small business. Talk to my venture capitalists. They are ready, willing, and able to make huge commitments to alternative forms of energy. Investment in education, that is also going to be good for people who work in the education field. And health care, we know that as we have more insurance out there available for people, there will be many jobs created and many small businesses created around the delivery of health care.

I guess the way one looks at this budget depends on their point of view. Clearly, I believed our President, when he said he had those priorities. I view this budget overall as being a boon to small business and being a boon to the American people as we move forward with investments that will create many jobs.

The reason I wanted this time in particular was to kind of reargue an old argument we already had once before and that has come before us. Senator JOHANNS wants to have another vote to say we won't use the reconciliation process which, for people who don't know what that means, we won't use a process that we only need a majority to win. We are going to use the 60-vote requirement to write and pass global warming legislation.

I know this is going to pass because it passed before. I think most Members believe if we can get 60 votes for climate change legislation, fine. But I have to say again, after reviewing the number of times the Republican Party has used reconciliation since 1980, it has been 13 times out of the 19 times that reconciliation has been used. I would say to people who might be listening to this, to try to keep it as simple as possible: Reconciliation is used when there is a way to reduce the deficit. That is when it is used. You want to reduce the deficit so you say: Therefore, if you are reducing the deficit, we will do it with just a majority vote instead of a supermajority vote. That is the thinking behind it.

A cap-and-trade program, which many of us support in order to combat global warming, will give us the ability to reduce the deficit. We know that because that is what we were told last year as we worked on the Boxer-Lieberman-Warner bill. Much of the funds went back to consumers to help them pay energy costs. But there was a segment of funds that went straight into deficit reduction. But, no, my Republican friends don't want to look at that. Even though they used this 13 times, they want to prohibit the use of reconciliation for global warming legislation.

As I look back on the number of times Republicans have used reconciliation, in my view, it didn't make life any better for the American people. This is what they used it for. They used it to cut health program block grants to our States. They used it to cut Medicaid. They used it to cut food stamps. They used it to cut dairy price supports. They used it to cut energy assistance. They used it to cut education grants. They used it to cut impact aid and title I compensatory education programs for disadvantaged children. They used it to cut student loans. They used it to cut the Social Security minimum benefit. Our friends on the other side were very happy to use the reconciliation process, which only required 51 votes, to hurt the American people. That is what I think those cuts did. But when it comes to helping the American people by stepping up to the plate and addressing global warming and, in the course of doing so, creating millions of new jobs, no, they want to have a supermajority.

Senator JOHANNS showed us he can get the votes to pass that. I know he will. That is why I am so grateful to Senator STABENOW, who has said: OK, you want to say we won't use reconciliation. She is saying: We will, in fact, keep the reserve fund in there for global warming so we can move it forward. This reserve fund will allow us to invest in new jobs that will come about by investments in clean energy technologies which will make us a healthier economy, energy independent, and it will make us more secure because we will have to import less foreign oil. We are going to see increases in energy efficiency which will yield amazing benefits. That will help us in the long run reduce energy costs. We are going to use these funds to protect consumers. This is what the Stabenow-Boxer-Brown-Lieberman-Cardin amendment is saying. We want to keep that reserve fund in the budget so we can move forward with climate change legislation.

I am looking forward to this moment. This is long overdue. We have lost 8 years. But the kind of approach we need is the kind of approach Senator STABENOW is envisioning. We cannot afford to wait. Scientists are telling us we are going to face rising sea levels, droughts, floods, the loss of species, spreading diseases. Our own health officials in the last administration and this one have told us we have to act. The Environmental Protection Agency has proposed an endangerment finding.

We are being told that our people are in danger if we do not enact global warming legislation. It is spelled out.

Severe illnesses are going to crop up as a result of organisms that will now be living in warmer waters.

To quote the EPA—and they talk about the heat waves and the mortality rate and the wildfires and the drought and the flooding—this is what they say. I will close with this quote. They say: Global warming left unchecked is a serious harm to our people. It is not a close case, they say. The greenhouse gases that are responsible for global warming endanger public health and welfare within the meaning of the Clean Air Act.

Madam President, I ask unanimous consent to have printed in the RECORD the EPA's Proposed Endangerment Finding.

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

EPA'S PROPOSED ENDANGERMENT FINDING

The effects of climate change observed to date and projected to occur in the future—including but not limited to the increased likelihood of more frequent and intense heat waves, more wildfires, degraded air quality, more heavy downpours and flooding, increased drought, greater sea level rise, more intense storms, harm to water resources, harm to agriculture, and harm to wildlife and ecosystems—are effects on public health and welfare within the meaning of the Clean Air Act.

This is not a close case in which the magnitude of the harm is small and the probability great, or the magnitude large and the probability small. In both magnitude and probability, climate change is an enormous problem. The greenhouse gases that are responsible for it endanger public health and welfare within the meaning of the Clean Air Act.

Severe heat waves are projected to intensify in magnitude and duration over the portions of the U.S. where these events already occur, with likely increases in mortality and morbidity. The populations most sensitive to hot temperatures are older adults, the chronically sick, the very young, city-dwellers, those taking medications . . ., the mentally ill, those lacking access to air conditioning, those working or playing outdoors, and the socially isolated.

Mrs. BOXER. I say to my friends and my colleagues who are listening to this debate, vote for the Stabenow motion to instruct. It is an important motion. It will keep the reserve fund and will allow us to move forward and attack this serious problem of global warming that has gone unaddressed for too long.

Madam President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2010

Mr. REID. Madam President, I ask the Chair to lay before the Senate a message from the House on S. Con. Res. 13, the concurrent budget resolution.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the resolution (S. Con. Res. 13) entitled ''Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2010, revising the appropriate budgetary levels for fiscal year 2009, and setting forth the appropriate budgetary levels for fiscal years 2011 through 2014.'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. REID. Madam President, the following request has been approved by Senator GREGG and the Republican leadership.

I ask unanimous consent that the Senate disagree to the amendment of the House, agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; that prior to the Chair appointing conferees,

the following motions to instruct the conferees be in order; and that a majority side-by-side motion to instruct be in order to any Republican motion to instruct and that the majority motion be voted on first; that upon disposition of all motions, any remaining statutory time be yielded back; and that the conferee ratio be 2 to 1; provided further that the statutory time be considered as having started running at 3 p.m. today, and that the time be charged equally to both sides. The motions in order are Johanns, cap and trade; Stabenow, cap and trade, which is a side by side; Gregg, no debt increase; Sessions, nondefense, nonveterans spending freeze; Ensign, point of order relative to raising taxes; Cornyn, taxes; Alexander, competitive student loans; Coburn, budget line by line; DeMint, health care, that no point of order be in order to this motion; Vitter, oil and gas tax.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Madam President, Chairman CONRAD has emphasized how important it will be to tackle the major issues—health care reform and climate change—in a bipartisan way. I wish to spend a few minutes first expressing my support for that position and urging that the conference on the budget proceed expeditiously because then the heavy lifting in the Senate will begin.

For example, for American health care, what is needed is nothing short of a transformation of our system. American health care is simply broken. Medical costs are gobbling up everything in sight. Middle-class people know their paychecks are not going up, and the prime reason is because medical costs take away all of what would otherwise be a wage increase.

Our newspapers report daily that Americans are being laid off at their jobs. They lose their health benefits. What we see again and again is a spiral of tragedy, as they simply lurch from one effort to another to try to find health care and cannot get it.

For example, on Tuesday, the New York Times published a front page story titled, ''No Job and Soon No Benefits, Race to Help Son Stay Cancer Free.'' Dana Walker of Humble, Texas, was laid off from her job at DHL leaving her and her family without health insurance. Her son Jake is just 21 years old and is a cancer survivor. Now uninsured, the Walkers have had to defer their own care, pay up front for Jake's care, and have essentially been refused care at the hospital that specializes in care. In the article, Mrs. Walker said, ''Your job as a parent is to protect your children at any cost. I really feel like I had let him down.''

I don't believe Mrs. Walker has let her son down. She's doing all she can. In the individual market health insurers can discriminate on the basis of age, gender, family size, geography, health status and pre-existing conditions like cancer. Even though Jake has been cancer free for a year, he can't find affordable health insurance on his own. Insurance companies can pick and choose the customers who are the good risks and leave the bad risks, like Jake Walker, out in the cold. It isn't Mrs. Walker who's let her son down. It's the health care system.

This is not going to be fixed by a piecemeal approach to health care reform that tackles one part of the system or another and produces incremental change for perhaps a short period of time. What is needed is transformational change. I believe Democrats and Republicans in the Senate are committed to that objective.

I think there is a growing recognition that both parties have had a valid point. Democrats, in my view, are correct that you cannot fix health care unless you cover everybody because without full coverage you cannot organize the market. There is too much cost-shifting. There is no emphasis on prevention. You have to get all Americans good quality, affordable care. Republicans have valid points, in my view, as well. You should not just turn everything over to the Government and say that is the answer.

What is really needed for transformational change is containing the costs. The Congressional Budget Office, last May, said that for the amount of money America is spending today on health care, all Americans in a couple years could have good quality, affordable coverage like their Members of Congress. That is what the Congressional Budget Office said when it looked at one approach to dealing with health costs.

I am very confident, under the leadership of Chairman BAUCUS and Chairman KENNEDY, that they will have a lot of support for transformational change so we make sure all Americans have access to good quality, affordable choices, and they get rewarded when they take sensible steps, for example, in preventive health care and wellness and shop carefully for health care coverage.

Today, if you are lucky enough to have health care coverage, you do not get any choice at most employers. That is not the way it is for Members of Congress. So why don't we agree, Democrats and Republicans, after we get this budget conference put together, that we are going to make sure all Americans get good quality, affordable choices like Members of Congress have? Then let's start rewarding them. Let's reward them for sensible prevention. For example, the Safeway Corporation has been doing that for some time. I would like to say that seniors who lower their blood pressure and lower their cholesterol would get reduced Part B premiums. That is the outpatient portion of the Medicare program. But these are areas where Democrats and Republicans can come together.

There has been considerable discussion on the Senate floor about the idea of reconciliation for tackling health care. I think Chairman CONRAD is absolutely right in his approach.

I will say there have been many of us on both the Democratic and Republican side, as we have looked to health care, who want to make the issue of reconciliation irrelevant. We want to make the issue of reconciliation irrelevant because we are hoping to bring enough Democrats and Republicans together so we will have 70 or more Senators gathered to fix the health care system.

These issues, ultimately, in my view, are not ones that automatically produce a partisan divide. The private insurance system is also broken. It is about cherry-picking.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes 31 seconds.

Mr. WYDEN. For the remainder of my time, Madam President, let me tick off a number of other areas where Democrats and Republicans on this health care issue can come together for transformative change.

Today's private insurance model is also broken. It is all about cherry-picking. It is about taking healthy people and sending sick people over to Government programs more fragile than they are. So what Democrats and Republicans want to do—again, in the name of transformative change—is we want to say that the companies are going to have to take all comers. We understand that is a key part of health care reform.

But we are going to put them all on equal footing. There are not going to be any price controls or big Federal regulatory systems. But everybody is going to be part of a big group so we contain costs as part of a big pool. We will reward prevention and wellness, which, of course, is not done today. This is where I think it will be possible for firms in the health care area to both do good and do well by offering better service to our people.

Other areas of transformative health care reform: The issue of portability and making sure our people can take their health care coverage with them so they do not lose their coverage when they lose their job or they wish to leave their job. That is what happens today. Of course, much of the health care system does not offer that kind of portability because it is built around what happened in the 1940s, when somebody started working and stayed put for 25 years, until you gave them a gold watch. Well, today the typical worker changes their job 11 times by the time they are 40. We need portable coverage. Democrats and Republicans can work together on that.

I want to close, again in the name of bipartisanship, by talking about how we can help people who have coverage. They have been described by some as the contentedly covered Americans. I

think what we ought to say for those folks, Democrats and Republicans, is, let's let them keep the coverage they have. Let's make sure they are wealthier in the new system because they get rewarded when they engage in those preventive practices or make a good purchase. Let's make sure they are healthier in the new system. Chairman CONRAD is here and has talked about improvements, for example, in chronic care, which is certainly part of making Americans healthier.

Finally, let's make sure that if they leave their job or their job leaves them, as I have touched on, they are going to have a safety net of affordable coverage.

Each and every one of those points I have talked about is an issue on which Democrats and Republicans can come together. I hope the Senate will follow Chairman CONRAD's advice about proceeding expeditiously. I think there are many Members of the Senate who want to tackle these big issues—climate change and health care—in a manner that makes reconciliation irrelevant because we have brought together the kind of broad majorities that I think are particularly within the grasp of the Senate on this issue of reforming health care. I look forward to working with colleagues on both sides of the aisle for exactly that kind of transformative policy to better meet the needs of the American people.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, just briefly, I want to thank Senator WYDEN for his leadership. He is really an outstanding member of the Budget Committee. No one—no one—has spent more time on health care reform and tax reform than the Senator from Oregon. No one has reached across the party divide more assiduously than Senator WYDEN. I very much appreciate his contributions to the committee and to the Senate and especially to a thoughtful debate and discussion of the key issues facing the country.

One of the things that is so striking on health care is that we are spending about 18 percent of our gross domestic product on health care. And some are saying: Well, we have to spend another $1 trillion to $1.5 trillion. It strikes some of us as improbable that when we are spending $1 in every $6 in our economy on health care—about twice as much proportionately as any other country in the world—that the answer is to spend another $1 trillion to $1.5 trillion.

Senator WYDEN, through really years of effort—and I mean years—working week after week with the Director of the Congressional Budget Office, with other policymakers, has put together a bipartisan health care plan. It is the only one of significance I know of that has broad-based bipartisan support. He deserves all of our thanks for the efforts he has extended. I once again thank the Senator for his leadership in the committee, on the floor, in the Senate, and for the seriousness of purpose he has brought to the task.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, while I agree with Senator CONRAD that Senator WYDEN has worked hard on this and he is raising some important issues, I am very worried about where we may be heading in the realm of health care. I have been impressed with Senator WYDEN's efforts to create something that could result in bipartisan agreement. I don't know where we are headed, but I respect him greatly for his efforts.

MOTION TO INSTRUCT

Madam President, I ask unanimous consent to call up my motion to instruct conferees.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama Mr. SESSIONS moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the current resolution on the budget for fiscal year 2010) be instructed to insist that the conference report on the concurrent resolution shall freeze non-defense and non-veterans funding for 2 years, and limit the growth of non-defense and non-veterans funding to 1% annually for fiscal years 2012, 2013 and 2014.

Mr. SESSIONS. Madam President, the budget resolution is on the floor now, and I believe we ought to talk about it and be honest with ourselves about it. I will speak as one Senator. I know it passed this Senate. I don't think any Republican voted for it. Maybe a couple of Democrats voted against it, but it passed with extra votes to spare.

I would say—and I hate to say it, but I will repeat what I have said before: I believe this is the most irresponsible budget in the history of this Republic. It surges debt to a degree to which we have never seen before, not because it assumes we are going to be in long-term economic turmoil—they assume we are going to have economic growth roaring back in a year or two and that revenues will be surging in to the Government. The debt and deficit we are incurring is a direct result of massive spending—an alteration, I believe, by all accounts of an historic concept that Americans have of limited government, lower taxes, and a vibrant private sector. We have always objected to the Europeans and their more socialist model. We have consistently, year after year, had greater growth than they have had, lower unemployment than they have had, and we have been proud of that.

Of course, both Europe and the United States are in trouble today. I was rather mortified when the European leaders told our President and our Secretary of the Treasury that no, they were not going to spend like the United States; no, they believe we are incurring too much debt and they were not going to follow us; and the President of the European Union said our financial proposals were the road to hell. That is what he said about them.

Let me share a few things before we get started on the specifics of the motion to instruct. This is what the President's budget called for. He submitted a 10-year budget, and this is not something, let me add, that he was forced to do. This budget represents the President's, the administration's, and now, I guess, this Senate's fundamental view that we need to spend, spend, spend more than we ever have in history and not be too much worried about the debt.

So under the present state of affairs, in 2008 the debt of the United States, from the founding of the Republic over 200 years, totaled $5.8 trillion—a lot of money. We paid on that $170 billion in interest in 2008. That is how much interest we paid. We spent less than $100 billion on education and $40 billion on highways. This year we paid $170 billion on interest on our debt. But, within 5 years, according to the President's own budget numbers we will double that debt to $11.8 trillion in 5 years, and in 10 years, the debt will triple to $17.3 trillion. The young people who are coming out of school today and beginning to work, how much interest will they be required to pay on that 10 years from now? Not $170 billion, but according to our own Congressional Budget Office that scored this carefully—and they are under the control of the Democratic majority, but they are a nonpartisan group, and I respect what they do—they calculate we will pay $806 billion in interest, over ten times what we are spending today on the education expenditures of the Federal Government, and many times the $40 billion we spend on highways this year.

I would say this is a stunning development. I am worried about it. I think every American should be worried about it. Are those projections off base? I have the numbers; they just released the numbers for this year. Remember, last year was the biggest deficit this Nation has had since World War II—$455 billion. We need to be working that annual deficit down.

Look: In October, the first month, we hit $134 billion; by January—4 months—we were at $563 billion this fiscal year. That is this fiscal year. By January of this year, in 4 months, $563 billion in deficit represents the largest deficit in the Republic since World War II. Here we go back to the end of the quarter, at 6 months from October, through March, it is now $953 billion, already twice what last year's numbers were. So we are on track this year to see an annual deficit of $1.8 to $1.9 trillion. That is unbelievable.

I ask my colleagues, does it get better? Not under the President's budget. Under the President's budget, in the outyears, the numbers continue to go

up, and in the tenth year, his budget projects a deficit of $1.2 trillion. Over 10 years, his budget deficit will average over $900 billion each year. Again, this is not projecting a war; it is projecting a decline in defense spending for military activities around the globe. It is projecting solid, even robust economic growth. The deficits are caused by spending. I am so disappointed we haven't done a better job of controlling it.

I know the Senate budget is a 5-year budget. That is what they think is going to look a little better than the President's 10-year budget, but according to the Republican staff, they did an analysis of it and it is essentially the same over the first 5 years. In fact, Mr. Orszag, of the President's Office of Management and Budget, who used to be the Director at CBO, said publicly it was 98 percent of what the President wanted. This chart shows that in discretionary outlays it is 98.8 percent identical to the President's 5 years; on total outlays, it is 96.6 percent identical; and the revenue they project is 99.8 percent identical.

What can we do about it? There are a lot of things we can do. The most difficult—and our chairman, Senator CONRAD, and the ranking member, Senator GREGG, have made some steps toward dealing with the crisis in entitlements. They are growing at a rapid pace and we have to do something about it. This budget assumes no reform on entitlements whatsoever, but maybe they will be able to make something happen. I would like to see us project some savings in that, but it is not shown in this budget.

So the motion to instruct I have filed, and that at some point we will be voting on, would say we ought to begin to establish some sense of fiscal responsibility by containing the growth in discretionary, nondefense, nonveteran spending. This can be done. It is particularly easy to do so this year because we, a few months ago—a few weeks ago, really—passed an $800 billion stimulus package, on top of our base budget. So I would have thought, when we did our baseline budget this year, knowing we had pumped in $800 billion over the next 2 years to try to stimulate the economy, that we would have a frugal baseline budget. Not so. In fact, according to the budget that is on the floor, I believe, it shows a 7-percent increase in baseline discretionary, nondefense spending.

Most of my colleagues know the rule of seven: A 7-percent growth rate doubles your money in 10 years. So this proposal puts us on a track to double the spending for discretionary, nondefense spending in 10 years. It is an unsustainable track.

I propose this: In light of this stimulus package—the largest single appropriation of money in the history of America that we passed, and every penny going to the debt; all $800 billion of it has to be borrowed so we can spend it. In light of that, we ought to be able to keep the baseline budget flat for 2 years and show a modest increase of 1 percent over the next 3 years. This will make a difference. It will save us $173 billion. It will give us—it will start us on a process of having a baseline spending level for this country at a more frugal rate. Most States are having to cut. Most cities are showing reductions, 3.56 percent, some more than that, all over the country. They are not disappearing from the face of the Earth. It is not impossible to cut spending, but this doesn't propose any cut. It proposes 2 years of flat spending—but remember, we added $800 billion on top of it; and then for 3 years, a 1-percent increase. This will make a difference. In over 10 or 15 years, it will have an even bigger impact than we might think.

I urge my colleagues to consider this. We ought to show some restraint. Everybody is saying, Well, we will worry about that tomorrow. We have a crisis today, and we are going to spend today, and we will worry about the debt later. But it is time for us to stand up and be counted, I believe. I think my amendment is modest, I think it is responsible, but I think it is significant. I urge my colleagues to consider this motion to instruct.

I appreciate the opportunity to speak on it. I appreciate those who worked on this budget, but I have to say, it should not become law. It is a bad mistake for this country to do it. I urge my colleagues to not go forward with a lockstep movement to vote for this budget. I don't think the American people are at all happy with it. I believe they know we are doing something fundamental to this country—and that was a big part of some of the tea party talk—a deep angst out there that something is happening to their country that is unprecedented.

I appreciate my colleagues' attention to this motion to instruct and I urge their support for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank the Senator for his remarks. I disagree with them, but I respect them. They are deeply held on the part of Senator SESSIONS, who is an important member of the Senate Budget Committee.

Let's review the record, because I have heard some things here today that are a bit of rewriting of history. How did we get in this ditch? This wasn't the Obama administration's doing. The Obama administration has been in office less than 100 days. They inherited this colossal mess. Who did they inherit it from? They inherited it from the previous administration, aided and abetted by what was for 6 years solid Republican majorities in the House and the Senate. And what was the record they produced? Not projections in the sweet bye-and-bye of what the new President's budget might do. We can look back and see what their policies actually did. And what did they do? Well, on spending, it is interesting to see the crocodile tears now, but when they had a chance, they doubled the spending of the country. That is a fact. They doubled it.

Much more than that, they took the deficit to unprecedented levels.

This is the deficit record of the previous administration. What you see is an ocean of red ink. The black is the previous administration. The Clinton administration balanced the budget and stopped raiding the Social Security trust fund. The Bush administration came in and ran up the deficit to record levels, put the economy in the ditch, and then left town. They said to the Obama administration: Good luck.

This is what happened to the debt under the Bush administration. Not only did they double spending, they more than doubled the debt of the country, and that was at a time when the economy was relatively good. What a tragic record. What a legacy they have left for this country—a legacy of debt, deficits, and decline—the three Ds. And they are the Ds that belong and describe the record of the previous administration.

What did President Obama inherit? Record deficits, the more than doubling of the national debt, the worse recession since the Great Depression, the financial markets and housing markets in crisis, almost 4 million jobs lost in the last 6 months alone, and war in Iraq and Afghanistan. My goodness, what a mess he was left to try to clean up.

Senator GREGG has made it very clear—and he is right—that we have a need to increase the short-term deficit, unless we want to return to Hoover economics, which put this country in a depression and, unfortunately, that is exactly what I heard in the previous speech—a desire to return to Hoover economics. The markets will correct themselves; the Government doesn't have to do anything. We can just sit by and watch the whole thing collapse.

That was the philosophy of the last administration. We can see what happened. It was a tragic mistake. We can go back further in history and see what happened in the 1920s and 1930s when that same philosophy prevailed. It put this country into the worst depression in the economic history of our country.

All I can say is, no thanks. My vote is no on going back to Hoover economics.

I say to my colleague, Senator GREGG, who recognizes that Hoover economics is not the answer, this is the statement he made:

> I am willing to accept the short-term deficit number and not debate it, because we are in a recession, and it's necessary for the Government to step in and be aggressive, and the Government is the last source of liquidity. And so you can argue that this number, although horribly large, is something we will simply have to live with.

Senator GREGG said much the same thing today. Of course, he is right.

Look, nobody is more of a deficit hawk, I don't think, in this place than I am. But I understand in the short term, when your economy is collapsing, deficits and debt will grow. That is necessary because only the Government can provide the liquidity to prevent a complete collapse. But over time, it is absolutely essential that we pivot and go back to a more sustainable fiscal course. That is what this budget begins to do.

For example, on domestic discretionary spending, we take it from 4.3 percent of GDP in 2010 down to 3.2 percent in 2014. We are stepping down discretionary spending in each and every year, measured as a share of our national economy. That is what economists say is the right way to measure. I could show it in dollar terms, but that doesn't take into account inflation. This does.

When I hear this talk about this being a big-spending budget, please, I don't know what budget they are talking about. They are not talking about the budget that passed the Senate because the budget that passed the Senate increases nondefense discretionary spending, on average, per year, by 2.5 percent. That is not a big spending budget.

Let's look at the defense side as well because in 2010 defense spending under this budget is 4.8 percent of GDP. Over 5 years, we step it down to 3.7 percent of GDP almost the exact same trajectory as nondefense discretionary spending that we are taking from 4.7 percent of GDP in 2010 down to 3.6 percent in 2014. So it is one thing to come out and make a claim, it is another thing to prove it. Everybody has a right to their own opinion, but they don't have a right to their own facts.

These are the facts of the budget before us. This is a tough and fiscally responsible budget that increases nondefense discretionary spending, on average, by 2.5 percent a year. Measured against the share of the economy, we are taking both defense spending and nondefense discretionary spending down as a share of our national income to the lowest level it has been in many years.

Madam President, where are the increases that are in this budget, the 2.5 percent, on average, increase in nondefense discretionary spending? I have already shown that we are taking both defense spending and nondefense spending down as a share of the national income. But where are the increases, as modest as they are?

In overall discretionary spending, the biggest increase is in defense, which is 37 percent. Why? Because this President and this budget were honest about war spending, unlike the previous administration, which played hide the ball and acted as though the war wasn't going to cost anything.

I am not overstating because for several years in a row the previous administration, even though we were at war, said the war in their budget was going to cost nothing. Let me repeat that. The previous administration, even after the war in Iraq had begun, claimed in their budget submissions that the war was going to cost nothing—nothing. What an amazing thing. It wasn't true.

This President came in and said: No, we are going to write a new chapter. We are at war, and we are going to put the war cost in the budget. So in the modest increases here, 37 percent of them are defense; 14 percent is in international. That is also something hidden in the previous administration. They kept presenting what they called ''supplemental'' budgets after their regular budget to hide the full cost of their involvement overseas.

The next largest increase in the modest overall increases we have is for veterans; 10 percent of the increases is for our Nation's veterans. Why? Because they deserve the best care we can provide. We have the largest dollar increase for veterans health care in this budget than in any budget that has been presented. I am proud of that because we are keeping faith with our Nation's veterans.

Ten percent of the increase is for education, and 10 percent is for income security. That is because we are in a deep recession. That means people are out of work, and if we are going to provide unemployment benefits to keep them from losing their homes and being out on the street and not being able to feed their families, we provide unemployment benefits. That costs money, and that is in the budget.

Eight percent is for the census. We only do the census once every 10 years, but we have to pay for it. It is in the budget. Six percent is for natural resources and the environment. Three percent is for transportation, and 2 percent is for other items.

The overall context of this budget, I want to make clear—the deficit, in dollar terms, is being reduced from $1.7 trillion this year, and this year's budget is almost totally the responsibility of the previous President because he set in place the policies that the new administration inherits. We stepped down the deficit, very dramatically, by more than $500 billion from 2009 to 2010, by more than $300 billion from 2010 to 2011, by another $300 billion from 2011 to 2012, and then more modestly thereafter, so that we are reducing the deficit over the 5 years of this budget by two-thirds. Measured as a share of the gross domestic product—which, again, economists say is the best way to measure—the deficit is reduced by more than three-quarters, from 12.2 percent of GDP to less than 3 percent of GDP in 2014. So over the 5 years, we are reducing the deficit by three-quarters.

One other point I want to make is that the previous administration—not only did they more than double the debt and double spending, they tripled foreign holdings of U.S. debt. It took 224 years and 42 Presidents to run up $1 trillion of U.S. debt held abroad. The previous President alone tripled that amount. You talk about a legacy of debt, you talk about a legacy of weakening the country, that is it.

Madam President, I don't mind hearing criticism of the budget we have proposed. Is it a perfect document? No. Do we have to do much more, especially in the next 5 years? Absolutely. But this budget is a good and responsible beginning. If our budget is so bad, why haven't they offered an alternative? If our budget is as irresponsible as they claim, why did they not offer an alternative?

Well, I think we know the reason. They didn't want to have to be held responsible for the tough choices of presenting a budget. So talk is cheap around here. This budget upholds the President's fundamental priorities of reducing our dependence on foreign oil, a focus on excellence in education, and fundamental health care reform because that is the 800-pound gorilla that can swamp this boat. Without such reform, we are headed on a course in health care that is totally and completely unsustainable. Finally, we are dramatically reducing the deficit over the next 5 years.

Those are the priorities the President asked us to preserve. We have done it in the budget. The President supports it. He is right to do so. Let's remember this President did not create this mess; he inherited it. He has been asked to clean it up. I am proud of the aggressive actions he has taken to try to get us on a better course.

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. CONRAD. 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. CONRAD. Madam President, I will take this moment to ask those Senators who have motions to instruct to please come to the floor. We have had Senator JOHANNS offers his, and Senator SESSIONS offer his. We have other Senators—Senator ENSIGN, Senator CORNYN, Senator ALEXANDER, Senator COBURN, Senator DEMINT, and Senator VITTER. It would be very helpful if those Senators would come and be prepared to offer their motions so we do not unduly take the time of the Senate in quorum calls, especially on a day in which we are going to have 9 or 10 votes. We know we can only do about three votes an hour. That means three hours of voting when we get started on voting. So it is already going to be a late night. It would be very helpful and considerate to our colleagues if those who have motions to instruct would come to the floor and offer their motions.

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. GREGG. 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. GREGG. Madam President, I ask unanimous consent that the next two speakers on our side to be recognized—and, of course, there be an alternative speaker possibly from the Democratic side—the next two speakers on our side are Senator VITTER for 10 minutes and then Senator ALEXANDER for 10 minutes to talk about their motions to instruct.

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

Mr. GREGG. Madam President, I also ask unanimous consent that after Senator ALEXANDER, Senator COBURN be recognized to talk about his motion to instruct.

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

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

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

MOTION TO INSTRUCT

Mr. ALEXANDER. Madam President, I wish to speak on behalf of a motion to instruct the conferees, which I have here. Do I need to send this to the desk?

Mr. GREGG. Not yet.

Mr. ALEXANDER. I will speak on behalf of it and send it at the appropriate time.

This should be a relatively easy motion for our colleagues to support because it simply instructs the conferees to support a position that the entire Senate adopted unanimously. That provision during our budget debate was to accept the position of maintaining a competitive student loan program that provides students and institutions of higher education with a comprehensive choice of loan products and services.

I ask the Chair if she will let me know when I have 2 minutes remaining.

The PRESIDING OFFICER. The Senator will be notified.

Mr. ALEXANDER. I thank the Chair.

Madam President, there are three reasons in support of maintaining a competitive student loan system. The first is that 12 million students rely on it today in New Hampshire, in Tennessee, in North Dakota—all across our country.

Second is that now is not the time to be creating a new half-trillion-dollar national bank that would run up the debt, a bank that would replace 2,000 private lenders, and make $75 billion in new loans a year. That is not a proper function of the U.S. Department of Education.

And third, the cost savings that is alleged is—and I will be gentle in my words—a trick on students to make Congressmen look good.

What we are going to be doing if we do not preserve this choice is saying to all the students who get a loan that we are going to take money from them and then give it to other students so that Congressmen can go home and brag that he or she has increased the amount of the Pell grants. Let me be specific in what I say.

I was the U.S. Secretary of Education in 1991 and 1992 when we created something called the Direct Loan Program. We have a federal student loan program. Most people who go to college are familiar with it. About two-thirds of the students at our 6,000 different institutions from the University of New Hampshire to the Nashville Auto Diesel College to Harvard to San Francisco State have a Federal grant or a loan. When you get a student loan, you take it to the institution of your choice.

We now have 2,000 lenders who help provide all those different kinds of loans. They give financial aid counseling, they give interest rate deductions, they help students and families plan on how to pay for college. In other words, they service the loans and then the Government supports that by guaranteeing almost all of the loans.

We set up a separate program which we called direct lending. That was, you could come straight to the Government to get your loan. In other words, we created a government bank run by the Department of Education. We said to the students and to the institutions: You make the choice. You may either have a private student loan guaranteed by the Government through your local bank or financial institution, or you may come to the U.S. Department of Education to get your loan.

We have had more than 15 years of experience with that now, and what have the students and institutions said? Three out of four say we like the regular student loan program, we like the choice, we like the private lender. Since we are getting the loan, we like the idea of going to a bank to get a loan because that is what banks do. If you want a car, you go to a car dealer. That may be changing. You may have to go to the Department of Treasury to get a loan the way the country is going. For 15, 16 years we market tested this and so we have that direct loan program.

The situation right now is we have 12 million students at 4,400 different institutions getting $52 billion in loans by their choice from banks instead of from the Government. One-fourth get it from the Government. It has been that way for a long time.

What the President's proposal wants to do is to take all those choices away from the students and say: Line up outside the Department of Education to get your student loan, all 15 million of you. There will be 4,400 institutions and 12 million students who may not like that.

Second point. Is a national bank a good idea? We read in the paper that the Government is going to take stocks in the biggest banks. So we are going to nationalize the banks. Then we read in the paper the Government is going to take stock in General Motors and Chrysler—hopefully that is not true—so we are going to have the Government deciding what kind of car we are going to be making, what kind of plants we will have, where the plants are going to be. I cannot think of a worse organization to do that.

This is a proposal to say: All right, now the Government is going to be your bank. It is going to be the bank for your student loans. We are going to create a new national bank. It would have over a half trillion dollars in outstanding student loans. It would make 15 million student loans every year, $75 billion in loans a year. We will run all this out of the U.S. Department of Education, a wonderful Department. I was myself there for 2 years. But what do we know about being a national bank? Not very much. Andrew Jackson would roll over in his grave about the idea of a national bank of this size.

My final point. This proposal, with all due respect, is a trick on students to make Congressmen look good, and here is why.

The budget we originally got said we will take $94 billion in savings and we will spend it on Pell grants. Let's think about that a minute. Common sense will tell you that the Department of Education is not going to know more, is not going to be able to replace 2,000 lenders at a cheaper cost. That simply is not going to work. That is what common sense would tell you.

The Congressional Budget Office has told us that in order for the Department of Education to administer these loans, it would cost about $28 billion over the next 10 years. That is the computation I have made. They estimate that the cost of administering the current Direct Loan Program is about $700 million a year. So if they did them all, that would be at least $2.8 billion a year.

Conservatively speaking, you don't have $94 billion in savings; you have 94 minus 28. So you have around 66. So you have $66 billion that goes somewhere out to banks, maybe to reduce loans, maybe to reduce interest rates, maybe to administer the loan program. But the bottom line is, if the Government takes this program over, it is going to be borrowing money at one-half of 1 percent and loaning it out to 15 million students at 6.8 percent. Borrowing at one-half of 1 percent and loaning it out at 6.8. On every student loan—and I hope all 15 million students listen to this—your friendly Government is going to take back 6.5 percent

of the 6.8 percent interest you are paying. What is it going to do? The Congressman or Congresswoman can go home to Tennessee or wherever and say: I increased Pell grants. But they won't tell you: I took money from this student to give it to that student. That is not the way to do it.

What we should do, if that spread is too high right now, is let's cut it down—

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. ALEXANDER.—if the savings is estimated at $90 billion. We know it is closer to 60. Maybe it is 20, maybe it is 30, maybe it is 35. Maybe we should lower the interest rate to 3 or 4 percent or 5 percent or whatever is the appropriate rate. But that does not justify creating a national bank in the Department of Education to try to handle 15 million loans.

So my argument, Madam President, is this: There are colleagues on both sides of the aisle—and there are a number of Democrats—who strongly support the idea of competition and choice in higher education. That is why we have the best higher education system in the world. We have competition and choice all the way through it. The grants and the loans don't go to colleges; they go to the students, and the students choose the college. They can go to Nashville Auto Diesel College if they want or they can go to Harvard; it follows them to the school of their choice. They ought to be able to go to the lending institution of their choice and not line up outside of the Department of Education to get 15 million loans every year. That is not right. It is not the way our country ought to work. So the first is to preserve choice for the 15 million students who now have it at 4,400 institutions.

The second reason is, let's not be creating another nationalized asset in America. We need to be thinking of ways of getting the Government out of the private sector. I mean, this recession is not for the purpose of the Government taking over every auto company, every bank, all the student loans, and every business that is in trouble. We need to be thinking of ways of going the other direction. That is the America we know. That is the America we want. So we don't need a new national bank.

Arne Duncan is the new Secretary of Education. I think he is the President's best appointee. He ought to be working on paying teachers more for teaching well, creating more charter schools, helping states create higher standards. That is his agenda. I don't think he came from Chicago to Washington to be named banker of the year, which is what he would be doing if he became a national bank president for student loans. That is what this proposal would do unless the Senate sticks to its position.

Finally, I don't want to be a part of any situation which has Congressmen and Senators playing a trick on 15 million students and saying: I am going to borrow money at a quarter of 1 percent and loan it to you at 6.8, and then I am going to take credit for giving the rest of it away. I think that will come home to roost, and it ought to come home to roost.

I appreciate the opportunity to make this motion to instruct, and I hope it will come to a vote. I hope it has the kind of bipartisan support it had before. I hope the President will think of all the other things there are to do that need attention, such as fixing the banks, getting credit flowing, restoring the auto companies, and leave the student loan system to continue to work in the way it should work.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. If the Senator will yield, I would suggest that he send his motion to the desk at this time and set aside the pending motion.

Mr. ALEXANDER. Madam President, I send to the desk my motion to instruct conferees.

The PRESIDING OFFICER. Without objection, the pending motion is set aside. The clerk will report the motion to instruct.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the current resolution on the budget for fiscal year 2010) be instructed to insist that the final conference report include the Senate position maintaining a competitive student loan program that provides students and institutions of higher education with a comprehensive choice of loan products and services, as contained in section 203 of S. Con. Res. 13, as passed by the Senate.

The PRESIDING OFFICER. The Senator from Louisiana.

MOTION TO INSTRUCT

Mr. VITTER. Madam President, I ask unanimous consent that the pending motion be set aside and that my motion be sent to the desk.

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

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist that if the final conference report includes any reserve funds involving energy and the environment, that such sections shall include the requirements included in section 202 (a) of the Senate-passed resolution to require that such legislation would not increase the cost of producing energy from domestic sources, including oil and gas from the Outer Continental Shelf or other areas; would not increase the cost of energy for American families; would not increase the cost of energy for domestic manufacturers, farmers, fishermen, or other domestic industries; and would not enhance foreign competitiveness against U.S. businesses.

Mr. VITTER. Madam President, a few weeks ago, when we debated the budget here on floor of the Senate, I passed language contained in section 202(a) of that budget resolution. This motion to instruct conferees is very simple. It says that we will fight to keep that language in the final budget resolution.

What does that language do? Well, it is very simple. It says that this budget legislation '' . . . would not increase the cost of producing energy from domestic sources, including oil and gas from the Outer Continental Shelf or other areas; would not increase the cost of energy for American families; would not increase the cost of energy for domestic manufacturers, farmers, fishermen, or other domestic industries; and would not enhance foreign competitiveness against U.S. businesses.''

That is a pretty simple, straightforward plea, and it is one we should keep in this budget resolution—fight and demand to retain that language in our budget. That is why I ask all my colleagues to join me in supporting this motion to instruct.

At a gut level, this is very simple. New taxes kill jobs. New taxes kill jobs. According to a preliminary estimate based on the Center for American Progress data, 271,000 oil and gas jobs would be destroyed by the administration's proposed new taxes and fees on energy. That would be a bad idea, in my opinion, at any time. But now, as we are in the midst of a horrible recession, which is still getting worse, it is a horrendous idea. Now is not the time to impose these new taxes on the economy, including the oil and gas industry. New taxes would hurt workers by extending the recession and by depressing job creation just as, hopefully, an economic recovery in the next several months starts to gain a foothold.

The oil and gas industry is significant to our economy and employs more than 6 million fellow Americans. Attacking that industry in the midst of a horrible recession is attacking those 6 million of our fellow citizens. Right now, they feed their families, put a roof over their kids' heads because of good, solid jobs in the energy sector producing good, affordable energy for Americans. These proposed taxes would kill those jobs in the midst of a horrible recession.

This is not brain surgery. We know from history, from practice, that higher taxes in this sector result directly in less domestic energy, and restrained supplies lead to higher energy costs for consumers too. So in today's economy, that would stifle recovery and make Americans more dependent on foreign oil and natural gas.

New taxes will make it more expensive for oil and natural gas companies to expand or initiate new exploration and development programs, and that would mean fewer jobs for American workers.

New taxes hurt businesses, threaten jobs, and they are then passed on to

consumers as higher prices. And higher taxes are a burden felt throughout the economy. They discourage business expansion, investment, and job creation.

Again, this is a very simple, basic, but important notion. This is no time to increase taxes on domestic energy production. This is no time to stifle what will hopefully soon become the beginnings of a recovery. In terms of our energy picture, this is no time to lessen domestic production when we should be moving in the opposite direction and increasing domestic production and independence from foreign sources. All of these energy tax proposals would do exactly that.

Let's be clear about it. These proposals have been made. They are there in black and white. They are concrete. They are real proposals from the Obama administration and some liberal Members of Congress, and they fall into two big categories: No. 1, a very aggressive, ambitious cap-and-trade program, which is a tax on so many forms of energy and activity in our country; and No. 2, direct tax increase proposals on domestic oil and gas production. I don't believe any time is a good time to push that policy, but I would hope we can all agree that now, in the midst of a severe recession, which unfortunately is still getting worse, is really not the time to increase taxes on the domestic energy sector. It will cost us jobs, it will stifle a recovery, it will increase costs on consumers, and it will hurt American businesses and consumers.

Madam President, let's all join in support of this language in the Senate version of the budget resolution. In our previous debate of a few weeks ago, it was adopted by unanimous consent. Let's make sure it is fought for and preserved in the final version of the budget resolution.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

MOTION TO INSTRUCT

Mr. COBURN. Madam President, I ask unanimous consent that the pending motion be set aside, and I offer a motion to instruct the budget conferees.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist that Conference Report include a reserve fund that promotes legislation that achieves savings by going through the Federal Budget line by line, as President Obama has called for, to eliminate wasteful, inefficient, and duplicative spending, as set forth in Section 224 of S. Con. Res 13.

Mr. COBURN. Madam President, this was accepted during our debate. The reason I bring it back is that if you ask the American people what they are worried about, they are worried about their jobs, they are worried about their health care, but they are also worried that we are spending their children into oblivion. And they are right—we are.

One of the great things about President Obama's promises was that he said he recognized we have waste in the Federal Government. He recognized we have duplication in the Federal Government. He recognized we have programs that aren't working in the Federal Government. And the commitment he made—and he has made three times since being sworn in as President—is to do a line-by-line evaluation of every Federal program out there, to check it for waste, No. 1; No. 2, to check to see if it is duplicative of something else, which a third of them are; and No. 3 is, does it have any metrics on it and is it being defrauded?

The fact is, it is now common knowledge that at least $300 billion a year—at least $300 billion a year—is either wasted, defrauded, or duplicated in the Federal Government. The real problem is that even though we now have a President who wants to attack that, Congress hasn't been willing to do it. We have not been willing to keep our side of the bargain in terms of oversight and evaluation.

It strikes me that if all the money we are borrowing to run the Government today was really our money, none of us would ever allow what is going on in the Federal Government. None of us would. None of us would allow the duplication.

We had a hearing yesterday in Senator CARPER's Federal Financial Management Subcommittee on the waste and fraud in Medicare and Medicaid. It went up to $74 billion—$74 billion, and we are not doing anything about it? Total improper payments. We only have improper payments in about three-quarters of the Federal Government even though it is a mandated law that they have to supply it. But they can't measure it because they don't know what they are paying for.

The fact is, we know we have big problems. We have a fraud bill in front of us that we haven't finished working on that is to go after fraud. Well, the biggest fraud is right here. The biggest waste is right here. So the point ought to be, as we go into a conference on the budget, that we ought to commit to the American people that we are willing to do what they are having to do right now; that we are going to look at where things aren't working, we ought to look at where things are wasted, we ought to look at things we are not measuring and start measuring them, and the things that are not effective, we should get rid of. That is all this says. It just says we will go line by line through every Federal program; that we will have oversight at least once a year on everything that is out there, and we will make a dent in this $300 billion-plus.

Here is the question. Is it moral to waste $300 billion and that $300 billion come out of lost opportunity of our children? Is this a moral position the Senate wants to stand on? Does the Congress want to stand on that? Can our country ultimately survive, if we keep doing what we are doing? The answer to that is emphatically no, we cannot. Every republic in the history of mankind has died under fiscal collapse. They have not been invaded from outside until they rotted from within.

This is a straightforward commitment by the Senate and the Congress, through the budget, to meet President Obama's request that what he is going to do we are going to do, and we are going to weed out a large portion of the ineffectiveness, of the duplication, and of the waste that is in our Government and our grandkids' Government. There is no reason for us to have anything other than a unanimous vote on this motion to instruct.

If you do not think we should be doing that, you do not belong in the Senate. If you do not think we have a constitutional obligation to evaluate where we are spending the money, get rid of the waste and go line by line through all these programs, we need some other people up here. That is because right now our Republic is in jeopardy. It is not from terrorism. It is from our own potential fiscal collapse. The time to attack that is now.

It is my hope the Senate will send a huge vote on this motion that we mean business, we are going to join hands with President Obama, and we are going to fix most of what is wrong, in terms of these programs.

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

I withdraw that. I see Senator DEMINT is here.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. DEMINT. I send a motion to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist that the conference report on the concurrent resolution shall include a point of order against legislation that eliminates the ability of Americans to keep their health plan and eliminates the ability of Americans to choose their doctor, as contained in section 316 of the concurrent resolution, as passed by the Senate, and insist further that an additional condition be added providing such legislation shall not decrease the number of Americans enrolled in private health insurance, while increasing the number of Americans enrolled in government-managed, rationed health care.

Mr. DEMINT. Madam President, we are here to talk about the budget. Obviously there are a number of different

things in the budget of concern and some controversy. I appreciate the opportunity to speak on this motion which addresses a particular part of the budget related to health care. During the campaign the President promised that any changes in health care would protect the patient's right to pick their plan, their doctor, and to keep the plan they have if they want it. My motion simply codifies that, in a sense, we make sure we keep the promise.

In the budget there is a downpayment which has been referred to of, I think, around $700 billion on some massive changes in health care. My concern is this could mean an expansion of Government plans rather than making private health insurance more available to patients. We do not need to just speak of the public interest when we are talking about health care; it is important that we talk about the patient's interests. I think most of us agree that when the patients can work directly with their doctors, choose their own doctors, choose their own health plans, the Nation is better off.

There is an old saying that success has many fathers while failure is an orphan. Our health care failures have a father. In most cases it is the Government. See, our policies make it hard for individuals to have a health insurance plan they can afford and own and keep. One part of that is the Government today pays for over half of the health care in America through Medicare, Medicaid, children's health programs, and veterans health programs. But, unfortunately, when they pay doctors in hospitals they often pay below cost.

In fact, it has been estimated that Government payment causes private health insurance to be 20 percent to 30 percent more expensive than it would be if everyone paid their fair share of the cost. So the Government at the beginning is a big part of the problem of making health insurance too expensive for individuals.

A number of us had the opportunity this week to hear from the President and CEO of Safeway Supermarkets. They have over 200,000 employees. He was going through a lot of the statistics about their health plan and how they have been able to keep the cost of health care level for the last 4 years. They have done a lot of things not only to make health insurance and health care more accessible, they have done a lot of things to make their employees healthier. You see, they use a lot of incentives, recognizing that 70 percent of our health problems as Americans are caused by our own behavior—whether it be smoking or overweight or poor diets. It is pretty obvious through the statistics that people have a lot of control over how healthy they are and therefore how much they have to spend on health care.

Safeway, through a lot of incentives that discourage smoking and encourage people to get in better shape—eat better, lose weight—are able to save their employees money and to make them healthier and to reduce the cost of the health care for the company and for the employees.

There are a lot of demonstrations like this around the country that show private health insurance can work. Freedom can work if we let it.

The President of Safeway asked us to make some changes that would give them more flexibility to offer even more incentives for people to cut their own cost of health care by changing their behaviors. This is something we should all want. Instead of moving immediately to some massive new Federal plan, let's look at what we can do to let the free market system work, where patients and doctors and employers and associations can work together to make private health insurance work.

There are a lot of things we do here that make it harder. I will list a few. Small businesses could do the same thing as Safeway if we allowed them to work together in associations to buy their health insurance and to provide these incentives for better health and better access to health care. But, yet, we have consistently voted against allowing this to happen. Why will we not let that happen? Why will we not let individuals deduct the cost of their health insurance, like we do employers? It is almost as though we do not want individuals to have health insurance. Then we throw up our hands and talk about how many people are uninsured in our country.

Health insurance would work much better if it were portable. We could change some of our laws and regulations to make it much easier for people who have insurance with one company to take it with them when they leave to go to another company or to start their own business. Yet we refuse to do those things that would allow the market to work.

Right now in this country, individuals can only buy health care or health insurance from companies that are in their State, that are certified in their State. Why not let people buy health insurance from any State in the country as we do with other services? Why restrict it to a one-State monopoly, where regulations or mandates or other things could shoot up the cost of health care? We could create a more competitive, higher quality health insurance market if we let it become national market.

We do other things that seem absurd, such as we will allow a small employer to put money in a health savings account for their employees but we will not let that employee use the money in the health savings account to pay for a health insurance premium. Why do we do that? If we want people to have health insurance, to have the freedom to buy and own their own health insurance, we would do these simple things that put the patient more in charge. They would have better health care, better health insurance, and probably a lot better health.

What we are doing every day is sliding closer to a national or socialized health care system, saying the system we have does not work when the fact is we have done about everything we can to make it impossible for a free system to work. We do have serious problems and challenges in our health care system but almost all of them are made worse by the people who work in this place everyday.

The question now is whether more Government will make those problems better or worse. I think to ask that question answers it on its face. We know the free market did not create these problems because there is no free market for health care in the United States today. Government dominates the market. It does not pay its fair share. It regulates everything to the point where it makes it very difficult for the private market to work.

Let's not give up on freedom and go to socialism here in America before we have tried to fix the simple things that are obvious, in front of us, the things that companies such as Safeway say we can do to provide better insurance and make people healthier and lower their cost and give them plans they can keep.

No matter what the problem is in Washington, people here seem to think the solution is more Government. But we do not need a new Federal program for health care. We need to remove the Federal barriers that keep freedom from working in health care.

We have taken over banks, auto industry, mortgage lending, education, transportation system. Look at the areas the Government is running today and ask yourself, do you want to run health care the way we have been running education in America; as we have been running the financial markets for the last few months; or how we are doing with the auto industry now that we have essentially taken it over?

Health care is the best in the world here in America because of that small segment of the private market, the free market, that is working—the best pharmaceuticals, the best technology, the best private health care.

Socialism does not work. There is not an example in the world where it does. We keep hearing here, why don't we be more like Europe or more like Canada, where people have to wait 6 months or more to get an MRI. The only reason theirs works as well as it does is they are the beneficiary of a lot of American technology that is developed in the free market system. They are the beneficiaries of a lot of the prescription drugs that come out of our country that are developed here because there is still a free market. This is a reason that the technology and the prescriptions are not being developed in other countries that are socialistic. Freedom works and we need to expand it here in America.

Let me talk briefly about this motion to instruct conferees. Hopefully it

will not be controversial because it is essentially a promise from the President of the United States. My amendment would require a supermajority vote to consider any legislation in the future that would take away people's freedom to keep their own health plan or take away people's freedom to choose their own doctor or decrease the number of people with private insurance while increasing the number of people in Government-rationed health care programs. All my amendment says is give freedom a chance. The American people have not given up on freedom and neither should their elected officials.

I thank the ranking member, I thank the Presiding Officer, and ask for the consideration of my motion.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from New Hampshire.

Mr. GREGG. For the information of our colleagues, we have three more speakers on our side who will take 10 minutes each, offering motions to instruct. There may be other speakers but I do not know of them. I hope we can sort of start voting here, depending on what the chairman desires to do, at some point in the near future.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I would be eager to do that. I think what we need to do is have other Members come and offer their motions to instruct and see what time is needed in terms of rebuttal on that. It would be our intention to—if you have three more on your side, 10 minutes each, so we will probably need 30 minutes on the other side. I don't want to lock this in at the moment because I have not talked to leadership and I do not know if there are other considerations, but the intention would be to begin voting about 7 o'clock. Perhaps we can move that up. Perhaps I will not need all of that time. Hopefully not.

Mr. GREGG. We may not need all of the time on our side either.

Mr. CONRAD. We need to check with the leadership to see when votes can start, but it would be our intention, perhaps in the 6:45 to 7 o'clock timeframe, to begin voting, perhaps even a little bit before that. We will have to check with the leadership.

MOTION TO INSTRUCT

Mr. GREGG. Mr. President, I send a motion to instruct to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist that the final conference report limit the increase in the public debt for the period of 2009 through 2019 to an amount no greater than the amount of public debt accumulated from 1789 to January 20, 2009.

Mr. GREGG. Mr. President, as we have discussed earlier at some length, there are three essential problems with the President's budget. The first is that it spends too much, the second is it taxes too much, and the third is it creates too much debt. It is the third issue I think many of us find to be the most severely distressing issue.

Of course, it is driven by the first two issues. But the idea that we are going to double the debt in 5 years, triple it in 10 years; we are going to have, on average, a $1 trillion deficit every year for the next 10 years, and that we are going to build up the national debt to a point where it is 80 percent of the gross national product, the public debt is disturbing. It basically is on an unsustainable path. It means our Nation will be put at risk by that type of debt.

Now, the Congress is not doing a very good job of disciplining itself. This problem is driven primarily by spending. But the fact is, the result of that spending is this explosion in debt.

As I have held up before this chart that shows the picture of the Presidents since the beginning of our Nation, President Washington through President George W. Bush, they generated this much debt on this country, $5.8 trillion.

President Obama's budget just in the first 4.5 years essentially is going to double that debt. All the debt added to the United States, to the backs of American citizens since 1776, or actually 1789 when the Government started creating debt, over 200 years, all of that debt is doubled now in just 5 years.

That is not tolerable. Then that debt, after doubling in 5 years, triples in 10 years. Our children end up with this debt. Our children are the ones who have to pay for this. The people who will be working in America are the ones who are going to have to pay for this and bear the burden of this debt. They are going to suffer either massive inflation, massive devaluation of the dollar, massive tax increases or a dramatic disruption in our capacity to sell debt as a nation because of this.

The chairman of the committee has said this is an unsustainable path. Yet nothing in this budget addresses the fact that this path is one we have chosen to follow. It is akin to saying: We know we are going to go off a cliff. We are on a path that takes us off a cliff, but the budget does nothing to change the direction we are walking and, in fact, accelerates our pace toward that cliff.

That makes no sense at all to me. Why would we pass a budget which we know will create so much debt and so much of a burden on our children that our Government will not be able to be sustained and our children will not be able to afford the Government.

It is counterintuitive to do something that is certainly not correct. One generation has sort of a fiduciary responsibility to the next generation. In the history of our Nation, each generation has passed on to the next generation a better nation, a stronger nation, a more prosperous nation. Yet this budget locks in place a path that absolutely guarantees, absolutely guarantees, that our generation will pass onto our children a country that is not as prosperous, is not as strong as what we received from our parents.

That is not right, not fair, inappropriate. It is a totally inappropriate thing to do. It can be corrected. It is not as if this is not an uncorrectable event. There has been a decision made on the other side of the aisle and by the President in bringing forward this budget to significantly explode the size of the Government. That is a conscious decision that was made. The President is very forthright about this. He thinks that is a way to create prosperity. It does not happen if at the same time you are running up the national debt at rates which are unsustainable.

The debt, the public debt will double during the term of this budget—double from 40 percent to 80 percent. We have the public debt so high under this budget, or the President and the Democratic Members of this Senate and the House have it so high under this budget that if we tried to apply it to the European Union as a country in Europe, for example, we would be rejected because, under the terms of the European Union, a country cannot have as high a debt as we are going to have after this budget runs its course.

Actually, it is about the middle of the budget that we hit that threshold. Can you believe that? Countries such as France are going to be more fiscally responsible than we are. But that is the truth. That is the way this budget plays out. As I say, this is a path over a cliff for our Nation.

I have offered this motion to instruct. I call it the 1789 motion because that is the date when we started running up debt in this country. In essence, it says this: We cannot pass a budget here in this 5-, 10-year cycle that adds more debt to the backs of our children than the total debt that was added to this country from 1789 through January 20, 2009.

I think that is a fairly reasonable standard. We are going to say you cannot exceed the amount of debt that is being added by this budget—that amount of debt cannot exceed the amount of debt that has been added to this country since our beginning, 230-some-odd years.

We have to have some standard to live by. That seems like a reasonable one, that in 5 or 10 years we do not take the debt up so quickly and so horrifically that we actually exceed all the debt put on the backs of the American people since the beginning of our Nation, from 1789 through January 20, 2009.

This standard, if it is passed, will be a standard that will be enforced under the budget. The effect of it will be that we will have to figure out some way to

reduce debt or the rate of growth of debt under this budget. That is reasonable. If it is the desire of this administration to radically expand the size of Government, as it appears to be the desire of this administration to take spending in this Government up to astronomical levels in the context of our historical spending at the Federal Government, to go from 20 percent of GDP up to 25, 26 percent of GDP, if that is the purpose of this administration, and it appears to be their purpose, it is their purpose, it is what they said they are going to do in this bill, in this budget, well, then they cannot do it by passing those bills on to the next generation and creating this massive debt.

They have to come up with some other way to do it. My suggestion would be that they do not spend that much money. That would be the suggestion from our side of the aisle. But maybe from the other side of the aisle is that they raise taxes radically on all working Americans, which they do anyway in this bill, but they would have to raise money in any event. We should not put the burden on our children by creating all this additional debt.

This is a simply fairly reasonable test as to how much debt this budget should be able to run up on our people. It should be less debt in 5 years than has been run up on the American people in over 200 years.

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. CORNYN. I ask unanimous consent that the order for the quorum call be rescinded.

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

MOTION TO INSTRUCT

Mr. CORNYN. Mr. President, I ask unanimous consent that the pending motion be set aside, and I send to the desk another motion for which I ask its immediate consideration.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist on the inclusion in the final conference report of the point of order against legislation that raises Federal income tax rates on small businesses as contained in section 307 of the concurrent resolution, as passed by the Senate.

Mr. CORNYN. Mr. President, my motion instructs Senate conferees to include section 307, which is included in the Senate-passed budget resolution, in the final conference report. As the distinguished chairman of the Budget Committee knows, this creates a 60-vote point of order against any legislation that raises income taxes on small businesses. The Senate, in a bipartisan vote of 82 to 16—a rarity these days, when we see that kind of overwhelming bipartisan support on anything—approved this point of order which I offered as an amendment to the budget. The Senate voted so overwhelmingly for this amendment—and I suggest it would be appropriate to vote for this motion to instruct in at least the same numbers—because the Senate should not pass a budget that increases income taxes on small businesses in Texas or Alaska or anywhere else, especially during a time when the economy is struggling and when our No. 1 priority is to help employers retain employment for their current employees and, hopefully, at some point begin to increase the number of jobs available to Americans.

Almost 400,000 businesses in Texas that employ around 4 million people would be especially hit by a failure to pass this motion to instruct and by any increase in income taxes on small businesses. For example, earlier when I spoke on the budget resolution, I mentioned Don Thedford, a small businessman in Tyler, in east Texas, and how he told me he has been able to grow his small business in part because of the tax relief we provided in 2001 and 2003. It is common sense and certainly intuitive that taxes can have an impact on the ability of a business to expand or, when taxes are unnecessarily high, cause it to contract.

Another businessman in east Texas, Cory Miller from Winnesboro, tells a similar story. Through one business that Cory has, he drills and services water wells. Of course, in the process, he gives families and communities access to fresh water. In his business, he manufactures a type of pump he invented, one which he now sells to other well drillers and drilling rig manufacturers. He has been in this business for 25 years and now employs 35 people. Cory, like Don, believes the tax relief we passed in 2001 and 2003 created the kind of positive, progrowth environment which allowed him to grow his business and that higher taxes in the middle of a recession will force him to make tough decisions and possibly lay off employees.

Higher taxes for people such as Don and Cory will mean they will not be able to reinvest more money in their businesses to purchase equipment or to hire more people because they will have to pay Uncle Sam higher taxes instead. As Cory put it:

Every dollar taken from an aggressive, growth-oriented small businessman like myself is a dollar that will not be used to expand my business or hire new employees.

We all know if small businesses are hit by higher taxes such as those proposed in the administration's budget, it will cause them to contract. We also know that small businesses are the vehicle that has produced most of the new jobs over the last decade. Given that President Obama and his administration have said their primary objective in dealing with the economy is job creation and retention, I don't understand why they would propose in their budget to increase taxes on the engine of job creation known as small business.

The Senate made its voice clear when a bipartisan majority supported my point of order as an amendment to the budget in the Senate. I ask my colleagues once again to reaffirm their support in the same bipartisan fashion by joining with me in supporting this motion to instruct conferees not to raise taxes on small businesses, the primary job engine in the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are going to start voting shortly. I ask unanimous consent that the votes be in the order as listed in the original unanimous consent request under which we are functioning, which would be Senators STABENOW, JOHANNS, GREGG, SESSIONS, ENSIGN, CORNYN, ALEXANDER, COBURN, DEMINT, and VITTER.

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

Mr. GREGG. As I understand from the chairman—and certainly it is our sentiment—we can pretty much begin voting whenever anybody is ready.

Mr. CONRAD. I am told by leadership staff we have a problem voting before 7 in terms of getting some Members here.

Mr. GREGG. I ask unanimous consent that the time between now and 7 be equally divided between the two parties under the leadership of myself and Senator CONRAD, and that should Senator ENSIGN be here, he has the last motion to instruct which we need to discuss. So he gets 10 minutes from our side or such time as he may desire from our side that is still remaining.

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

Mr. CONRAD. Mr. President, let me observe that we have a chance to handle a number of these motions by voice vote. There are a number of them we could support, we could accept. Senator GREGG will be talking to those Members who have motions to instruct that we could accept. I ask them to carefully consider that offer. We have stacked up 10 potential votes. We can do three votes an hour. That would be three hours of voting starting at 7. That would take us until 10 tonight. Frankly, as I count them, we have six of these motions that we could accept, shortening the time for voting by 2 hours. That would mean we could be done by roughly 8. It is dependent on Senators being willing to take voice votes or being willing to have their motions accepted on a unanimous consent basis.

I make that plea to Senators. We could do it the way that gets us finished with our business in a reasonable way by 8 or we could go until 10.

The other thing I want to add is, this will not affect how these motions do in conference. If somebody has that in

mind, sometimes it does make a difference, but in this case it will not.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

MOTION TO INSTRUCT

Mr. GREGG. Mr. President, I send a motion to the desk on behalf of Senator JOHANNS and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. JOHANNS] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the current resolution on the budget for fiscal year 2010) be instructed to insist that if the conference report includes a Deficit Neutral Reserve Fund to Invest in Clean Energy and Preserve the Environment and Climate Change Legislation similar to section 202 of S. Con. Res. 13, as passed by the Senate, then that Deficit Neutral Reserve Fund shall also include the language contained in section 202(c) of S. Con. Res. 13, as passed by the Senate, which provides that the Chairman of the Senate Budget Committee may not revise allocations for legislation if that legislation is reported from any committee pursuant to section 310 of the Congressional Budget Act of 1974.

MOTION TO INSTRUCT

Mr. GREGG. I send a motion to the desk on behalf of Senator ENSIGN and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the concurrent resolution on the budget for fiscal year 2010) be instructed to insist that the conference report on the concurrent resolution include the point of order against legislation that raises taxes directly or indirectly on middle-income taxpayers (single individuals with $200,000 or less in adjusted gross income or married couples filing jointly with $250,000 or less in adjusted gross income) as contained in section 306 of the concurrent resolution as passed by the Senate.

Mr. GREGG. 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. THUNE. 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. THUNE. Mr. President, I rise to speak in opposition to the motion of the Senator from Michigan, Ms. STABENOW, that instructs the conferees to include some but not all of the limitations the Senate voted for with respect to climate change legislation.

I think the Senate needs to understand that the effect of this motion would be to instruct conferees on the issue of climate change without including the Senate's protection for consumers against higher gas and electricity prices, which was adopted by the Senate by a vote of 89 to 8 during the debate on the budget resolution. The Senate adopted several budget amendments to try to specify what the parameters should be in the debate over climate change legislation.

One of those amendments that was adopted was one that was sponsored by me. That amendment specified that climate change legislation could not increase electricity or gasoline prices. It was adopted by the Senate by a vote of 89 to 8.

What Senator STABENOW's motion would do if it were agreed to is it would instruct that it would be the Senate's only specific instruction on what should be included in the final budget on climate change legislation, apart from the reconciliation limitations that would be included. So, in other words, other protections, such as those included by my amendment, could be excluded were the conferees to adhere to the instructions in her motion.

The bottom line is, Senator STABENOW's motion to instruct would encourage conferees to drop the commonsense protections adopted by the Senate with a vote of 89 to 8 when it adopted my amendment to the budget resolution.

Just, again, by way of background, I do not think there is anybody who would argue the point that a cap-and-trade proposal is going to raise energy prices. This motion does nothing to include protection against those higher prices.

Under the President's cap-and-trade proposal that was contained in his budget, it would impose what is a massive new energy tax on anyone who drives a car or turns on a light switch.

In fact, Secretary of Transportation Ray LaHood has said the administration is ''not for an increase in the gas tax as long as the economy is bad, people are out of work, people don't have jobs. No one should be promoting an increase in the gas tax.'' The cap-and-trade proposal the President has put forward would do just that. It would also increase the cost of electricity prices.

Secretary of Energy Chu just testified recently:

I think especially now in today's economic climate it would be completely unwise to want to increase the price of gasoline.

The President and his Budget Director have been very clear that prices are going to go up on consumers, and they are going to feel the pain, the economic pain associated with higher prices for electricity and gasoline.

The President himself acknowledged that when he was talking about a cap-and-trade proposal some time back. He acknowledged his plan would lead to higher electricity prices, and he said:

Under my plan of a cap and trade system, electricity rates would necessarily skyrocket.

What happened during the debate on the budget is we adopted my amendment, by a vote of 89 to 8, which specifically stated that any cap-and-trade climate change legislation could not increase electricity rates or gas prices for consumers in this country. The Stabenow motion to instruct, if adopted, would instruct the conferees in an opposite direction. It would exclude that protection that was included in my amendment to the budget resolution.

So I ask my colleagues in the Senate to defeat the Stabenow motion. The Johanns motion, on the other hand, to instruct the conferees not to use reconciliation to accomplish climate change legislation is a good motion. I hope the Senate will vote to adopt it. That was also one that was adopted by a fairly large margin when it was voted on during the debate on the budget a couple weeks ago.

But let me restate as clearly as I can, if the Stabenow motion is adopted by the Senate today, it would instruct the conferees in a number of areas with regard to cap-and-trade legislation, many of which sound good: invest in clean energy technology initiatives, decrease greenhouse gas emissions, create new jobs in a clean technology economy, strengthen the manufacturing competitiveness of the United States, and I could go on. There are nine of them that are stipulated here. The one that is conspicuously and noticeably absent is the protection against higher prices for consumers in the form of higher gasoline prices and higher electric rates.

So it was an amendment adopted by the Senate by a vote of 89 to 8. It would be my view that the Senate should not go back on an overwhelming vote like that, which made it very clear that any climate change legislation should not raise electricity and gasoline prices on American consumers. The Stabenow motion, if adopted, would not include that protection. I ask my colleagues to vote to defeat it.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, for the advice of our colleagues, we are very close to being able to begin voting. At roughly 7 o'clock, we will begin. We have 10 motions pending, or we will have by that time. We are still waiting for a signed copy of one motion that I will send up when that is available. Again, we are asking colleagues—we have a number of these we can take which would reduce the number of votes that would have to be conducted. Senator GREGG is working diligently to talk to colleagues to see if they are willing to take a voice vote or take an acceptance by unanimous consent, and we are still waiting for final answers on all of those matters. So again, for the advice of our colleagues, we are very close to the time when we can do that.

I ask unanimous consent to set aside the pending motion to instruct so I may offer a motion to instruct on behalf of Senator STABENOW.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the concurrent resolution S. Con. Res. 13 (the current resolution on the budget for fiscal year 2010) be instructed to insist that the final conference report include a Deficit-Neutral Reserve Fund to Invest in Clean Energy and Preserve the Environment (as provided in section 202(b) of S. Con. Res. 13, as passed by the Senate) that would allow the Chairman of the Committee on the Budget of the Senate to revise the allocations of 1 or more committees, aggregates, and other appropriate levels and limits in the resolution for 1 or more deficit-neutral bills, joint resolutions, amendments, motions, or conference reports that would—

(1) invest in clean energy technology initiatives;

(2) decrease greenhouse gas emissions;

(3) create new jobs in a clean technology economy;

(4) strengthen the manufacturing competitiveness of the United States;

(5) diversify the domestic clean energy supply to increase the energy security of the United States;

(6) protect consumers (including through policies that address regional differences);

(7) provide incentives for cost-savings achieved through energy efficiencies;

(8) provide voluntary opportunities for agriculture and forestry communities to contribute to reducing the levels of greenhouse gases in the atmosphere; and

(9) help families, workers, communities, and businesses make the transition to a clean energy economy.

Mr. CONRAD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, earlier today, the Senate was very close to reaching an agreement to complete action on the financial fraud measure. It is a bipartisan measure which is the result of significant bipartisan work of Senators LEAHY, GRASSLEY, and virtually every member of the Judiciary Committee. I thought we had an agreement, but we were not able to do this, in spite of all of the good work of Senator LEAHY. We simply want to limit amendments to this bill. Everyone has had ample opportunity to offer amendments. I guess it would have been nice if we had voted later last night, but I had a meeting at the White House. I had to be at the meeting, and I left here about 5:15 and the meeting lasted until about 7:30.

We are going to file cloture tonight on this measure. Everyone should acknowledge that this means we are going to have a cloture vote Saturday morning around 11 a.m. There will be another vote on Sunday, if we are asked to use up all of this time. It is unfortunate, since people had all the opportunity they had to offer amendments. No one has tried to stifle amendments on this or anything else this year. It is unfortunate, and that will mean there will be some amendments, well intentioned and good, that deal with the financial crisis facing this country that will fall, but we have had good debate the last few days on this legislation.

I wish there were some other way to do this. I pulled out all the stops to try to talk to a number of Senators, and I apologize for not being able to work something out, but that is the way it is sometimes.

Mr. LEAHY. Mr. President, would the Senator yield?

Mr. REID. I am happy to yield.

Mr. LEAHY. Mr. President, I think the distinguished leader is doing all he can do in this case. I am surprised, as he said, since this bill has had huge bipartisan support and bipartisan sponsorship. It is to try to protect people from losing their retirement funds, their home, their savings for their children to go to college, from these mortgage fraud people. Everybody across the political spectrum has endorsed the bill.

We voted on every amendment to remain to the bill. There are about a dozen or more that have nothing to do with the bill. It is unfortunate for the people who are seeing their life savings being ripped off by unscrupulous criminals, and that we cannot criminalize it in such a way as to stop it. So I will be here to vote. The irony is that when the bill finally gets to a vote, it will probably pass about 90 to 5.

Mr. REID. Mr. President, I ask unanimous consent that the Republican leader be allowed to make a statement prior to the vote.

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

The Republican leader is recognized.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under ''Morning Business.'')

Mr. REID. Mr. President, on the motions to instruct, I ask unanimous consent that there be 2 minutes between each vote for debate equally divided between Senators GREGG and CONRAD or the sponsor of the motion. Senators GREGG and CONRAD can determine who has the time.

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

Mr. REID. I ask unanimous consent that there be 10-minute votes after the first vote.

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

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The pending question is on agreeing to the Stabenow motion to instruct.

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

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

The yeas and nays are ordered.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, Senator STABENOW would like to speak.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, this amendment was included in the Senate budget resolution. It lays out clear, positive instructions for balanced climate change legislation that allows agriculture and forestry to participate voluntarily. It focuses on jobs, protecting manufacturing, protecting consumers, and it lays out a positive approach rather than just saying no to reconciliation, which is a policy I agree with. We need to have a positive, balanced approach, and this motion does that.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I rise in opposition to the Stabenow motion to instruct. She is correct that it imposes limitations on climate change legislation as adopted during the budget resolution, with one very important deletion, and that is one that consumers care about the most, which prevents consumers from having to pay higher gasoline prices and electricity rates.

If the Senate adopts this motion, it will undermine an amendment I offered to the Senate budget resolution, which passed 89 to 8 in the Senate, which prevents consumers from having to deal with higher gas and electricity rates as a result of climate change legislation. That is an important protection. It is something the conferees need to keep in the budget resolution.

I hope the Senate will vote to defeat the Stabenow motion to instruct because it does undermine what we did in the budget resolution with respect to the protections afforded to consumers when it comes to higher gas and electricity prices. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) 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 57, nays 37, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—57

Akaka	Boxer	Carper
Baucus	Brown	Casey
Bayh	Burris	Collins
Begich	Byrd	Conrad
Bennet	Cantwell	Dodd
Bingaman	Cardin	Dorgan

Durbin	Leahy	Reed
Feingold	Levin	Reid
Feinstein	Lieberman	Sanders
Gillibrand	Lincoln	Schumer
Hagan	Lugar	Shaheen
Harkin	McCaskill	Snowe
Inouye	Menendez	Stabenow
Johnson	Merkley	Tester
Kaufman	Mikulski	Udall (CO)
Kerry	Murray	Udall (NM)
Klobuchar	Nelson (NE)	Warner
Kohl	Nelson (FL)	Webb
Lautenberg	Pryor	Wyden

NAYS—37

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

NOT VOTING—5

Kennedy	Rockefeller	Whitehouse
Roberts	Voinovich	

The motion was agreed to.

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote in relation to the Johanns motion to instruct.

Who yields time?

The Senator from Nebraska.

Mr. JOHANNS. Mr. President, Members of the Senate, I rise this evening for the express purpose of asking for your support for a motion that is very straightforward. We have already voted on this in an amendment I submitted during the budget process.

The motion basically says that we will not use the reconciliation process to pass cap-and-trade legislation. The last time this issue was before this body, we had 67 Senators, both Republicans and Democrats, who spoke very loudly and clearly opposing budget reconciliation to pass cap-and-trade legislation. I ask that we do that again. I ask that we do that again to indicate very clearly that we do not want to use the reconciliation process for cap-and-trade.

I conclude my remarks by saying thank you for your thoughtful approach to this, and I ask for the yeas and nays.

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

The yeas and nays are ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I wish to point out to colleagues that there is no reconciliation instruction on the budget resolution that we are sending to conference from the Senate. In the House, the Speaker and the rest of the leadership has indicated there is no intention and no provision for reconciliation to be used for cap and trade or for climate change.

With that, we are prepared to vote.

Mr. President, we have an agreement on 10-minute votes for all remaining votes.

The PRESIDING OFFICER. That is correct.

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), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) 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 66, nays 28, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—66

Alexander	Corker	Lincoln
Barrasso	Cornyn	Lugar
Baucus	Crapo	Martinez
Bayh	DeMint	McCain
Begich	Dorgan	McCaskill
Bennet	Ensign	McConnell
Bennett	Enzi	Murkowski
Bingaman	Feingold	Murray
Bond	Graham	Nelson (NE)
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hagan	Sessions
Burris	Hatch	Shelby
Byrd	Hutchison	Snowe
Cantwell	Inhofe	Specter
Carper	Isakson	Stabenow
Casey	Johanns	Tester
Chambliss	Klobuchar	Thune
Coburn	Kohl	Vitter
Cochran	Kyl	Warner
Collins	Landrieu	Webb
Conrad	Levin	Wicker

NAYS—28

Akaka	Johnson	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Sanders
Cardin	Lautenberg	Schumer
Dodd	Leahy	Shaheen
Durbin	Lieberman	Udall (CO)
Feinstein	Menendez	Udall (NM)
Gillibrand	Merkley	Wyden
Harkin	Mikulski	
Inouye	Nelson (FL)	

NOT VOTING—5

Kennedy	Rockefeller	Whitehouse
Roberts	Voinovich	

The motion was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the Gregg motion to instruct. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this motion is fairly simple but very important. Since our country began in 1789, we have been adding debt to the American people. All this says is that all the debt that has been run up, from 1789 to 2009, through January 20, 2009, that that total debt should not be exceeded during the term of this budget. It seems like a fairly reasonable request. If we do not follow it, we are going to end up passing on a debt to our children that they cannot support. I hope people will support this limitation on the addition of debt to our Nation and to our children.

Mrs. MURRAY. Mr. President, the Senator from New Hampshire has offered an amendment to the conference report that we not double the debt from the time President Obama took office through the end of 2019. Our budget does not go through 2019. It would not double the debt through 2014. The debt when President Obama took office was about $10 trillion. So this amendment is not necessary. I urge a no vote.

Mr. GREGG. Mr. President, with my additional time, I would simply note if that is the position the majority takes, then everybody should vote for it.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Ms. ROBERTS) and the Senator from Ohio (Mr. VOINOVICH).

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

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—40

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—54

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

NOT VOTING—5

Kennedy	Rockefeller	Whitehouse
Roberts	Voinovich	

The motion was rejected.

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the Sessions motion to instruct.

Mr. SESSIONS. Mr. President, this motion would instruct that the budget be altered so that there would be level funding for 2 years during the time that we are now spending an additional $800 billion in the economy as part of the stimulus package.

We ought to be able to keep the baseline budget level for 2 years, and then finish out the 5-year budget at 1 percent growth. We have doubled the national debt through this budget—we will do so in 5 years—and triple it in 10.

Interest on the debt today is $170 billion over the President's 10-year budget. At the 10th year, it would be $800 billion in interest alone, dwarfing our education budget of $100 billion, dwarfing the highway budget of $140 billion.

This is the right approach to show some discipline on the baseline budget at a time we are surging the discretionary spending through the stimulus package.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the amendment that is before us will freeze spending, nondefense and nonveterans funding, for 2 years and limit the growth of nondefense and nonveterans funding to 1 percent annually for fiscal 2012, 2013, and 2014.

Now, I would remind all of us, we are in an economic crisis in this country. The investments we make in this budget that is before us are important for education, for health care, for energy, and for the other priorities that on which this country has asked us to move forward.

I urge my colleagues to vote no on the motion before us so that we can have the flexibility to deal with these critical issues before us today.

The PRESIDING OFFICER. The question is on agreeing to the Sessions motion.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. ROBERTS) and the Senator from Alaska (Ms. MURKOWSKI).

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

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—38

Alexander	Brownback	Cochran
Barrasso	Bunning	Corker
Bayh	Burr	Cornyn
Bennett	Chambliss	Crapo
Bond	Coburn	DeMint
Ensign	Isakson	Sessions
Enzi	Johanns	Shelby
Graham	Kyl	Snowe
Grassley	Lugar	Specter
Gregg	Martinez	Thune
Hatch	McCain	Vitter
Hutchison	McConnell	Wicker
Inhofe	Risch	

NAYS—56

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

NOT VOTING—5

Kennedy	Roberts	Whitehouse
Murkowski	Rockefeller	

The motion was rejected.

Mr. NELSON of Nebraska. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I believe the next motion in order is the Ensign motion.

The PRESIDING OFFICER. The Senator is correct.

There are 2 minutes equally divided prior to a vote in relation to the Ensign motion.

Who yields time?

Mr. ENSIGN. Mr. President, this is my motion that says let's not raise taxes, whether they are direct or indirect taxes, on anybody making less than $250,000. It was agreed to unanimously when the amendment was considered by the full Senate, 98 to 0. Unfortunately, it was said that it would be stripped out. We went through a whole parliamentary mess to understand that this amendment would not bring the bill down. I am hoping the managers who take this bill to conference keep this amendment in conference, so we don't raise the taxes on any family making less than $250,000 a year.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senator from Nevada is correct. This amendment passed on the budget 98 to nothing. The Democrats are happy to support it. It is 8:25 at night. I suggest we take it on a voice vote.

Mr. ENSIGN. That is fine.

The PRESIDING OFFICER. The question is on agreeing to the Ensign motion.

The motion was agreed to.

Mr. SANDERS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the Cornyn motion to instruct.

Mr. CORNYN. Mr. President, my motion instructs conferees to retain my amendment, which passed by a strong bipartisan majority of 82 Senators who voted in favor, which says don't raise taxes on small businesses. We all know that is the principal job creator in the economy. It passed 82 to 16. My hope is we have a similar if not better vote on this motion to instruct.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, this is on an amendment many of us supported. We are happy to take it on a voice vote. If not, I will be supporting the motion, if the Senator insists on a vote this evening.

The PRESIDING OFFICER. The question is on agreeing to the Cornyn motion.

The yeas and nays were ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 84, nays 9, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—84

Akaka	Dorgan	McCaskill
Alexander	Ensign	McConnell
Barrasso	Enzi	Menendez
Baucus	Feinstein	Merkley
Bayh	Gillibrand	Mikulski
Begich	Graham	Murray
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bond	Hagan	Pryor
Boxer	Hatch	Reed
Brownback	Hutchison	Reid
Bunning	Inhofe	Risch
Burr	Inouye	Sanders
Burris	Isakson	Schumer
Cantwell	Johanns	Sessions
Cardin	Johnson	Shaheen
Carper	Kaufman	Shelby
Casey	Klobuchar	Snowe
Chambliss	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Lautenberg	Tester
Collins	Leahy	Thune
Conrad	Levin	Udall (CO)
Corker	Lieberman	Udall (NM)
Cornyn	Lincoln	Vitter
Crapo	Lugar	Webb
DeMint	Martinez	Wicker
Dodd	McCain	Wyden

NAYS—9

Bingaman	Durbin	Kerry
Brown	Feingold	Voinovich
Byrd	Harkin	Warner

NOT VOTING—6

Kennedy	Murkowski	Rockefeller
Landrieu	Roberts	Whitehouse

The motion was agreed to.

Mr. CONRAD. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the Alexander motion to instruct.

Mr. CONRAD. Mr. President, can we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CONRAD. Mr. President, we need order because Senator ALEXANDER is next, and if he would be so gracious as to accept a voice vote on his motion, we would take his motion. It is a good motion. We support it.

Mr. ALEXANDER. Mr. President, I say to the Senator, thank you very much. I accept that.

All the motion does is instruct the conferees to do what the Senate has already unanimously agreed to do to preserve the competitive student loan system.

The PRESIDING OFFICER. If there is no further debate on the motion, the question is on agreeing to the Alexander motion.

The motion was agreed to.

Mr. CONRAD. Mr. President, next, I believe, is the motion of the Senator from Oklahoma, Mr. COBURN.

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the Coburn motion to instruct.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, I will be very brief. This is fulfilling a campaign promise of Barack Obama. He said he wanted us to go through the budget line by line to eliminate wasteful programs, eliminate duplicative programs. We accepted this earlier. This is a vote to say we are going to do that. We are going to hold up our end of the bargain, as the President is going to hold up his end of the bargain, and we are going to go through and find some of this $300 billion worth of waste.

With that, I yield back.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, would the Senator accept a voice vote on his motion because we would be prepared to support him?

Mr. COBURN. I will accept a voice vote.

Mr. CONRAD. The Senator is very gracious.

The PRESIDING OFFICER. If there is no further debate on the motion, the question is on agreeing to the Coburn motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wish to make a note for the record there was no ''no'' voiced on the vote.

Mr. CONRAD. Mr. President, let me indicate, because of the good nature and the graciousness of the Senator, this is an amendment that we will try to preserve in conference.

BYRD RULE

Mr. LEVIN. Mr. President, I ask the Senator from North Dakota, is it true that when a reconciliation bill comes to the floor, it must meet the requirements of the Byrd rule or be subject to a 60-vote point of order?

Mr. CONRAD. Yes

Mr. LEVIN. Is it true that a provision in a reconciliation bill is subject to a Byrd rule point of order if it produces a change in outlays or revenues that is merely incidental to the nonbudgetary, i.e., policy, components of a provision?

Mr. CONRAD. Yes

Mr. Levin. Is it true that every provision of a reconciliation bill is subject to the Byrd rule; and any provision that does not meet all of the requirements of that rule, would be subject to a 60-vote point of order?

Mr. CONRAD. Yes

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote in relation to the DeMint motion to instruct.

Who yields time?

Mr. CONRAD. Senator DEMINT is next.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, my motion simply codifies some promises during the last campaign focusing on health care as part of this budget. My motion would create a 60-vote point of order for any legislation that takes away a person's right to pick their own doctor, to choose their own plan, or to keep the health plan they already have. These are promises the President made, that no health care reform would take away those rights, and my motion is to insist that the budget conference report include that.

Mr. CONRAD. Mr. President, I support this amendment. I think it is entirely reasonable in what it outlines. We all want patients to be able to choose their doctors. We want to make certain if people are happy with the health care plan they are in, that they are able to stay in that plan.

I would ask the Senator from South Carolina, would he consider accepting a voice vote—a strong voice vote—in favor of his amendment?

Mr. DEMINT. Mr. President, I appreciate the offer very much, but knowing that the chairman probably doesn't see my nature as good as Senator COBURN's, I suspect it might not stay in, in conference. I would like a rollcall vote, but I thank the Senator from North Dakota very much for his offer.

Mr. CONRAD. Mr. President, I would note for the RECORD that the Senator from South Carolina is smiling.

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 DeMint motion to.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—79

Akaka	Dorgan	McCain
Alexander	Ensign	McCaskill
Barrasso	Enzi	McConnell
Baucus	Feingold	Menendez
Bayh	Feinstein	Murray
Begich	Gillibrand	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagan	Reid
Brownback	Hatch	Risch
Bunning	Hutchison	Schumer
Burr	Inhofe	Sessions
Byrd	Inouye	Shaheen
Cantwell	Isakson	Shelby
Carper	Johanns	Snowe
Casey	Johnson	Specter
Chambliss	Kaufman	Tester
Coburn	Klobuchar	Thune
Cochran	Kohl	Udall (CO)
Collins	Kyl	Vitter
Conrad	Lautenberg	Voinovich
Corker	Leahy	Webb
Cornyn	Lieberman	Wicker
Crapo	Lincoln	Wyden
DeMint	Lugar	
Dodd	Martinez	

NAYS—14

Bingaman	Harkin	Sanders
Brown	Kerry	Stabenow
Burris	Levin	Udall (NM)
Cardin	Merkley	Warner
Durbin	Mikulski	

NOT VOTING—6

Kennedy	Murkowski	Rockefeller
Landrieu	Roberts	Whitehouse

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes of debate, equally divided, prior to a vote in relation to the Vitter motion to instruct.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, in our original Senate debate on the budget, we passed by unanimous consent language that is in section 202(a) that we would not raise taxes on domestic energy production.

That language says that our budget legislation ''would not increase the cost of producing energy from domestic sources, including oil and gas from the Outer Continental Shelf or other areas; it would not increase the cost of energy for American families; it would not increase the cost of energy for domestic manufacturers, farmers, fishermen or other domestic industries; and it would

not enhance foreign competitiveness against U.S. businesses.''

This motion to instruct would say we need to keep that mandate in the final version of the budget. This is important because, unfortunately, the President has proposed tax increases in all those areas, and all those significant increases in domestic energy production are part of his budget proposal.

It would be tremendously wrongheaded and would hurt Americans to increase taxes on energy, particularly now in the midst of a deep recession. I ask all my colleagues to support this motion to instruct, and I respectfully ask for the yeas and nays.

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

The yeas and nays were ordered.

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

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

Mr. REID. Mr. President, I have been conferring off and on during the day with my distinguished Republican counterpart. I think this is where we are.

Monday, at about 5:30, we will have a vote on cloture on the underlying financial fraud legislation. We will determine what time Tuesday morning we will vote on final passage of that bill, if cloture is invoked. Again, we will vote Monday night at about 5:30 on cloture, and sometime Tuesday morning we will vote on final passage.

At this stage, we have a tentative agreement to have 6 to 8 hours of debate on Sebelius, and we would have passage of that by a 60-vote margin on her sometime late Tuesday.

Following that, we are trying to work something out on Mr. Strickland, who is one of the secretaries for Ken Salazar. I talked to Senator BUNNING. We are trying to get him some information to which he is entitled. If we can get that information, we will get that done very quickly. If we cannot, then Senator BUNNING has agreed to a reasonable period of time—and Senator MCCONNELL and I will determine what that is—to have a debate and a 60-vote margin on his approval.

Hopefully, if the conference is completed on the budget, we would go to that sometime Wednesday, with a statutory 10 hours on it.

That is where we are. It has been a difficult time. I am sorry to have everyone concerned about the Saturday cloture vote, but that is how things work.

I say to my friend Dr. COBURN, he is a thorn in my side, but he is a real gentleman, as I have said before. I think this is going to work out very well for everybody. We all have a lot of things already scheduled the next few days. Having the Saturday vote would do a lot of damage to a lot of plans—these are not vacation plans, but whatever plans people have in their home States. I hope that answers everybody's questions.

I have not said this often enough. I remind everyone that all the press is interested in is seeing Senator MCCONNELL and me jostle. We jostle very little. We have an understanding as to what is good for this body, and sometimes our views of what is good for this body are different but not very much. I express my appreciation to him for all the work we have been able to get done this week, which has been very difficult, and to work this out for a Monday vote.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we still have pending the motion of Mr. VITTER, the Senator from Louisiana. That was an amendment that was taken by unanimous consent or voice vote during the budget resolution. It is now here as a motion to instruct. Obviously, we are going to have a rollcall vote on it. We asked the Senator to withhold. He has asked to have a rollcall vote, which is absolutely his right. Senators will vote their judgment.

The PRESIDING OFFICER. The question is on agreeing to the Vitter motion.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Vermont (Mr. SANDERS), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Kansas (Mr. ROBERTS).

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

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—63

Akaka	Crapo	Lugar
Alexander	DeMint	Martinez
Barrasso	Dorgan	McCain
Baucus	Ensign	McCaskill
Bayh	Enzi	McConnell
Begich	Feingold	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bond	Gregg	Reid
Brownback	Hagan	Risch
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Byrd	Inhofe	Snowe
Carper	Isakson	Specter
Chambliss	Johanns	Stabenow
Coburn	Johnson	Thune
Cochran	Klobuchar	Udall (CO)
Collins	Kohl	Vitter
Conrad	Kyl	Voinovich
Corker	Landrieu	Webb
Cornyn	Lincoln	Wicker

NAYS—30

Bingaman	Dodd	Kerry
Boxer	Durbin	Lautenberg
Brown	Feinstein	Leahy
Burris	Gillibrand	Levin
Cantwell	Harkin	Lieberman
Cardin	Inouye	Menendez
Casey	Kaufman	Merkley
Mikulski	Schumer	Udall (NM)
Murray	Shaheen	Warner
Reed	Tester	Wyden

NOT VOTING—6

Kennedy	Roberts	Sanders
Murkowski	Rockefeller	Whitehouse

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, all statutory time is yielded back, and the Chair appoints the following conferees on the part of the Senate: Mr. CONRAD, Mrs. MURRAY, and Mr. GREGG.

FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009—Continued

Mr. REID. Mr. President, I ask unanimous consent that the vote on the cloture motion on the substitute amendment to S. 386 occur at 5:30 p.m., Monday, April 27; that if cloture is invoked, all postcloture time be yielded back and any pending germane amendments be disposed of; then the substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time, and that the vote on passage of the bill occur at 12 noon on Tuesday, notwithstanding rule XII, paragraph 4, without further intervening action or debate; that once cloture has been filed, the mandatory quorum be waived; provided further that at 4:30 p.m. Monday, there be 60 minutes of debate prior to the cloture vote, with the time equally divided and controlled between the leaders or their designees.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute amendment to S. 386, the Fraud Enforcement and Recovery Act of 2009.

Patrick J. Leahy, Debbie Stabenow, Kent Conrad, Barbara Boxer, Patty Murray, Herb Kohl, Jeff Bingaman, Russell D. Feingold, Bernard Sanders, Bill Nelson, Ben Nelson, Richard Durbin, Jack Reed, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Harry Reid.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as in executive session I ask unanimous consent that on Tuesday, April 28, at 10 a.m., the Senate proceed to executive session to consider the Calendar No. 62, the nomination of Kathleen Sebelius to be Secretary of Health and Human Services; that there be 8 hours of debate with respect to the nomination, with