an unrelated matter. You shelve this, you walk away from this responsibility, and you burden the American taxpayer to the likes none of us could even begin to calculate.

So I thank my colleague from Missouri for pointing that fact out. This is related. If our economy does not begin to improve or at least not get worse, as the President has accurately pointed out, the problems only become more pronounced, more difficult to resolve in the coming weeks and months. So our economic future depends upon each of these pieces in place that will allow us to begin to turn that corner, see credit begin to move, borrowing occur, lenders lending, and activity economically in this country begin to move in the direction we need for recovery. So I thank her immensely for her comments. She identified exactly what needs to be done and explained it to our citizens.

This is not an idle effort just to secure some spending. It is absolutely essential if we are going to produce the kinds of jobs that are necessary, contribute to economic growth, and make a difference for our country. That is the reason I thought on this bill—it is a stimulus bill—of requiring to be set aside \$50 billion of the TARP money in the next tranche to be dedicated to the rising number of foreclosures of residential properties in our Nation. If you are losing 20,000 jobs a day, you don't need to be a degreed economist to know that with every one of those people who loses a job, the greater the likelihood they will lose their home.

We need to do everything we can to try to stop that erosion in the job market and simultaneously do what we can to make it possible for people to stay in their homes. There is a direct correlation between the stimulus effort and TARP regarding mitigation of foreclosures. That is why I will ask my colleagues to be supportive of that effort tomorrow.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be set aside and the following Senators be permitted to call up amendments at the desk as follows: DeMint, No. 189; Boxer, an amendment regarding environmental laws; Barrasso, an amendment regarding environmental laws; Harkin, amendment No. 338; Dodd, amendment No. 145; McCaskill, amendments Nos. 125 and 236, with a modification; that the Landrieu amendment No. 102 be called up, and once that is reported this evening, it be considered and agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 326 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendments be set aside and I be allowed to call up amendment No. 326.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT, proposes an amendment numbered 326 to amendment No. 98.

Mr. BARRASSO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expedite reviews required to be carried out under the National Environmental Policy Act of 1969)

On page 431, between lines 8 and 9, insert the following:

Sec. 16. (a)(1) Notwithstanding any other provision of law, all reviews carried out pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed by the date that is 270 days after the date of enactment of this Act.

(2) If a review described in paragraph (1) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in paragraph (1)—

(A) the action shall be considered to have no significant impact to the human environment for the purpose of that Act; and

(B) that classification shall be considered to be a final agency action.

(b) The lead agency for a review of an action carried out pursuant to this section shall be the Federal agency to which funds are made available for the action.

(c)(1) There shall be a single administrative appeal for all reviews carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court described in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to a review carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court described in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

AMENDMENT NO. 189 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 189 on behalf of Senator DEMINT.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for Mr. DEMINT, proposes an amendment numbered 189 to amendment No. 98.

Mr. BARRASSO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the free exercise of religion at institutions of higher education that receive funding under section 803 of division A)

On page 192, after line 21 insert the following:

SEC. 807. ELIMINATION OF FUNDING PROHIBITION. Notwithstanding section 803(d)(2)(C), section 803(d)(2)(C) shall have no effect.

Mr. BARRASSO. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

AMENDMENTS NOS. 145, 338, 125, AND 236, AS MODIFIED TO AMENDMENT NO. 98

Mr. BAUCUS. Mr. President, on behalf of Senators DODD and HARKIN, I call up amendments, one for each Senator, and on behalf of Senator MCCASKILL, I call up two amendments as under the previous order.

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the amendments will be considered pending.

The amendments are as follows:

AMENDMENT NO. 145

(Purpose: To improve the efforts of the Federal Government in mitigating home foreclosures and to require the Secretary of the Treasury to develop and implement a foreclosure prevention loan modification plan)

On page 263, between lines 10 and 11, insert the following:

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1201. Section 257 of the National Housing Act (12 U.S.C. 1715z-23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), is amended—

(1) in subsection (e)(1)(B), by inserting after “being reset,” the following: “or has, due to a decrease in income,”;

(2) in subsection (k)(2), by striking “and the mortgage” 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”;

(C) in paragraph (2), by striking “equal to 1.5 percent” and inserting “not more than 1 percent”;

(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”;

(3) by adding at the end the following:

“(2) LOAN MODIFICATIONS REQUIRED.—

“(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

“(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than \$50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

“(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

“(i) loan guarantees and credit enhancements;

“(ii) the reduction of loan principal amounts and interest rates;

“(iii) extension of mortgage loan terms; and

“(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

“(D) DESIGNATION AUTHORITY.—

“(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

“(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

“(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

“(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

“(i) upon development of the plan required by this paragraph, a report describing such plan; and

“(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.”

#### AMENDMENT NO. 338

(Purpose: To require the Secretary of the Treasury to carry out a program to enable certain individuals to trade certain old automobiles for certain new automobiles)

On page 431, between lines 8 and 9, insert the following:

#### SEC. 1607. AUTOMOBILE TRADE-IN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AUTOMOBILE, FUEL, MANUFACTURER, MODEL YEAR.—The terms “automobile”, “fuel”, “manufacturer”, and “model year” have the meaning given such terms in section 32901 of title 49, United States Code.

(2) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means an individual—

(A) who does not have more than 3 automobiles registered under his or her name;

(B) who filed a return of Federal income tax for a taxable year beginning in 2007 or in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

(C) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins;

(D) whose adjusted gross income reported in the most recent return described in subparagraph (B) was not more than \$50,000 (\$75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986));

(E) who has not acquired an automobile under the Program; and

(F) who did not file such return jointly with another individual who has acquired an automobile under the Program.

(3) ELIGIBLE NEW AUTOMOBILE.—The term “eligible new automobile”, with respect to a trade of an eligible old automobile by an eligible individual under the Program, means an automobile that—

(A) has never been registered in any jurisdiction;

(B) was assembled in the United States; and

(C) has a fuel economy that—

(i) is not less than 25 miles per gallon (20 miles per gallon in the case of a pick up truck), as determined by the Administrator of the Environmental Protection Agency using the 5-cycle fuel economy measurement methodology of such Agency; and

(ii) has a fuel economy that is more than 4.9 miles per gallon greater than the fuel economy of such eligible old automobile, as determined by the Administrator using the 2-cycle fuel economy measurement methodology of such Agency for both automobiles.

(4) ELIGIBLE OLD AUTOMOBILE.—The term “eligible old automobile”, with respect to a trade for an eligible new automobile by an eligible individual under the Program, means an automobile that—

(A) is operable;

(B) was first registered in any jurisdiction by any person not less than 10 years before the date on which such trade is initiated;

(C) is registered under such eligible individual's name on the date on which such trade is initiated; and

(D) was registered under such eligible individual's name before January 16, 2009.

(5) PICK UP TRUCK.—The term “pick up truck” means an automobile with an open bed as determined by the Secretary in consultation with the Secretary of Transportation.

(6) PROGRAM.—The term “Program” means the Automobile Trade-In Program established under subsection (b).

(7) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of the Treasury, or the Secretary's designee.

(b) PROGRAM ESTABLISHED.—The Secretary shall establish the Automobile Trade-In Program to provide eligible individuals with subsidies to purchase eligible new automobiles in exchange for eligible old automobiles.

(c) DURATION OF PROGRAM.—The Program shall commence on the date on which the Secretary prescribes regulations under subsection (h) and shall terminate on the earlier of—

(1) September 30, 2010; and

(2) the date on which all of the funds appropriated or otherwise made available under subsection (j) have been expended.

(d) TRADES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an eligible individual and a seller of an eligible new automobile initiate a trade as described in subsection (e) for such new automobile with an eligible old automobile of the eligible individual before the termination of the Program under subsection (c), the Secretary shall provide to the seller of such new automobile \$10,000.

(2) LIMITATION ON PURCHASE PRICE OF ELIGIBLE NEW AUTOMOBILES.—The Secretary may not make any payment under this subsection for a trade for an eligible new automobile under the Program if—

(A) the purchase price of such new automobile exceeds the manufacturer's suggested retail price for such new automobile; or

(B) the price of the non-safety related accessories, as determined by the Secretary in consultation with the Administrator of the National Highway Traffic Safety Administration, of such new automobile exceeds—

(i) the average price of the non-safety related accessories for the prior model year of such new automobile; or

(ii) in the case that there is no prior model year for such new automobile, the average price of non-safety related accessories for similar new automobiles (as determined by the Secretary), with consideration of the types of non-safety related accessories that

are typically provided with such automobiles.

(3) COMPENSATION FOR DELAYED PAYMENTS.—In the case that a payment under this subsection to a seller for a trade under the Program is delayed, the Secretary shall provide to such seller the amount otherwise determined under this subsection plus interest at the overpayment rate established under section 6621 of the Internal Revenue Code of 1986.

(e) INITIATION OF TRADE.—An eligible individual and the seller of an eligible new automobile initiate a trade under the Program for such eligible new automobile with an eligible old automobile of such individual if—

(1) the eligible individual, or the eligible individual's designee, drives such old automobile to the location of such seller;

(2) the eligible individual provides to the seller—

(A) such old automobile; and

(B) an amount (if any) equal to the difference between—

(i) the purchase price of such new automobile; and

(ii) the amount the Secretary is required to provide to the seller under subsection (d); and

(3) the eligible individual and the seller notify the Secretary of such trade at such time and in such manner as the Secretary considers appropriate.

(f) LIMITATION ON RESALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who purchases an automobile under the Program may not sell or lease the automobile before the date that is 1 year after the date on which the individual purchased the automobile under the Program.

(2) EXCEPTION FOR HARDSHIP.—The limitation in paragraph (1) shall not apply to an individual if compliance with such limitation would constitute a hardship, as determined by the Secretary.

(g) DISPOSAL OF ELIGIBLE OLD AUTOMOBILES.—

(1) IN GENERAL.—A seller who receives an eligible old automobile in exchange for an eligible new automobile under the Program shall deliver such old automobile to an appropriate location for proper destruction and disposal as determined by the Secretary in accordance with paragraph (2).

(2) DISPOSAL AND SALVAGE.—The Secretary may permit a seller under paragraph (1) to salvage portions of an automobile to be destroyed and disposed of under such paragraph, except that the Secretary shall require the destruction of the engine block and the frame of the automobile.

(3) COMPENSATION.—The Secretary shall compensate a seller described in paragraph (1) for costs incurred by such seller under such paragraph in such amounts or at such rates as the Secretary considers appropriate.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall prescribe rules to carry out the Program.

(2) EXPEDITED PROCEDURES FOR RULE-MAKING.—The provisions of chapter 5 of title 5, United States Code, shall not apply to regulations prescribed under paragraph (1).

(i) MONITORING.—The Secretary shall establish a mechanism to monitor the expenditure of funds appropriated under subsection (j).

(j) DIRECT SPENDING AUTHORITY.—

(1) IN GENERAL.—There is authorized to be appropriated and is appropriated to the Secretary \$16,000,000,000, including administrative expenses, to carry out the Program.



(2) AVAILABILITY.—The amount appropriated under paragraph (1) shall be available for the purpose described in such paragraph until September 30, 2010.

(3) EMERGENCY DESIGNATION.—Amounts appropriated pursuant to paragraph (1) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AMENDMENT NO. 125

(Purpose: To limit compensation to officers and directors of entities receiving emergency economic assistance from the Government)

On page 428, between lines 11 and 12, insert the following:

**Subtitle D—Limits on Executive Compensation**

**SEC. 1551. SHORT TITLE.**

This subtitle may be cited as the “Cap Executive Officer Pay Act of 2009”.

**SEC. 1552. LIMIT ON EXECUTIVE COMPENSATION.**

(a) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no person who is an officer, director, executive, or other employee of a financial institution or other entity that receives or has received funds under the Troubled Asset Relief Program (or “TARP”), established under section 101 of the Emergency Economic Stabilization Act of 2008, may receive annual compensation in excess of the amount of compensation paid to the President of the United States.

(b) DURATION.—The limitation in subsection (a) shall be a condition of the receipt of assistance under the TARP, and of any modification to such assistance that was received on or before the date of enactment of this Act, and shall remain in effect with respect to each financial institution or other entity that receives such assistance or modification for the duration of the assistance or obligation provided under the TARP.

**SEC. 1553. RULEMAKING AUTHORITY.**

The Secretary shall expeditiously issue such rules as are necessary to carry out this subtitle, including with respect to reimbursement of compensation amounts, as appropriate.

**SEC. 1554. COMPENSATION.**

As used in this subtitle, the term “compensation” includes wages, salary, deferred compensation, retirement contributions, options, bonuses, property, and any other form of compensation or bonus that the Secretary of the Treasury determines is appropriate.

AMENDMENT NO. 236, AS MODIFIED

(Purpose: To establish funding levels for various offices of inspectors general and to set a date until which such funds shall remain available)

On page 3, line 22, strike “2010” and insert “2011”.

On page 3, line 23, insert before the period “and an additional \$17,500,000 for such purposes, to remain available until September 30, 2011”.

On page 41, line 4, strike “2010.” and insert “2011, and an additional \$4,000,000 for such purposes, to remain available until September 30, 2011.”

On page 41, line 21, strike “2010” and insert “2011”.

On page 47, line 8, strike “2010” and insert “2011”.

On page 47, line 26, strike “2010” and insert “2011”.

On page 60, line 4, strike “2010.” and insert “2011, and an additional \$3,000,000 for such purposes, to remain available until September 30, 2011.”

On page 77, line 19, strike “expended.” and insert “September 30, 2012, and an additional \$10,000,000 for such purposes, to remain available until September 30, 2012.”

On page 95, line 12, insert before the period “and an additional \$13,000,000 for such purposes, to remain available until September 30, 2011”.

On page 105, line 24, strike “2010” and insert “2011”.

On page 116, line 21, strike “2010.” and insert “2011, and an additional \$7,400,000 for such purposes, to remain available until September 30, 2011.”

On page 127, line 14, strike “2010” and insert “2011”.

On page 137, line 8, strike “2011.” and insert “2012, and an additional \$15,000,000 for such purposes, to remain available until September 30, 2011.”

On page 146, line 12, insert before the period “and an additional \$10,000,000 for such purposes, to remain available until September 30, 2012”.

On page 149, between lines 5 and 6, insert the following:

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, \$1,000,000, which shall remain available until September 30, 2011.

On page 214, line 19, strike “2010” and insert “2011”.

On page 225, line 6, strike “2010” and insert “2011”.

On page 226, line 23, strike “2010” and insert “2011”.

On page 243, line 6 insert “, and an additional \$12,250,000 for such purposes, to remain available until September 30, 2011” before the colon.

On page 263, line 7, insert “, and an additional \$12,250,000 for such purposes, to remain available until September 30, 2011” before the colon.

On page 733, line 2, strike “expended” and insert “September 30, 2012.”

Mr. BAUCUS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 363 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I am just waiting to take the Senate out tonight. But I did want to say there was a little bit of a surprise that happened tonight when one of my colleagues offered an amendment to essentially repeal environmental laws as they relate to this bill. All activities of this bill, if this Barrasso amendment were to pass, all the activities would no longer be covered by the National Environmental Policy Act.

That is a very disturbing amendment and I was very surprised by it as chair of the Environment and Public Works Committee here. Thanks to the diligent staff—and I do appreciate them letting me know—I was able to craft another amendment that I hope will precede the amendment of Senator BARRASSO and allow the Senate to express itself, saying that we do not intend to waive environmental laws that

will protect the public health of our communities and, if there are projects that are such a harm to our community, they should be replaced by the many shovel-ready projects that our mayors are telling us are out there, that our Governors are telling us are out there.

We will have that debate tomorrow but I wanted to mention why I was still here at 10 after 10, here protecting our communities across America.

I have sent an amendment to the desk. I hope that amendment will be queued up as per the suggested list of Senator BAUCUS.

The ACTING PRESIDENT pro tempore. The amendment is now pending among the amendments that have been sent up.

The amendment is as follows:

(Purpose: To ensure that any action taken under this act or any funds made available under this act that are subject to the National Environmental Policy Act (NEPA) protect the public health of communities across the country)

At the appropriate place, insert the following:

FINDINGS

The Senate finds that:

According to leading national and state organizations, there are many more NEPA compliant, ready-to-go activities, than are funded in this bill, and

If there is an action or funds made available for an action that triggers NEPA, and that activity could cause harm to public health, and that harm has not been evaluated under NEPA, the project would not meet the requirements of NEPA and should not be funded.

SECTION 1

Any action or funds made available for an action that triggers NEPA, that have not complied with NEPA, and therefore pose a potential danger to our communities across the country, must either come into compliance with NEPA or be replaced by other eligible activities.

AMENDMENT NO. 102 TO AMENDMENT NO. 98

The ACTING PRESIDENT pro tempore. The Chair notes for the record that amendment No. 102, sponsored by Senator LANDRIEU, is considered offered and adopted.

The amendment (No. 102) was agreed to, as follows:

(Purpose: To ensure that assistance for the redevelopment of foreclosed and abandoned homes to States or units of local government impacted by catastrophic natural disasters may be used to support the redevelopment of homes damaged or destroyed as a result of the 2005 hurricanes, the severe flooding in the Midwest in 2008, and other natural disasters)

On page 251, lines 13 and 14, strike “housing:” and insert the following: “housing: *Provided further*, That funding used for section 2301(c)(3)(E) of the Act shall also be available to redevelop demolished, blighted, or vacant properties, including those damaged or destroyed in areas subject to a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”

MORNING BUSINESS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate