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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, throughout the ages of Holy Scripture, You have made promises to Your people; and Your divine promises were always fulfilled, in due time.

Be with Your people today. Realize in our day the hopes of compassion, peace, and justice You have placed within our hearts. Our deepest prayers are wrapped in such promises.

Look not upon our sins, Lord, unless it is to forgive and set us free. Fulfill in us Your word of salvation, both now and forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Montana (Mr. REHBERG) come forward and lead the House in the Pledge of Allegiance.

Mr. REHBERG led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 requests for 1-minutes on each side of the aisle.

NOTICE

If the 111th Congress, 1st Session, adjourns sine die on or before December 23, 2009, a final issue of the *Congressional Record* for the 111th Congress, 1st Session, will be published on Thursday, December 31, 2009, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 30. The final issue will be dated Thursday, December 31, 2009, and will be delivered on Monday, January 4, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong__record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–59.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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STAND UP FOR THE TROOPS

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Today I will begin circulating two privileged resolutions which will trigger debate and votes on a timely withdrawal of our troops from Afghanistan and Pakistan. Article I, section 8 of the U.S. Constitution makes it Congress' responsibility to determine whether or not we go to war or stay at war. Consistent with article I, section 8, the privileged resolutions will invoke the War Powers Act of 1973. I ask for your support of these resolutions which will be introduced in the House in January.

Yesterday, with the Secretary of Defense at his side, the President of Afghanistan declared that his country's security forces will need financial and training assistance from the U.S. for the next 15 to 20 years. We cannot afford these wars. We cannot afford the loss of lives. We cannot afford the cost to taxpayers. We cannot afford to fail to exercise our constitutional right to end the wars.

Please sign on to the privileged resolutions to end the wars and bring our troops home. Stand up for the troops. Stand up for the truth. Stand up for the Constitution and Congress' responsibility.

CALLING FOR A STIMULUS AUDIT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, American taxpayers deserve an audit of stimulus funds. Taxpayers have faced weeks of fake jobs in fake districts posted on recovery.gov. We have heard the Government Accountability Office announcement that one in 10 jobs are fake. Action must be taken.

I have introduced the National Commission on American Recovery and Reinvestment Act to create a bipartisan commission to investigate how many jobs have actually been saved or created by the Recovery Act. The commission will look at the circumstances in which these jobs have been saved or created. The commission will make recommendations on what works to save or create more jobs and what steps can be made to prevent the improper spending of taxpayer dollars, such as The Hill's front page disclosure today of a Democrat pollster receiving $6 million to preserve three jobs.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

INSURANCE COVERAGE OF ABORTION

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, one of the more divisive issues in our health reform debate has unfortunately been how to treat insurance coverage of abortion. Everyone agrees our goal is to preserve the status quo. Yesterday our colleagues in the Senate did exactly that by tabling the Nelson amendment, modeled after the Stupak amendment, which would have severely restricted a woman's access to reproductive health care services.

The status quo means no Federal funding for abortion other than in cases of rape, incest or life endangerment of the woman. The status quo means entities that receive Federal funds may use their own private funds for activities that are being prohibited from being paid for with Federal money. An example of this are the churches which receive millions of dollars in taxpayer funds every year to provide social services, but must segregate those funds from other funds used to engage in religious activity.

Similarly, the amendment I passed in the Energy and Commerce Committee, along with the current Senate language, maintains the same principle without eroding a woman's legitimate access to a legal medical procedure.

I urge my colleagues to reject inclusion of the harmful Stupak language in any final version of the health reform legislation. Maintain the Senate's language and the status quo.

SEALS TRIAL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, President Obama is shifting our strategy to fight terrorists from a military model to a legal crime enforcement model. Case in point, this week, three Navy SEALs were arraigned on charges related to punching terrorist leader Ahmed Abed after he killed and mutilated four Americans in Iraq. A punch to the gut has led to the prosecution of three of our most highly dedicated and highly trained servicemen. Al Qaeda has many weapons and tactics to harm our troops, among them the weapon of our judicial system and the tactic of claiming abuse by our soldiers.

The SEALs risked their lives to capture Abed alive, when it may have been easier to kill him with a hellfire missile fired from a drone. They did not question the necessity of bringing Abed in alive so that he could be interrogated and so that valuable intelligence could be gathered.

Why would our soldiers undertake future operations when they too could be prosecuted based on the word of a terrorist? The Obama administration is taking us down a slippery slope where our legal system impedes our ability to fight an enemy that shows no regard for innocent lives.

REPRODUCTIVE RIGHTS IN HEALTH CARE REFORM

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Last night the Senate stood up for women. Last night the Senate rejected an amendment that would have hurt women all across this Nation. Though we won the battle, the fight is not over. We must oppose the Stupak language in the final health care bill. It was on this House floor that we passed the historic health care vote.

But there is one moment that night that I'll never forget. I'll never forget looking up at the vote board and seeing that our House voted for the biggest rollback of women's reproductive rights in decades. My heart sank. Thirty years ago I got into the women's movement to ensure that women would not die in a back-alley abortion with coat hangers.

Today, women finally have choice over their own bodies, but with the Stupak amendment that changes. It was not a compromise. Women will lose benefits. Plans will not offer abortion coverage. Women will be forced to buy an extra rider for abortion ahead of time. And what woman plans to have an abortion?

Let's not make women the sacrificial lamb of health care reform. Let's pass health care reform that benefits all Americans.

HEALTH CARE REFORM

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, a constituent statement to Congress by Judy Brady of Texas District 31 on health care reform. I received this, and I wanted to read it to the rest of the Congress:

You tell us that the government needs to control health care because the government can administer programs more cheaply and fairly than the private system. Of course, recent studies show that nearly 10 percent of all Medicare payments are fraudulent. Why should we believe that government can do a better job with the entire Nation's health care system than it already does with Medicare?

We ask you to leave health care in the hands of doctors and patients and that you help drive down the costs of insurance so that more of us can be covered. Give us nationwide competition between private insurers, allow us tax deductions for insurance we purchase, and promote tort reform. Don't force us into a government system that will cost us more and cover us less.

REFORMING WALL STREET TO PROTECT MAIN STREET

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute.)

Mrs. DAHLKEMPER. Mr. Speaker, last year we witnessed the near collapse of our financial system. According to one estimate, the United States lost an estimated $8.3 trillion of wealth in 2008. Right now, more than 15 million Americans are unemployed and looking for work. Families and businesses continue to struggle as our economy slowly recovers. We must ensure that this never happens again.

Hardworking Americans on Main Street have been the victim of Wall Street's excess and greed and also of Washington's failure to hold investors accountable. Our constituents, the American people, deserve better. The Wall Street Reform and Consumer Protection Act of 2009 will rein in risky behavior on Wall Street and create powerful protections for middle class families.

I urge my colleagues to stand up for middle class families and protect their financial future by supporting H.R. 4173.

FISCAL RESPONSIBILITY

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. This year, for Christmas, my wife, Jan, and I took out three loans for our three children, $40,000 each. Of course, since my youngest daughter isn't old enough to get a loan, we had to sign for it, but the bank assured us she'd have to pay it all the same. Then with the $120,000 in newfound credit, Jan and I went on a spending spree, leaving our children to repay $40,000 each. Great, huh?

Of course this story isn't literally true. No parent would dream of saddling their children with $40,000 in debt. No parent would do that, but right now the estimated share of the national debt is $40,000 per American man, woman, and child; and that debt is just as real.

That's why I've cosponsored a resolution to require any increase in the statutory debt limit be considered as a stand-alone bill and passed by a supermajority of Congress. If we're not going to cut up the government's credit card, then let's make it harder to get new cards when we max the old one out.

ONE PERSON CAN CHANGE THE COURSE OF HISTORY

(Mr. BRALEY of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRALEY of Iowa. Mr. Speaker, I rise today to congratulate my good friend, Dr. Jim Young, on his impact on the health care reform debate. Earlier this year, Jim gave me a copy of the book, ''Overtreated,'' by Shannon Brownlee. This book, and Jim's encouragement, opened my eyes to the shortcomings of our country's reimbursement model, a fee-for-services model, and the need to go to a health care delivery system that rewards high-quality, low-cost patient outcomes.

After months of negotiations, I'm proud we were able to secure language in the House bill to finally achieve a quality-based reimbursement model. Jim has been practicing family medicine in Iowa since 1973, following his service in the United States Navy. He's a valuable adviser and friend, and his insights and inspiration helped improve the House Health Care Reform bill to better serve all America. His spirit and his example show what one person can do to change the course of history.

□ 1015

DISTINGUISHED FLYING CROSS AWARDED TO GEORGE OHLMAN

(Mr. COFFMAN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COFFMAN of Colorado. Mr. Speaker, on Saturday, November 28, in Franktown, Colorado, I was privileged to present George Ohlman with his Distinguished Flying Cross.

Mr. Ohlman, 88 years old, was a pilot and flight leader in the famed ''Thunder Bums'' fighter squadron during World War II flying combat missions over Europe in P–47 Thunderbolts. Ohlman flew over 100 combat missions in World War II. Mr. Ohlman was awarded the Distinguished Flying Cross for his—and I quote from the award record—''extraordinary leadership and superior flying ability.''

On September 3, 1944, near Mons, Belgium, then-Lieutenant Ohlman led his wingman in a strafing run on enemy positions. His aircraft received several direct hits, but he nevertheless continued the attack until out of ammunition. Due to the chaos and confusion prevalent during war, he never actually received the medal. Rectifying that oversight last month was a great honor for me.

OPPOSITION TO THE STUPAK-PITTS AMENDMENT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I join my colleagues today to show opposition to the Stupak-Pitts amendment and its new limitation on women's reproductive rights. The House bill already had language that reflects current law prohibiting funds from being used for abortion while allowing women to use their own money to buy the coverage that they need.

The Stupak-Pitts amendment goes beyond the Hyde amendment. It sets new precedent for restricting women's rights and eliminating coverage for an important and legal health service that millions of women currently have. That's why I will join with my colleagues to vote against any final health reform bill if it contains the Stupak-Pitts amendment.

LESSONS FROM AFGHANISTAN

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Mr. Speaker, I just returned from a trip to Afghanistan to assess the conditions on the ground. I want to update my colleagues on what I saw.

First of all, our military leadership has expressed confidence in our ability to achieve victory, and they need the additional troops promised by President Obama. The bigger problem lies with Afghanistan itself.

President Karzai must do the following to ensure success in Afghanistan: end the corruption, provide credible Afghan security forces, eliminate the illicit drug production, and grow the Afghan economy. These conditions are paramount to achieving victory when the U.S. military departs the country. And finally, Pakistan has to step up and stop serving as a safe harbor for terrorist insurgents.

The morale of our troops are high, and our commanders on the ground are confident that we can win if Afghanistan and Pakistan achieve these goals. None of these goals are easy, but they are crucial to the success of the security of Afghanistan.

OPPOSITION TO THE STUPAK-PITTS AMENDMENT

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, I rise on behalf of my constituents who called, faxed, emailed me in strong opposition to the Stupak-Pitts language and its inclusion in health care reform.

The grand myth in this debate is that the Stupak amendment is simply an extension of current law, which prohibits the use of Federal funds for abortions except in the case of rape or incest or to protect the life of a mother. It is not current law. It would be the largest restriction on abortion access since Roe v. Wade—preventing women from using private dollars to purchase coverage for a legal medical service.

A recent George Washington School of Public Health study warns that the Stupak language will reduce access to women who already have it by encouraging insurers to ''drop coverage in all markets.'' That is not the status quo.

The Stupak-Pitts language is unfair, unnecessary, and unwise. The Senate rightly rejected it last night. It cannot be part of health care reform. Women will not be forced back to back alleys.

MEDICARE CUTS WOULD IMPACT OUR SENIORS

(Mr. BOUSTANY asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. BOUSTANY. Mr. Speaker, this week debate continues in the Senate over a massive health care overhaul. What's at stake for seniors? Many seniors will probably see their benefits cut or higher premiums. The Senate bill cuts more than $135 billion from hospitals serving seniors. It cuts $40 billion from home health agencies, $15 billion from nursing homes, and nearly $8 billion from hospices—an all-important service our seniors depends on.

Seniors deserve to know how Washington Democrats are going to pay for their massive new government-run bureaucracy because cuts like these will affect their care.

As a heart surgeon, I know that we can do better. We need to work together to strengthen Medicare, putting it on sound footing to ensure that it will be there when seniors need help with their health care costs.

We need to lower health care costs for seniors and all Americans by increasing competition in the insurance marketplace, promoting wellness programs, and limiting frivolous lawsuits in medicine. We can accomplish these commonsense solutions if we work together.

Let's protect seniors. Let's protect Medicare.

AMERICAN JOBS ARE TRENDING IN THE RIGHT DIRECTION

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, while one month with fewer job losses does not show success, it certainly shows that we are trending in the right direction.

This blue is since President Obama took office; the red is the time under former President Bush. You see back in January of 2008 we started losing jobs. Here is when the Presidential candidate for the Republicans claimed that the fundamentals of our economy were sound. And in the last month that President Bush was in office, this country lost over 740,000 jobs.

The blue shows the direction under the Obama administration where we are trending in the right direction. It's not success, but it certainly shows we are trending in the right direction from over 70,000 jobs to 11,000 jobs. It's a tragedy for any family that has lost a job, but it does show that one election has truly made a difference in our economy.

JOBS AND THE ECONOMY

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, you know the American people deserve some answers. Where are the jobs? Ten months after passing a $787 billion stimulus package, unemployment has reached 10 percent and thousands of workers have stayed unemployed for 6 months or more. Unfortunately, the Democrats still think throwing money at the struggling economy will fix it.

Albert Einstein once said, ''The definition of insanity is doing the same thing over and over again expecting different results.'' The first stimulus didn't work. The new stimulus would only increase the already massive deficit and provide a temporary fix.

Higher taxes and higher spending is not the formula for economic growth. What America really needs is to encourage entrepreneurial activity, help small businesses, and get the government out of our pockets.

OPPOSITION TO STUPAK-PITTS AMENDMENT

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I've witnessed the horror of choice between back alley abortions and sometimes unforced marriages to try to avoid disgrace. Those were the realities that women faced prior to 1973. My fear is if this harmful Stupak-Pitts language is signed into law, we will revert back to those dark times.

Critical to this debate is a breakdown of the facts. The opposition says that it codifies current law. It is grossly incorrect. Stupak-Pitts goes far beyond current law, placing unprecedented restrictions on the individual's use of their own private dollars. The Hyde amendment does not apply to private funding nor does it apply to administrative costs. It has only placed limits on direct Federal appropriations being used to fund abortion benefits. That brings in everyone who has insurance from their employer, which is tax exempt, which means, of course, a Federal subsidy.

The Hyde amendment does not include similar, far-reaching language. Seventeen States currently provide abortion coverage without separate funding.

We must not go back to the back alley.

UNITED STATES IN DANGER OF LOSING ITS CREDIT RATING

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, I rise again this morning to remind this body that we must stop this runaway spending in Congress or we are in jeopardy of losing our AAA credit rating. This would greatly hurt the United States of America's credit.

Moody's Investment Services indicates the United States will lose its AAA rating in 2013 if Congress continues to put us on this fiscal train wreck of too much spending and record Federal deficits. The Federal deficit for 2009 was $1.4 trillion, tripling our record. The President's own Office of Management and Budget estimated in August that the budget deficit would be more than $9 trillion over the next 10 years. Add this to the $12 trillion in U.S. debt, and we're on a track to nearly double our record.

Mr. Speaker, we must stop the spending and stop it now.

THE BIRTHERS AND DENIERS ARE WRONG

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, the President is right to go to Copenhagen and lead the world against global warming. He is right to defeat the birthers who have tried to stop him from being President and the deniers who refuse to accept the fact of global warming. Both the birthers and the deniers refuse to accept clear, pure facts.

I just read that a former Governor of Alaska was arguing today in a newspaper that there is no such thing as global warming associated with human activity. She needs to read the National Academy of Sciences report which concludes it is a fact. She needs to read the report of NASA—the people who put the men on the Moon—that concludes this is a fact. She needs to read the NOAA reports about acidification of the ocean which shows it is a fact.

The birthers and the deniers are wrong. We should restore American leadership and make sure the jobs of the future clean energy economy are here, not just in China. The President is right; the deniers are wrong yet again.

WHERE ARE THE JOBS

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, in January, President Obama and congressional Democrats promised spending another trillion dollars would create jobs immediately and that unemployment would not rise above 8 percent. Almost 1 year later, millions of Americans are still plagued by unemployment and many are struggling to make ends meet. In October, 190,000 jobs were lost and more than 2.8 million jobs have been lost since the so-called stimulus was signed by President Obama.

The American people continue to ask, Where are the jobs? I can safely say the answer lies in the House Republican economic recovery plan. Our plan provides targeted tax relief for working families and small businesses. Just as American families must improve their economic situations

through fiscal discipline, so, too, must this Congress.

House Republicans are passionately committed to creating jobs and getting the American people back to work.

□ 1030

WOMEN'S REPRODUCTIVE RIGHTS

(Ms. HIRONO asked and was given permission to address the House for 1 minute.)

Ms. HIRONO. Mr. Speaker, reproductive self-determination is one of the most fundamental civil and human rights a woman can have. And this right is under attack in the health care reform debate. Let's be clear that the real goal of the anti-choice opposition is not to maintain the status quo. Rather, they want to extend Federal prohibitions into private pocketbooks. They hope to make abortion coverage so unattractive that insurers eventually stop offering coverage for an otherwise legal medical procedure.

Women do not plan to have unintended pregnancies or pregnancies with complications. Unfortunately, these do happen. It is deeply insulting to tell women that if you want to guard against these unplanned situations, go buy additional coverage.

Essentially, health insurance companies today already treat being a woman as a preexisting condition, and they charge us more for it. The men of this country would rise up in protest if they faced this kind of unequal treatment based on conditions particular to their gender.

JOB RECOVERY

(Mr. SIRES asked and was given permission to address the House for 1 minute.)

Mr. SIRES. Mr. Speaker, today Congress is faced with one of the greatest economic challenges of our time: high unemployment rates. It is a challenge that we must be determined to meet. While current unemployment numbers are still too high, the continued decline of job losses is a promising sign of economic recovery that we must build on.

We have already taken bold steps to lift our Nation out of recession. Since January, we have stabilized the financial system, revived lending to small businesses, prevented home foreclosures, cut taxes for the middle class, extended unemployment insurance, and created and saved more than 1 million jobs.

We must now build on this progress for continued job growth. Yesterday, the President outlined a frame of action to produce the greatest number of jobs while generating the greatest value for our economy. His top priorities include helping small businesses grow and hire new staff, additional investments in our roads, bridges, and infrastructure to create shovel-ready jobs, and increased investments in clean energy to spawn more green jobs.

In order to face our unemployment crisis head-on, Congress must follow the President's lead by passing a comprehensive jobs recovery package.

WALL STREET REFORM AND CONSUMER PROTECTION

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, for 8 years, President Bush's administration looked the other way as Wall Street exploited our financial system and ignored mounting risks. This failure to regulate our markets led to Wall Street gambling with America's livelihood and compromised our families' futures and savings.

Here we go again, making the tough choices that are necessary to bring our economy back from the brink of disaster. This great Nation is suffering the consequences of a period in our history where living beyond our means plagued not only American consumers but also those on Wall Street whose greed compelled them to take indefensible risks. The market failed us. It certainly wasn't a free market. It's beyond a ''minor adjustment.''

Wall Street reform is a critical step as we turn the tide and change not only how we deal with our financial sector but also where we lay to rest 8 years that marked the most fiscally irresponsible period in our Nation's history.

As we rebuild our economy, we must put in place commonsense rules to ensure Wall Street cannot jeopardize our recovery again.

STUPAK AMENDMENT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise in objection to the Stupak-Pitts amendment that was added to our Affordable Health Care for America Act 1 month ago. It represents an overreach that denies women the right to buy abortion coverage with their own money. It will eventually deny all but the wealthiest women in America access to reproductive choice.

Were it up to me and many of my colleagues on both sides of this issue, abortion would never have intruded into our health care debate like this. But sadly, the Conference of Catholic Bishops had other ideas. They chose to hold comprehensive health care reform hostage to the abortion issue. They lobbied for this legislation in a manner that was unbecoming to our faith, and in doing so, they failed their obligation to help the poor and heal the sick.

Nonetheless, I'm heartened to see that, yesterday, our colleagues in the other body rejected a similarly overreaching amendment. I hope that we will get back to a common ground approach when it returns from conference. America's women need a health care bill that ends discrimination against them, not encodes it ever further into our system of law.

PROVIDING FOR CONSIDERATION OF H.R. 4213, TAX EXTENDERS ACT OF 2009

Mr. ARCURI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 955 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 955

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The bill shall be considered as read. All points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. PASTOR of Arizona). The gentleman from New York is recognized for 1 hour.

Mr. ARCURI. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. ARCURI. I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ARCURI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration of H.R. 4213, the Tax Extenders Act of 2009. The rule waives all points of order against consideration of the bill except those arising under clause 9 and 10 of Rule XXI and against the bill itself. The rule provides that the previous question shall be considered as ordered without intervening motion except 1 hour of debate and one motion to recommit with or without instructions.

Mr. Speaker, I rise today in support of this rule to assist American families and small businesses with needed tax relief in a time when American citizens and American small businesses are beginning to turn the corner. This rule will allow us to bring legislation to the House floor later today that will not only strengthen our economy by directing tax relief to middle class families and creating jobs at small businesses, but will also do this in a deficit neutral, fiscally responsible way.

Since being elected to Congress, I have repeatedly voted, along with my colleagues, to cut taxes for middle class families and small businesses. In doing so, we have upheld our pledge to the American people, and I have kept a promise I made to my constituents to provide much-needed tax relief and incentives for economic growth.

I know that there are many families and businesses in my district that are struggling in the current economic crisis with rising costs of everyday items, including food, gas and health care. The legislation this rule provides for consideration of will extend a number of critical tax-relief measures that are relied upon by middle class families and small businesses to improve the quality of life and strengthen our economy.

I am aware that we face harsh realities in addressing the current economic crisis. While these are challenging times, we simply cannot endlessly borrow our way out of this situation. The legislation we will consider under the rule strikes the necessary balance between continuing the tax incentives that will help families and businesses continue to improve their position while offsetting the cost of extending these provisions by tightening tax compliance and making commonsense changes to the tax treatment of compensation paid to hedge fund managers. This change applies to investment fund managers the same rules that apply to real estate agents, waiters and CEO stock options.

In doing so, we will extend $30 billion of expiring temporary tax provisions through 2010, including the existing deductions for tuition expenses, the research and development tax credit, and the State and local property tax deduction, among others, and we will do so without increasing the deficit and without any additional borrowing.

The American people understand the idea of PAYGO, that Congress should have to balance its books just as they do. Mr. Speaker, the House of Representatives continues to show a strong commitment to the pay-as-you-go rule adopted in January of 2007. I applaud my Blue Dog colleagues for their outspoken leadership on PAYGO, and I am proud that the House has passed legislation that would create statutory PAYGO.

All of the incentives that are included in this package will expire at the end of the year unless Congress acts to extend them. It is vitally important that these tax incentives are extended in order to maintain the economic recovery that has slowly started to take hold in this country.

The legislation's extenders create important tax credits for individuals. It extends the deductions for tuition and education expenses, helping families send their children to college. It continues to allow teachers to claim a credit for up to $250 in out-of-pocket purchase of classroom supplies to better educate our children, and it extends the increased standard deduction for State and local property taxes so that working families can keep more of their hard-earned dollars for other necessities during these tough economic times.

The legislation includes an extension of several provisions important to businesses, including the credit for a company's R&D expenditures. Extending the research and development credit is vital to ensuring that American companies remain competitive and on the cutting edge of innovation. This credit is of particular interest to the area of New York that I represent because its extension will further the expansion of the microchip fabrication and nanotechnology industries which are beginning to blossom in upstate New York.

In the past, the R&D tax credit has lapsed, and Congress has had to retroactively extend it. American companies rely on this credit and upon its continuity so they can adequately plan for their long-term research projects. I support this proactive extension to provide that continuity, and I will continue to work for a much-needed permanent extension that would eliminate concerns for further expirations or lapses.

The bill also extends expiring measures to address the drop in charitable giving that has been caused by the current state of our economy. It does so by extending deductions for charitable contributions of real property, food inventories, books, and computer equipment. The bill allows tax-free charitable contributions from an IRA account of up to $100,000 per taxpayer per year.

When I speak with constituents who work and volunteer their valuable time with not-for-profit organizations, they tell me this is more important than ever today in our struggling economy. These provisions help those organizations continue to provide the assistance to those in need, which is particularly important today.

Supporting this rule and the tax-relief legislation we will consider later today is simple and common sense. We can provide tax relief and incentives to middle class families, spur innovation, retain and create jobs, reduce our dependence on oil from hostile nations, and reduce greenhouse gases. And we can do it all in a fiscally responsible manner.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support this rule and the underlying legislation.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank my friend, the gentleman from New York (Mr. ARCURI), for the time, and I yield myself such time as I may consume.

The underlying legislation of H.R. 4213, the Tax Extenders Act of 2009, extends for 1 year a number of noncontroversial, temporary tax-relief provisions that are set to expire at the end of this year. These provisions will benefit individual taxpayers, students, teachers, small businesses, and other companies that invest in research and development.

While I support these temporary tax-relief extensions, I believe that these tax provisions should be made permanent, or that at the very least they should be extended for more than 1 year. For example, the bill includes a 1-year extension of the sales tax deduction. This provision is very important in Florida, the State that I'm honored to represent, because without this deduction, Floridians would end up paying significantly more taxes to the Federal Government than the taxpayers with similar profiles in different States.

□ 1045

These year-to-year extensions, while better than no extension, fail to provide the predictability and the certainty that small businesses and families need to plan their budgets. Leaving these important tax-relief provisions to the last minute, also, I believe, is most unfortunate. It unnecessarily places an additional burden on families and small businesses that are already struggling in this economy.

I also oppose the inclusion in this legislation of a permanent tax to pay for temporary tax relief. The bill would raise the tax rate on investment gains received from an investment services partnership interest, which is currently taxed at a rate of 15 percent, to a rate as high as 35 percent at the end of 2010, and then the tax will rise to 39 percent.

My colleagues on the other side of the aisle claim that this is a tax on Wall Street venture funds; but as our friend, Congressman KEVIN BRADY, explained last night when he testified before the Rules Committee, about half of that tax will be paid by real estate partnerships that build apartments, homes and shopping centers in our communities. Those real estate partnerships invest in new infrastructure in our communities and they help create jobs in the construction industry. Yet once this tax hits those partnerships, they may very well reconsider their investment decisions and abandon their partnerships for other investments, further hurting our communities and hampering possible economic recovery.

The construction industry has been hit very hard, Mr. Speaker, in the community that I am honored to represent, and too many jobs have been lost. What we need to be doing is providing incentives for job growth and investment in the construction industry. Unfortunately, we are doing the opposite with this legislation.

During his first inaugural address, President Reagan said, It is not my intention to do away with government. It is, rather, to make it work, work for us, not over us, stand by our side, not right on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

The legislation being brought to the floor today will not do what President Reagan said we need to do.

With unemployment at 10 percent and an economy struggling to recover, this is not the time to raise taxes, particularly a tax on capital investments that help create jobs. This new tax will discourage the entrepreneurial risk-taking that our economy desperately needs right now in order to create new jobs.

Mr. Speaker, for centuries the United States prospered because we have been the safest place in the world to invest. It was good for business to invest in the United States, to create new businesses, in other words, to create jobs in the United States. We are moving away from that philosophy that made this country the most prosperous Nation in the history of the world. Because of that, our economy will continue to suffer. We are moving away from that.

Just yesterday the President, for example, called for increased capital investments in small businesses. Yet here we are today, ironically, increasing taxes on capital investments that could help small businesses grow and provide them the capital to hire new workers.

During yesterday's Rules Committee hearing, we heard testimony from my friend and distinguished colleague from Louisiana (Mr. CAO) regarding a proposed amendment that he wished to have the House debate today. His amendment would extend the time for making low-income housing credit allocations under the Gulf Opportunity Zone Act by 2 years. According to Mr. CAO, this extension is needed to preserve the availability of financing for affordable housing projects in the Gulf States. This amendment is just another example of Mr. CAO's thoughtful efforts continuously on behalf of his constituents.

Unfortunately, the majority on the Rules Committee decided that once again they would block all amendments from consideration, including Mr. CAO's, as well as amendments submitted for consideration by Mr. BRADY, Mr. REICHERT and Mr. GEOFF DAVIS of Kentucky. It's unfortunate the majority continuously closes down the process and blocks consideration of amendments.

Yet, Mr. Speaker, they campaigned on the promise of openness. They said they would open this process as it had never before been opened, that there would be a transparency that had never before been seen; and what we have seen is exactly the opposite.

They have closed the process like never before. The majority should have allowed consideration of all the amendments to the legislation that were submitted before the Rules Committee, Mr. Speaker.

I reserve the balance of my time.

Mr. ARCURI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, a member of the Committee on Ways and Means, Mr. DOGGETT.

Mr. DOGGETT. I thank the gentleman.

This rule provides for consideration of a $31 billion spending bill, including some worthwhile provisions and some not-so-worthwhile provisions. Approval of this tax extenders package has become something of an annual ritual, regardless of whether Democrats or Republicans are in charge, and the term ''temporary tax break'' has become an oxymoron.

If today's proposal required the government to write more checks to Wall Street and other fortunate Americans, there would be howls of protest; but because this involves tax expenditures, not direct expenditures, there is no protest, and there is no scrutiny of the expenditures. A tax expenditure occurs when this Congress decides to award some interest group, usually those with the most powerful lobbyists, the right to avoid paying taxes on the same basis as the rest of us by writing in some preference, deferral, loophole, or tax break.

The principal alleged virtue of today's bill is that it changes nothing. There is nothing more, there is nothing less than the advantages that Congress has repeatedly extended in the past.

In a modest effort to address the glaring disparity between the sunlight of the appropriations process and the shadows of the Tax Code, today's legislation does include a new requirement that I authored requiring that the Joint Committee on Taxation and the Government Accountability Office thoroughly evaluate and report on a set of criteria, the cost-effectiveness of each of these tax expenditures.

The Center for Tax Justice has been an invaluable partner in securing this provision. A good example of the urgent need for review was provided only yesterday regarding one of the most popular provisions in this bill, the research tax credit, that I have long personally supported. Calling for its permanent extension has become synonymous with being tech friendly and being concerned with economic growth.

But the Government Accountability Office ''identified significant disparities in the incentives provided.'' It determined that ''a substantial portion of credit dollars is a windfall'' for some, while much ''potentially beneficial research'' receives nothing. That is why we should be scrutinizing these tax expenditures, even the most popular, at least as closely as we do direct expenditures.

On the plus side, today's bill does effectively address international tax evasion by individuals. On the minus side, it does nothing to stop an even more egregious abuse by corporations shifting jobs and tax revenues overseas. In fact, while some try to draw a distinction between illegal tax evasion and tax avoidance, the only real difference between individuals illegally hiding their cash overseas and corporations manipulating the Tax Code is that the corporations have better lobbyists to obtain a veneer of legitimacy.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ARCURI. I yield the gentleman an additional minute.

Mr. DOGGETT. Similarly, the equitable taxation of carried interest in this proposal is belatedly a step forward, but it presents two problems. First, the bill fails to distinguish venture capital, which is so important in spurring new businesses in the most innovative sectors of our economy.

Second, the Senate is most unlikely to accept the financing that we propose here and instead is likely to grab something from our health insurance reform pay-fors and begin taxing employer-provided health insurance as a substitute, something that so many Members of this House have opposed.

Facing a soaring deficit, to me tax justice means before we ask working families to pay any more taxes, we ought to ask why Congress has done so little to crack down on those getting special treatment and to prevent billions of dollars of tax avoidance. Next year, America deserves a little more tax justice and a more level playing field for small businesses that cannot take advantage of all the dodges available to their multinational competitors.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 3 minutes to my good friend from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, I rise today to express my deep concern about gulf coast disaster relief left out of this bill.

Yesterday I offered an amendment at the Rules Committee to extend important tax provisions, tax relief provisions, to help gulf coast residents rebuild after the 2005 hurricanes. It's disappointing yet again that the majority is bringing this bill to the floor under another closed rule, prohibiting amendments to be debated.

The economic downturn complicated gulf coast recovery and jeopardized the effectiveness of Katrina and Rita aid. Residents need more time to fully utilize existing disaster assistance programs before they expire.

Congress should extend the GO Zone low-income housing tax credit for an additional year. At risk, currently at risk, are nearly 70 affordable rental housing projects encompassing over 6,000 units along the gulf coast. These projects take time, and this important extension will give investors and developers the confidence to move forward on these very important projects.

Congress should also make disaster-related low-income housing tax credits eligible for the new exchange grant program. This will provide immediate relief to disaster-impacted States as the market for housing tax credits rebounds. The bill also cuts short tax incentives for businesses to invest in the hardest-hit areas along the gulf coast through the special depreciation rules that promote economic development.

My amendment would extend the GO Zone 50 percent first-year bonus depreciation through 2010, bringing new capital to communities struggling to recover. They were hit twice, I mean, hit basically by hurricanes and now the economic downturn.

Look, gulf coast residents are resilient. They are working hard to rebuild, and Congress shouldn't pull the plug on existing disaster programs just as they are starting to make a difference.

What folks need is certainty. Businesses need certainty, and what they are seeing is nothing but uncertainty coming out of Washington. This is not the way to stimulate a recovery, whether it's from hurricanes or from this economic disaster we are facing. We need certainty.

Mr. ARCURI. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 5 minutes to my friend from Louisiana, an extraordinarily thoughtful member of this House, Mr. CAO.

Mr. CAO. I want to thank the gentleman from Florida for yielding, and I just want to thank him personally for his continued commitment and compassion for the people of the gulf coast.

Mr. Speaker, yesterday I offered a bipartisan amendment to the Tax Extenders Act of 2009 for myself and my colleague, CHARLIE MELANCON. This amendment would have extended the place-in-service deadline for low-income housing tax credits under GO Zone for 2 years. If included, it would have freed up more than a billion dollars in delayed housing projects and supported thousands of jobs in the gulf coast and would have contributed greatly to the sustained redevelopment of the hurricane-impacted areas.

The amendment had bipartisan support in both Chambers of Congress. Representatives from HUD, the Obama administration, housing groups and private companies called and wrote letters in support of this amendment. Yet even with this level of support, the Rules Committee voted along party lines not to allow it in the bill.

I cannot say how disappointed I am that this happened. It is disappointing that the committee would choose to act in a partisan fashion rather than with the best interests of the people of the gulf coast in mind.

I have spoken before about how Congress is at its best and serves the people the best when we put partisanship aside and attend to the people's business. It is part of our job description as Representatives to represent their issues and concerns to the best of our abilities.

□ 1100

When we conform to party politics, we fail to make the right decisions for the American people. While it is not unusual to mix policy and politics in our line of work, there are some issues which ought not to be partisan. The development of affordable housing for hurricane victims is one of them. Among the projects placed in jeopardy by this deadline is the Lafitte Housing Project in New Orleans. It is one of the city's oldest and was once made up of 896 units. This site was slated for redevelopment with the same number of units to allow any resident who wished to return the opportunity to do so. Additionally, the site would have had parks, support centers, and homes for sale. Now it looks as though it will remain in limbo because of party politics.

I challenge my Democrat colleagues to look low-income families in the eyes and say that the decision that they made was best for hardworking families.

Low-income families along the gulf coast trying to survive the ravages of Hurricanes Katrina and Rita do not care about party politics. The only thing that they care about is: Will I have affordable housing to shelter my children from the cold? We have to get beyond party politics to address the needs of American families. And I hope that we can correct the language in the tax extenders bill in order to address those who are in need along the gulf coast.

Mr. ARCURI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we believe, as the overwhelming majority of Americans do, that Members of Congress should have the ability to read bills before they vote on them. It shouldn't be an issue, frankly, because the majority and the distinguished Speaker during the campaign, the political campaign, said that they would have the most open Congress in history and that Members would have at least, should have at least, 24 hours to examine bills before those bills are considered on the floor.

But that hasn't been the case. I remember in the Rules Committee one early morning at 3 a.m. we were handed a 900-page amendment, called the manager's amendment, to energy legislation, the so-called cap-and-trade legislation that we considered a few hours later, just a few hours later here on the floor of the House. No one had any opportunity to vote on that legislation. And then we had similar situations with very significant and extensive pieces of legislation. So the American people were, I think, rightfully so, outraged when they saw those examples of very important and extensive pieces of legislation being brought to the floor without Members of Congress being able to even read them. And they should really be posted online so that not only Members of Congress but the American people in general could read them.

That's why legislation has been filed by a bipartisan group of 182 Members that have signed right there, right at that desk in front of you, Mr. Speaker, a discharge petition, it's called. They go up there and they sign. I signed. 182 Members have signed the discharge petition to bring to the floor legislation saying that Members should have 3 days, that there should be 72 hours, once it's filed, before legislation is brought to a vote on the floor.

So that's why I am asking for a ''no'' vote on the previous question, so that we can consider that legislation that 182 Members have gone to the desk there and signed, bipartisan legislation by Congressmen BAIRD and CULBERSON. It would not interrupt this legislation that is being brought to the floor at this time, the tax extenders legislation, because if the motion passes, the motion I'm making, it provides for separate consideration of the Baird-Culberson bill within 3 days. So we could vote on the tax extender bill and then, once we have done that, consider that legislation requiring the 72-hour timeframe for Members to be able to study legislation and, quite frankly, for the American people to read legislation before it's voted on.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Thanking my friend Mr. ARCURI for his courtesy, I yield back the balance of my time.

Mr. ARCURI. Mr. Speaker, I would like to thank my colleague from the Rules Committee and friend from the State of Florida for his able management of this rule.

Mr. Speaker, in closing, I would like to point out that the underlying legislation will extend a number of expiring tax relief that individuals, businesses, and charitable organizations depend on to improve the quality of life and strengthen our community and our economy. These provisions are relied upon by families and individuals struggling with rising costs of everyday items, including food, gas, and health care. They encourage companies to hire more workers and invest in new technologies.

As our country is beginning to turn the corner, the naysayers continue to oppose any necessary substantial change. As if that is not enough, they continue to offer no meaningful alternatives, only more of the same policies of incurring more debt, passing it on to our children, and saying ''no'' to any responsible policy offered by the majority. It should not be the role of the loyal opposition to oppose every bill the majority offers. That is the reason partisan divide is so wide in this country today.

This bill, H.R. 4213, is a good bill. It is good for Democrats. It is good for Republicans. It is good for all Americans. To say we should not pay for it flies in the face of everything Democrats and Republicans have been saying

for months, that we cannot endlessly borrow and increase the debt but must restore fiscal responsibility.

Just a short time ago, I heard a colleague of mine on the other side of the aisle giving a 1-minute speech, saying that we must stop the runaway spending and the record deficits. That's exactly what this bill does. It makes us accountable and pays for the tax extenders. H.R. 4213 strikes the necessary balance between continuing the tax incentives to help families and businesses without increasing the deficit.

I don't think the importance of this fiscal responsibility can be overstated. We all know that these are challenging times, but we cannot endlessly borrow our way out of the situation. And there are only two ways to do the tax extenders: either to borrow and pass it on to our children or to have responsible ways of paying for it. And that's exactly what this bill does, responsibly pays for these very important tax extenders.

For years, borrow-and-spend policies of the previous administration have saddled our children's future with $9 trillion of foreign-owned national debt, all incurred during relative times of economic prosperity. The debt translates into daily interest payments of $1 billion.

These tax extenders are paid for. I repeat, they are paid for. H.R. 4213 represents the dedication to commonsense PAYGO principles that we in Congress should have to balance our books even in these tough economic times just as our constituents do. This legislation does exactly that.

I urge my colleagues to vote ''yes'' on the previous question and the rule because the American people are counting on us to extend these vital tax provisions in order to continue to improve our economy.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 955 OFFERED BY MR. DIAZ-BALART

At the end of the resolution, insert the following new section:

SEC. 2. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the house of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''A refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. ARCURI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 10 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1245

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. MCCOLLUM) at 12 o'clock and 45 minutes p.m.).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings now will resume on questions previously postponed as follows:

ordering the previous question on House Resolution 955, by the yeas and nays;

adopting House Resolution 955, if ordered; and

suspending the rules and passing H.R. 3951, by the yeas and nays.

The first vote will be a 15-minute vote. Succeeding votes will be 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 4213, TAX EXTENDERS ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 955, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 239, nays 182, not voting 13, as follows:

[Roll No. 939]

YEAS—239

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Langevin
Larsen (WA)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—182

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Baldwin
Barrett (SC)
Capuano
Dingell
Fudge
Granger
Kucinich
Larson (CT)
Lewis (GA)
Moran (VA)
Radanovich
Sanchez, Loretta
Scott (VA)

□ 1318

Messrs. LUETKEMEYER and KING of New York changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 237, nays 182, not voting 15, as follows:

[Roll No. 940]

YEAS—237

Abercrombie
Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Kosmas
Kucinich
Langevin
Larsen (WA)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—182

Aderholt
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins

Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Baldwin
Barrett (SC)
Capuano
Dingell
Fudge
Granger
Larson (CT)
Lewis (GA)
Melancon
Moran (VA)
Paul
Radanovich
Rush
Sanchez, Loretta
Scott (VA)

□ 1326

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROY RONDENO, SR. POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3951, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 3951.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 1, not voting 16, as follows:

[Roll No. 941]

YEAS—417

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schwartz
Scott (GA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—1

Schrader

NOT VOTING—16

Baldwin
Barrett (SC)
Boyd
Capuano
Chandler
Coffman (CO)
Dingell
Fudge
Granger
Larson (CT)
Lewis (GA)
Linder
Moran (VA)
Radanovich
Sanchez, Loretta
Scott (VA)

□ 1333

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Madam Speaker, on December 9, 2009 I missed roll-call votes 939, 940 and 941. Had I been present, I would have voted "yea" on all.

TAX EXTENDERS ACT OF 2009

Mr. RANGEL. Mr. Speaker, pursuant to House Resolution 955, I call up the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DRIEHAUS). Pursuant to House Resolution 955, the bill is considered read.

The text of the bill is as follows:

H.R. 4213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Extenders Act of 2009".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—GENERAL PROVISIONS

Subtitle A—Individual Tax Relief

Sec. 101. Deduction of State and local sales taxes.

Sec. 102. Additional standard deduction for State and local real property taxes.
Sec. 103. Above-the-line deduction for qualified tuition and related expenses.
Sec. 104. Deduction for certain expenses of elementary and secondary school teachers.
Subtitle B—Business Tax Relief
Sec. 111. Research credit.
Sec. 112. Exceptions for active financing income.
Sec. 113. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
Sec. 114. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 115. 7-year recovery period for motorsports entertainment complexes.
Sec. 116. Railroad track maintenance credit.
Sec. 117. Special expensing rules for certain film and television productions.
Sec. 118. Expensing of environmental remediation costs.
Sec. 119. Mine rescue team training credit.
Sec. 120. Election to expense advanced mine safety equipment.
Sec. 121. Employer wage credit for employees who are active duty members of the uniformed services.
Sec. 122. 5-year depreciation for farming business machinery and equipment.
Sec. 123. Treatment of certain dividends and assets of regulated investment companies.
Sec. 124. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.
Sec. 125. RIC qualified investment entity treatment under FIRPTA.
Sec. 126. Suspension of limitation on percentage depletion for oil and gas from marginal wells.
Subtitle C—Charitable Provisions
Sec. 131. Contributions of capital gain real property made for conservation purposes.
Sec. 132. Enhanced charitable deduction for contributions of food inventory.
Sec. 133. Enhanced charitable deduction for contributions of book inventories to public schools.
Sec. 134. Enhanced charitable deduction for corporate contributions of computer technology and equipment for educational purposes.
Sec. 135. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 136. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 137. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income.
Sec. 138. Basis adjustment to stock of S corporations making charitable contributions of property.
Subtitle D—Miscellaneous Provisions
Sec. 141. Indian employment tax credit.
Sec. 142. Accelerated depreciation for business property on an Indian reservation.
Sec. 143. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 144. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
Sec. 145. American Samoa economic development credit.
TITLE II—COMMUNITY ASSISTANCE PROVISIONS
Sec. 201. Empowerment zone tax incentives.
Sec. 202. Renewal community tax incentives.
Sec. 203. New markets tax credit.
Sec. 204. Tax incentives for investment in the District of Columbia.
Sec. 205. Tax incentives for New York Liberty Zone.
Sec. 206. Tax incentives for the Gulf Opportunity Zone.
Sec. 207. Election for refundable low-income housing credit for 2010.
TITLE III—DISASTER RELIEF PROVISIONS
Sec. 301. Deductibility of personal casualty losses attributable to federally declared disasters.
Sec. 302. Expensing of certain qualified disaster expenses.
Sec. 303. 5-year carryback of net operating losses attributable to Federally declared disasters.
Sec. 304. Waiver of certain mortgage revenue bond requirements for residences located in Federally declared disaster areas.
Sec. 305. Expensing and special depreciation allowance for qualified disaster assistance property.
TITLE IV—ENERGY PROVISIONS
Sec. 401. Incentives for biodiesel and renewable diesel.
Sec. 402. Alternative motor vehicle credit for heavy hybrids.
Sec. 403. Alternative fuel credit for natural gas and liquified petroleum gas.
Sec. 404. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
TITLE V—FOREIGN ACCOUNT TAX COMPLIANCE
Subtitle A—Increased Disclosure of Beneficial Owners
Sec. 501. Reporting on certain foreign accounts.
Sec. 502. Repeal of certain foreign exceptions to registered bond requirements.
Subtitle B—Under Reporting With Respect to Foreign Assets
Sec. 511. Disclosure of information with respect to foreign financial assets.
Sec. 512. Penalties for underpayments attributable to undisclosed foreign financial assets.
Sec. 513. Modification of statute of limitations for significant omission of income in connection with foreign assets.
Subtitle C—Other Disclosure Provisions
Sec. 521. Reporting of activities with respect to passive foreign investment companies.
Sec. 522. Secretary permitted to require financial institutions to file certain returns related to withholding on foreign transfers electronically.
Subtitle D—Provisions Related to Foreign Trusts
Sec. 531. Clarifications with respect to foreign trusts which are treated as having a United States beneficiary.
Sec. 532. Presumption that foreign trust has United States beneficiary.
Sec. 533. Uncompensated use of trust property.
Sec. 534. Reporting requirement of United States owners of foreign trusts.
Sec. 535. Minimum penalty with respect to failure to report on certain foreign trusts.
Subtitle E—Substitute Dividends and Dividend Equivalent Payments Received by Foreign Persons Treated as Dividends
Sec. 541. Substitute dividends and dividend equivalent payments received by foreign persons treated as dividends.
TITLE VI—OTHER REVENUE PROVISIONS
Subtitle A—Partnership Interests Held by Partners Providing Services
Sec. 601. Partnership interests transferred in connection with performance of services.
Sec. 602. Income of partners for performing investment management services treated as ordinary income received for performance of services.
Subtitle B—Time for Payment of Corporate Estimated Taxes
Sec. 611. Time for payment of corporate estimated taxes.
Subtitle C—Tax Expenditure Study
Sec. 621. Findings.
Sec. 622. Study of extended tax expenditures.

TITLE I—GENERAL PROVISIONS

Subtitle A—Individual Tax Relief

SEC. 101. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 102. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting '', 2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 103. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 104. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Business Tax Relief

SEC. 111. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 112. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 113. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 114. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 115. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 116. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 117. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 118. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 119. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 120. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 121. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 122. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

(a) IN GENERAL.—Clause (vii) of section 168(e)(3)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 123. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 124. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

SEC. 125. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after December 31, 2009.

SEC. 126. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle C—Charitable Provisions

SEC. 131. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 132. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 133. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 134. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 135. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009.

SEC. 136. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 137. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 138. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

Subtitle D—Miscellaneous Provisions

SEC. 141. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 142. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 143. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 144. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 145. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

TITLE II—COMMUNITY ASSISTANCE PROVISIONS

SEC. 201. EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Clause (i) of section 1391(d)(1)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 202. RENEWAL COMMUNITY TAX INCENTIVES.

(a) IN GENERAL.—Subsection (b) of section 1400E is amended—

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010'', and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATES.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014' ''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) ACQUISITIONS.—The amendments made by subsection (b)(1) and (d) shall apply to acquisitions after December 31, 2009.

(3) COMMERCIAL REVITALIZATION DEDUCTION.—The amendment made by subsection (c) shall apply to building placed in service after December 31, 2009.

SEC. 203. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CARRYOVER OF UNUSED LIMITATION.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 204. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATES.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF ZERO-PERCENT CAPITAL GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) INTERESTS IN PARTNERSHIP AND S CORPORATIONS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c)(1) shall apply to property acquired or substantially improved after December 31, 2009.

(4) FIRST-TIME HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to property purchased after December 31, 2009.

SEC. 205. TAX INCENTIVES FOR NEW YORK LIBERTY ZONE.

(a) BONUS DEPRECIATION FOR NONRESIDENTIAL REAL PROPERTY AND RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' in the last sentence and inserting ''December 31, 2010''.

(b) TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(c) EFFECTIVE DATES.—

(1) BONUS DEPRECIATION.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2009.

(2) TAX-EXEMPT BOND FINANCING.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

SEC. 206. TAX INCENTIVES FOR THE GULF OPPORTUNITY ZONE.

(a) WORK OPPORTUNITY TAX CREDIT FOR CORE DISASTER AREA.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) INCREASE IN REHABILITATION CREDIT.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATES.—

(1) WORK OPPORTUNITY TAX CREDIT.—The amendment made by subsection (a) shall apply to individuals hired on or after August 28, 2009.

(2) REHABILITATION CREDIT.—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 2009.

SEC. 207. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

TITLE III—DISASTER RELIEF PROVISIONS

SEC. 301. DEDUCTIBILITY OF PERSONAL CASUALTY LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EXTENSION OF $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

(2) EXTENSION OF $500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 302. EXPENSING OF CERTAIN QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

SEC. 303. 5-YEAR CARRYBACK OF NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 304. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS FOR RESIDENCES LOCATED IN FEDERALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTER AREAS.—Paragraph (13) of section 143(k), as redesignated under subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in Federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTER AREAS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 305. EXPENSING AND SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

TITLE IV—ENERGY PROVISIONS

SEC. 401. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 2009.

SEC. 402. ALTERNATIVE MOTOR VEHICLE CREDIT FOR HEAVY HYBRIDS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 403. ALTERNATIVE FUEL CREDIT FOR NATURAL GAS AND LIQUIFIED PETROLEUM GAS.

(a) IN GENERAL.—Paragraph (5) of section 6426(d) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of—

''(i) compressed or liquified natural gas, and

''(ii) liquified petroleum gas (other than for use as fuel in a forklift), and

''(C) December 31, 2009, in any other case.''.

(b) PAYMENT AUTHORITY.—Paragraph (6) of section 6427(e) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma and by adding at the end the following new subparagraphs:

''(E) any alternative fuel (as so defined) involving compressed or liquified natural gas sold or used after December 31, 2010, and

''(F) any alternative fuel (as so defined) involving liquified petroleum gas (other than for use as fuel in a forklift) sold or used after December 31, 2010.''.

(c) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting ''(E), or (F)'' after ''subparagraph (D)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 404. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after December 31, 2009.

TITLE V—FOREIGN ACCOUNT TAX COMPLIANCE

Subtitle A—Increased Disclosure of Beneficial Owners

SEC. 501. REPORTING ON CERTAIN FOREIGN ACCOUNTS.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by inserting after chapter 3 the following new chapter:

''CHAPTER 4—TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN ACCOUNTS

''Sec. 1471. Withholdable payments to foreign financial institutions.
''Sec. 1472. Withholdable payments to other foreign entities.
''Sec. 1473. Definitions.
''Sec. 1474. Special rules.

''SEC. 1471. WITHHOLDABLE PAYMENTS TO FOREIGN FINANCIAL INSTITUTIONS.

''(a) IN GENERAL.—In the case of any withholdable payment to a foreign financial institution which does not meet the requirements of subsection (b), the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

''(b) REPORTING REQUIREMENTS, ETC.—

''(1) IN GENERAL.—The requirements of this subsection are met with respect to any foreign financial institution if an agreement is in effect between such institution and the Secretary under which such institution agrees—

''(A) to obtain such information regarding each holder of each account maintained by such institution as is necessary to determine which (if any) of such accounts are United States accounts,

''(B) to comply with such verification and due diligence procedures as the Secretary may require with respect to the identification of United States accounts,

''(C) in the case of any United States account maintained by such institution, to report on an annual basis the information described in subsection (c) with respect to such account,

''(D) to deduct and withhold a tax equal to 30 percent of—

''(i) any passthru payment which is made by such institution to a recalcitrant account holder or another foreign financial institution which does not meet the requirements of this subsection, and

''(ii) in the case of any passthru payment which is made by such institution to a foreign financial institution which has in effect an election under paragraph (3) with respect to such payment, so much of such payment as is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection,

''(E) to comply with requests by the Secretary for additional information with respect to any United States account maintained by such institution, and

''(F) in any case in which any foreign law would (but for a waiver described in clause (i)) prevent the reporting of any information referred to in this subsection or subsection (c) with respect to any United States account maintained by such institution—

''(i) to attempt to obtain a valid and effective waiver of such law from each holder of such account, and

''(ii) if a waiver described in clause (i) is not obtained from each such holder within a reasonable period of time, to close such account.

Any agreement entered into under this subsection may be terminated by the Secretary upon a determination by the Secretary that the foreign financial institution is out of compliance with such agreement.

''(2) FINANCIAL INSTITUTIONS DEEMED TO MEET REQUIREMENTS IN CERTAIN CASES.—A foreign financial institution may be treated by the Secretary as meeting the requirements of this subsection if—

''(A) such institution—

''(i) complies with such procedures as the Secretary may prescribe to ensure that such institution does not maintain United States accounts, and

''(ii) meets such other requirements as the Secretary may prescribe with respect to accounts of other foreign financial institutions maintained by such institution, or

''(B) such institution is a member of a class of institutions with respect to which the Secretary has determined that the application of this section is not necessary to carry out the purposes of this section.

''(3) ELECTION TO BE WITHHELD UPON RATHER THAN WITHHOLD ON PAYMENTS TO RECALCITRANT ACCOUNT HOLDERS AND NONPARTICIPATING FOREIGN FINANCIAL INSTITUTIONS.—In the case of a foreign financial institution which meets the requirements of this subsection and such other requirements as the Secretary may provide and which elects the application of this paragraph—

''(A) the requirements of paragraph (1)(D) shall not apply,

''(B) the withholding tax imposed under subsection (a) shall apply with respect to any withholdable payment to such institution to the extent such payment is allocable to accounts held by recalcitrant account holders or foreign financial institutions which do not meet the requirements of this subsection, and

''(C) the agreement described in paragraph (1) shall—

''(i) require such institution to notify the withholding agent with respect to each such payment of the institution's election under this paragraph and such other information as may be necessary for the withholding agent to determine the appropriate amount to deduct and withhold from such payment, and

''(ii) include a waiver of any right under any treaty of the United States with respect to any amount deducted and withheld pursuant to an election under this paragraph.

To the extent provided by the Secretary, the election under this paragraph may be made with respect to certain classes or types of accounts of the foreign financial institution.

''(c) INFORMATION REQUIRED TO BE REPORTED ON UNITED STATES ACCOUNTS.—

''(1) IN GENERAL.—The agreement described in subsection (b) shall require the foreign financial institution to report the following with respect to each United States account maintained by such institution:

''(A) The name, address, and TIN of each account holder which is a specified United States person and, in the case of any account holder which is a United States owned foreign entity, the name, address, and TIN of each substantial United States owner of such entity.

''(B) The account number.

''(C) The account balance or value (determined at such time and in such manner as the Secretary may provide).

''(D) The gross receipts and gross withdrawals or payments from the account (determined for such period and in such manner as the Secretary may provide).

''(2) ELECTION TO BE SUBJECT TO SAME REPORTING AS UNITED STATES FINANCIAL INSTITUTIONS.—In the case of a foreign financial institution which elects the application of this paragraph—

''(A) subparagraphs (C) and (D) of paragraph (1) shall not apply, and

''(B) the agreement described in subsection (b) shall require such foreign financial institution to report such information with respect to each United States account maintained by such institution as such institution would be required to report under sections 6041, 6042, 6045, and 6049 if—

''(i) such institution were a United States person, and

''(ii) each holder of such account which is a specified United States person or United States owned foreign entity were a natural person and citizen of the United States.

An election under this paragraph shall be made at such time, in such manner, and subject to such conditions as the Secretary may provide.

''(3) SEPARATE REQUIREMENTS FOR QUALIFIED INTERMEDIARIES.—In the case of a foreign financial institution which is treated as a qualified intermediary by the Secretary for purposes of section 1441 and the regulations issued thereunder, the requirements of this section shall be in addition to any reporting or other requirements imposed by the Secretary for purposes of such treatment.

''(d) DEFINITIONS.—For purposes of this section—

''(1) UNITED STATES ACCOUNT.—

''(A) IN GENERAL.—The term 'United States account' means any financial account which is held by one or more specified United States persons or United States owned foreign entities.

''(B) EXCEPTION FOR CERTAIN ACCOUNTS HELD BY INDIVIDUALS.—Unless the foreign financial institution elects to not have this subparagraph apply, such term shall not include any depository account maintained by such financial institution if—

''(i) each holder of such account is a natural person, and

''(ii) with respect to each holder of such account, the aggregate value of all depository accounts held (in whole or in part) by such holder and maintained by the same financial institution which maintains such account does not exceed $50,000.

To the extent provided by the Secretary, financial institutions which are members of the same expanded affiliated group shall be treated for purposes of clause (ii) as a single financial institution.

''(C) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENTS.—Such term shall not include any financial account in a foreign financial institution if—

''(i) such account is held by another financial institution which meets the requirements of subsection (b), or

''(ii) the holder of such account is otherwise subject to information reporting requirements which the Secretary determines would make the reporting required by this section with respect to United States accounts duplicative.

''(2) FINANCIAL ACCOUNT.—The term 'financial account' means, with respect to any financial institution—

''(A) any depository account maintained by such financial institution,

''(B) any custodial account maintained by such financial institution, and

''(C) except as otherwise provided by the Secretary, any equity or debt interest in such financial institution (other than interests which are regularly traded on an established securities market).

Any equity or debt interest which constitutes a financial account under subparagraph (C) with respect to any financial institution shall be treated for purposes of this section as maintained by such financial institution.

''(3) UNITED STATES OWNED FOREIGN ENTITY.—The term 'United States owned foreign entity' means any foreign entity which has one or more substantial United States owners.

''(4) FOREIGN FINANCIAL INSTITUTION.—The term 'foreign financial institution' means any financial institution which is a foreign entity. Except as otherwise provided by the Secretary, such term shall not include a financial institution which is organized under the laws of any possession of the United States.

''(5) FINANCIAL INSTITUTION.—Except as otherwise provided by the Secretary, the term 'financial institution' means any entity that—

''(A) accepts deposits in the ordinary course of a banking or similar business,

''(B) is engaged in the business of holding financial assets for the account of others, or

''(C) is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities (as defined in section 475(c)(2) without regard to the last sentence thereof), partnership interests, commodities (as defined in section 475(e)(2)), or any interest (including a futures or forward contract or option) in such securities, partnership interests, or commodities.

''(6) RECALCITRANT ACCOUNT HOLDER.—The term 'recalcitrant account holder' means any account holder which—

''(A) fails to comply with reasonable requests for the information referred to in subsection (b)(1)(A) or (c)(1)(A), or

''(B) fails to provide a waiver described in subsection (b)(1)(F) upon request.

''(7) PASSTHRU PAYMENT.—The term 'passthru payment' means any withholdable payment or other payment which is attributable to a withholdable payment.

''(e) AFFILIATED GROUPS.—

''(1) IN GENERAL.—The requirements of subsections (b) and (c)(1) shall apply—

''(A) with respect to United States accounts maintained by the foreign financial institution, and

''(B) except as otherwise provided by the Secretary, with respect to United States accounts maintained by each other foreign financial institution (other than any foreign financial institution which meets the requirements of subsection (b)) which is a member of the same expanded affiliated group as such foreign financial institution.

''(2) EXPANDED AFFILIATED GROUP.—For purposes of this section, the term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(A) by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears, and

''(B) without regard to paragraphs (2) and (3) of section 1504(b).

A partnership or any other entity (other than a corporation) shall be treated as a member of an expanded affiliated group if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

''(f) EXCEPTION FOR CERTAIN PAYMENTS.—Subsection (a) shall not apply to any payment if the beneficial owner of such payment is—

''(1) any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

''(2) any international organization or any wholly owned agency or instrumentality thereof,

''(3) any foreign central bank of issue, or

''(4) any other class of persons identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion.

"SEC. 1472. WITHHOLDABLE PAYMENTS TO OTHER FOREIGN ENTITIES.

''(a) IN GENERAL.—In the case of any withholdable payment to a non-financial foreign entity, if—

''(1) the beneficial owner of such payment is such entity or any other non-financial foreign entity, and

''(2) the requirements of subsection (b) are not met with respect to such beneficial owner,

then the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30 percent of the amount of such payment.

''(b) REQUIREMENTS FOR WAIVER OF WITHHOLDING.—The requirements of this subsection are met with respect to the beneficial owner of a payment if—

''(1) such beneficial owner or the payee provides the withholding agent with either—

''(A) a certification that such beneficial owner does not have any substantial United States owners, or

''(B) the name, address, and TIN of each substantial United States owner of such beneficial owner,

''(2) the withholding agent does not know, or have reason to know, that any information provided under paragraph (1) is incorrect, and

''(3) the withholding agent reports the information provided under paragraph (1)(B) to the Secretary in such manner as the Secretary may provide.

''(c) EXCEPTIONS.—Subsection (a) shall not apply to—

''(1) except as otherwise provided by the Secretary, any payment beneficially owned by—

''(A) any corporation the stock of which is regularly traded on an established securities market,

''(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation described in subparagraph (A),

''(C) any entity which is organized under the laws of a possession of the United States and which is wholly owned by one or more bona fide residents (as defined in section 937(a)) of such possession,

''(D) any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

''(E) any international organization or any wholly owned agency or instrumentality thereof,

''(F) any foreign central bank of issue, or

''(G) any other class of persons identified by the Secretary for purposes of this subsection, and

''(2) any class of payments identified by the Secretary for purposes of this subsection as posing a low risk of tax evasion.

''(d) NON-FINANCIAL FOREIGN ENTITY.—For purposes of this section, the term 'non-financial foreign entity' means any foreign entity which is not a financial institution (as defined in section 1471(d)(5)).

''SEC. 1473. DEFINITIONS.

''For purposes of this chapter—

''(1) WITHHOLDABLE PAYMENT.—Except as otherwise provided by the Secretary—

''(A) IN GENERAL.—The term 'withholdable payment' means—

''(i) any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States, and

''(ii) any gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States.

''(B) EXCEPTION FOR INCOME CONNECTED WITH UNITED STATES BUSINESS.—Such term shall not include any item of income which is taken into account under section 871(b)(1) or 882(a)(1) for the taxable year.

''(C) SPECIAL RULE FOR SOURCING INTEREST PAID BY FOREIGN BRANCHES OF DOMESTIC FINANCIAL INSTITUTIONS.—Subparagraph (B) of section 861(a)(1) shall not apply.

''(2) SUBSTANTIAL UNITED STATES OWNER.—

''(A) IN GENERAL.—The term 'substantial United States owner' means—

''(i) with respect to any corporation, any specified United States person which owns, directly or indirectly, more than 10 percent of the stock of such corporation (by vote or value),

''(ii) with respect to any partnership, any specified United States person which owns, directly or indirectly, more than 10 percent of the profits interests or capital interests in such partnership, and

''(iii) in the case of a trust—

''(I) any specified United States person treated as an owner of any portion of such trust under subpart E of part I of subchapter J of chapter 1, and

''(II) to the extent provided by the Secretary in regulations or other guidance, any specified United States person which holds, directly or indirectly, more than 10 percent of the beneficial interests of such trust.

''(B) SPECIAL RULE FOR INVESTMENT VEHICLES.—In the case of any financial institution described in section 1471(d)(5)(C), clauses (i), (ii), and (iii) of subparagraph (A) shall be applied by substituting '0 percent' for '10 percent'.

''(3) SPECIFIED UNITED STATES PERSON.—Except as otherwise provided by the Secretary, the term 'specified United States person' means any United States person other than—

''(A) any corporation the stock of which is regularly traded on an established securities market,

''(B) any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation the stock of which is regularly traded on an established securities market,

''(C) any organization exempt from taxation under section 501(a) or an individual retirement plan,

''(D) the United States or any wholly owned agency or instrumentality thereof,

''(E) any State, the District of Columbia, any possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

''(F) any bank (as defined in section 581),

''(G) any real estate investment trust (as defined in section 856),

''(H) any regulated investment company (as defined in section 851),

''(I) any common trust fund (as defined in section 584(a)), and

''(J) any trust which—

''(i) is exempt from tax under section 664(c), or

''(ii) is described in section 4947(a)(1).

''(4) WITHHOLDING AGENT.—The term 'withholding agent' means all persons, in whatever capacity acting, having the control, receipt, custody, disposal, or payment of any withholdable payment.

''(5) FOREIGN ENTITY.—The term 'foreign entity' means any entity which is not a United States person.

''SEC. 1474. SPECIAL RULES.

''(a) LIABILITY FOR WITHHELD TAX.—Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

''(b) CREDITS AND REFUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the determination of whether any tax deducted and withheld under this chapter results in an overpayment by the beneficial owner of the payment to which such tax is attributable shall be made as if such tax had been deducted and withheld under subchapter A of chapter 3.

''(2) SPECIAL RULE WHERE FOREIGN FINANCIAL INSTITUTION IS BENEFICIAL OWNER OF PAYMENT.—

''(A) IN GENERAL.—In the case of any tax properly deducted and withheld under section 1471 from a specified financial institution payment—

''(i) if the foreign financial institution referred to in subparagraph (B) with respect to such payment is entitled to a reduced rate of tax with respect to such payment by reason of any treaty obligation of the United States—

''(I) the amount of any credit or refund with respect to such tax shall not exceed the amount of credit or refund attributable to such reduction in rate, and

''(II) no interest shall be allowed or paid with respect to such credit or refund, and

''(ii) if such foreign financial institution is not so entitled, no credit or refund shall be allowed or paid with respect to such tax.

''(B) SPECIFIED FINANCIAL INSTITUTION PAYMENT.—The term 'specified financial institution payment' means any payment if the beneficial owner of such payment is a foreign financial institution.

''(3) REQUIREMENT TO IDENTIFY SUBSTANTIAL UNITED STATES OWNERS.—No credit or refund shall be allowed or paid with respect to any tax properly deducted and withheld under this chapter unless the beneficial owner of the payment provides the Secretary such information as the Secretary may require to determine whether such beneficial owner is a United States owned foreign entity (as defined in section 1471(d)(3)) and the identity of any substantial United States owners of such entity.

''(c) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—For purposes of this chapter, rules similar to the rules of section 3406(f) shall apply.

''(2) DISCLOSURE OF LIST OF PARTICIPATING FOREIGN FINANCIAL INSTITUTIONS PERMITTED.—The identity of a foreign financial institution which meets the requirements of section 1471(b) shall not be treated as return information for purposes of section 6103.

''(d) COORDINATION WITH OTHER WITHHOLDING PROVISIONS.—The Secretary shall provide for the coordination of this chapter with other withholding provisions under this title, including providing for the proper crediting of amounts deducted and withheld under this chapter against amounts required to be deducted and withheld under such other provisions.

''(e) TREATMENT OF WITHHOLDING UNDER AGREEMENTS.—Any tax deducted and withheld pursuant to an agreement described in section 1471(b) shall be treated for purposes of this title as a tax deducted and withheld by a withholding agent under section 1471(a).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this chapter.''.

(b) SPECIAL RULE FOR INTEREST ON OVERPAYMENTS.—Subsection (e) of section 6611 is amended by adding at the end the following new paragraph:

''(4) CERTAIN WITHHOLDING TAXES.—In the case of any overpayment resulting from tax deducted and withheld under chapter 3 or 4, paragraphs (1), (2), and (3) shall be applied by substituting '180 days' for '45 days' each place it appears.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6414 is amended by inserting ''or 4'' after ''chapter 3''.

(2) Paragraph (1) of section 6501(b) is amended by inserting ''4,'' after ''chapter 3,''.

(3) Paragraph (2) of section 6501(b) is amended—

(A) by inserting ''4,'' after ''chapter 3,'' in the text thereof, and

(B) by striking ''TAXES AND TAX IMPOSED BY CHAPTER 3'' in the heading thereof and inserting ''AND WITHHOLDING TAXES''.

(4) Paragraph (3) of section 6513(b) is amended—

(A) by inserting ''or 4'' after ''chapter 3'', and

(B) by inserting ''or 1474(b)'' after ''section 1462''.

(5) Subsection (c) of section 6513 is amended by inserting ''4,'' after ''chapter 3,''.

(6) Paragraph (1) of section 6724(d) is amended by inserting ''under chapter 4 or'' after ''filed with the Secretary'' in the last sentence thereof.

(7) Paragraph (2) of section 6724(d) is amended by inserting ''or 4'' after ''chapter 3''.

(8) The table of chapters of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''CHAPTER 4. TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN ACCOUNTS.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to payments made after December 31, 2012.

(2) GRANDFATHERED TREATMENT OF OUTSTANDING OBLIGATIONS.—The amendments made by this section shall not require any amount to be deducted or withheld from any payment under any obligation outstanding on the date which is 2 years after the date of the enactment of this Act.

(3) INTEREST ON OVERPAYMENTS.—The amendment made by subsection (b) shall apply—

(A) in the case of such amendment's application to paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986, to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act,

(B) in the case of such amendment's application to paragraph (2) of such section, to claims for credit or refund of any overpayment filed after the date of the enactment of this Act (regardless of the taxable period to which such refund relates), and

(C) in the case of such amendment's application to paragraph (3) of such section, to refunds paid after the date of the enactment of this Act (regardless of the taxable period to which such refund relates).

SEC. 502. REPEAL OF CERTAIN FOREIGN EXCEPTIONS TO REGISTERED BOND REQUIREMENTS.

(a) REPEAL OF EXCEPTION TO DENIAL OF DEDUCTION FOR INTEREST ON NON-REGISTERED BONDS.—

(1) IN GENERAL.—Paragraph (2) of section 163(f) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 163(f)(2) is amended by inserting ''or'' at the end of clause (ii), by striking '', or'' at the end of clause (iii) and inserting a period, and by striking clause (iv).

(B) Subparagraph (B) of section 163(f)(2), as redesignated by paragraph (1), is amended—

(i) by striking '', and subparagraph (B),'' in the matter preceding clause (i), and

(ii) by amending clause (i) to read as follows:

''(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and''.

(C) Sections 165(j)(2)(A) and 1287(b)(1) are each amended by striking ''except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply''.

(b) REPEAL OF TREATMENT AS PORTFOLIO DEBT.—

(1) IN GENERAL.—Paragraph (2) of section 871(h) is amended to read as follows:

''(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which—

''(A) would be subject to tax under subsection (a) but for this subsection, and

''(B) is paid on an obligation—

''(i) which is in registered form, and

''(ii) with respect to which—

''(I) the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) receives a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person, or

''(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 871(h)(3)(A) is amended by striking ''subparagraph (A) or (B) of''.

(B) Paragraph (2) of section 881(c) is amended to read as follows:

''(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which—

''(A) would be subject to tax under subsection (a) but for this subsection, and

''(B) is paid on an obligation—

''(i) which is in registered form, and

''(ii) with respect to which—

''(I) the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) receives a statement which meets the requirements of section 871(h)(5) that the beneficial owner of the obligation is not a United States person, or

''(II) the Secretary has determined that such a statement is not required in order to carry out the purposes of this subsection.''.

(c) DEMATERIALIZED BOOK ENTRY SYSTEMS TREATED AS REGISTERED FORM.—Paragraph (3) of section 163(f) is amended by inserting '', except that a dematerialized book entry system shall be treated as a book entry system described in such section'' before the period at the end.

(d) REPEAL OF EXCEPTION TO REQUIREMENT THAT TREASURY OBLIGATIONS BE IN REGISTERED FORM.—

(1) IN GENERAL.—Subsection (g) of section 3121 of title 31, United States Code, is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Paragraph (1) of section 3121(g) of such title is amended—

(A) by adding ''or'' at the end of subparagraph (A),

(B) by striking ''; or'' at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(e) PRESERVATION OF EXCEPTION FOR EXCISE TAX PURPOSES.—Paragraph (1) of section 4701(b) is amended to read as follows:

''(1) REGISTRATION-REQUIRED OBLIGATION.—

''(A) IN GENERAL.—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation which—

''(i) is required to be registered under section 149(a), or

''(ii) is described in subparagraph (B).

''(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

''(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person,

''(ii) interest on such obligation is payable only outside the United States and its possessions, and

''(iii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date which is 2 years after the date of the enactment of this Act.

Subtitle B—Under Reporting With Respect to Foreign Assets

SEC. 511. DISCLOSURE OF INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

''SEC. 6038D. INFORMATION WITH RESPECT TO FOREIGN FINANCIAL ASSETS.

''(a) IN GENERAL.—Any individual who, during any taxable year, holds any interest in a specified foreign financial asset shall attach to such person's return of tax imposed by subtitle A for such taxable year the information described in subsection (c) with respect to each such asset if the aggregate value of all such assets exceeds $50,000 (or such higher dollar amount as the Secretary may prescribe).

''(b) SPECIFIED FOREIGN FINANCIAL ASSETS.—For purposes of this section, the term 'specified foreign financial asset' means—

''(1) any financial account (as defined in section 1471(d)(2)) maintained by a foreign financial institution (as defined in section 1471(d)(4)), and

''(2) any of the following assets which are not held in an account maintained by a financial institution (as defined in section 1471(d)(5))—

''(A) any stock or security issued by a person other than a United States person,

''(B) any financial instrument or contract held for investment that has an issuer or counterparty which is other than a United States person, and

''(C) any interest in a foreign entity (as defined in section 1473).

''(c) REQUIRED INFORMATION.—The information described in this subsection with respect to any asset is:

''(1) In the case of any account, the name and address of the financial institution in which such account is maintained and the number of such account.

''(2) In the case of any stock or security, the name and address of the issuer and such information as is necessary to identify the class or issue of which such stock or security is a part.

''(3) In the case of any other instrument, contract, or interest—

''(A) such information as is necessary to identify such instrument, contract, or interest, and

''(B) the names and addresses of all issuers and counterparties with respect to such instrument, contract, or interest.

''(4) The maximum value of the asset during the taxable year.

''(d) PENALTY FOR FAILURE TO DISCLOSE.—

''(1) IN GENERAL.—If any individual fails to furnish the information described in subsection (c) with respect to any taxable year at the time and in the manner described in subsection (a), such person shall pay a penalty of $10,000.

''(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the individual, such individual shall pay a penalty (in addition to the penalties under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The penalty imposed under this paragraph with respect to any failure shall not exceed $50,000.

''(e) PRESUMPTION THAT VALUE OF SPECIFIED FOREIGN FINANCIAL ASSETS EXCEEDS DOLLAR THRESHOLD.—If—

''(1) the Secretary determines that an individual has an interest in one or more specified foreign financial assets, and

''(2) such individual does not provide sufficient information to demonstrate the aggregate value of such assets,

then the aggregate value of such assets shall be treated as being in excess of $50,000 (or such higher dollar amount as the Secretary prescribes for purposes of subsection (a)) for purposes of assessing the penalties imposed under this section.

''(f) APPLICATION TO CERTAIN ENTITIES.—To the extent provided by the Secretary in regulations or other guidance, the provisions of this section shall apply to any domestic entity which is formed or availed of for purposes of holding, directly or indirectly, specified foreign financial assets, in the same manner as if such entity were an individual.

''(g) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide appropriate exceptions from the application of this section in the case of—

''(1) classes of assets identified by the Secretary, including any assets with respect to which the Secretary determines that disclosure under this section would be duplicative of other disclosures,

''(2) nonresident aliens, and

''(3) bona fide residents of any possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038C the following new item:

''Sec. 6038D. Information with respect to foreign financial assets.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 512. PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO UNDISCLOSED FOREIGN FINANCIAL ASSETS.

(a) IN GENERAL.—Section 6662 is amended—

(1) in subsection (b), by inserting after paragraph (5) the following new paragraph:

''(6) Any undisclosed foreign financial asset understatement.'', and

(2) by adding at the end the following new subsection:

''(i) UNDISCLOSED FOREIGN FINANCIAL ASSET UNDERSTATEMENT.—

''(1) IN GENERAL.—For purposes of this section, the term 'undisclosed foreign financial asset understatement' means, for any taxable year, the portion of the understatement for such taxable year which is attributable to any transaction involving an undisclosed foreign financial asset.

''(2) UNDISCLOSED FOREIGN FINANCIAL ASSET.—For purposes of this subsection, the term 'undisclosed foreign financial asset' means, with respect to any taxable year, any asset with respect to which information was required to be provided under section 6038, 6038B, 6038D, 6046A, or 6048 for such taxable year but was not provided by the taxpayer as required under the provisions of those sections.

''(3) INCREASE IN PENALTY FOR UNDISCLOSED FOREIGN FINANCIAL ASSET UNDERSTATEMENTS.—In the case of any portion of an underpayment which is attributable to any undisclosed foreign financial asset understatement, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 513. MODIFICATION OF STATUTE OF LIMITATIONS FOR SIGNIFICANT OMISSION OF INCOME IN CONNECTION WITH FOREIGN ASSETS.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 6501(e) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) GENERAL RULE.—If the taxpayer omits from gross income an amount properly includible therein and—

''(i) such amount is in excess of 25 percent of the amount of gross income stated in the return, or

''(ii) such amount—

''(I) is attributable to one or more assets with respect to which information is required to be reported under section 6038D (or would be so required if such section were applied without regard to the dollar threshold specified in subsection (a) thereof and without regard to any exceptions provided pursuant to subsection (h)(1) thereof), and

''(II) is in excess of $5,000,

the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 6501(e)(1), as redesignated by paragraph (1), is amended by striking all that precedes clause (i) and inserting the following:

''(B) DETERMINATION OF GROSS INCOME.—For purposes of subparagraph (A)—''.

(B) Paragraph (2) of section 6229(c) is amended by striking ''which is in excess of 25 percent of the amount of gross income stated in its return'' and inserting ''and such amount is described in clause (i) or (ii) of section 6501(e)(1)(A)''.

(b) ADDITIONAL REPORTS SUBJECT TO EXTENDED PERIOD.—Paragraph (8) of section 6501(c) is amended—

(1) by inserting ''pursuant to an election under section 1295(b) or'' before ''under section 6038'',

(2) by inserting ''1298(f),'' before ''6038'', and

(3) by inserting ''6038D,'' after ''6038B,''.

(c) CLARIFICATIONS RELATED TO FAILURE TO DISCLOSE FOREIGN TRANSFERS.—Paragraph (8) of section 6501(c) is amended by striking ''event'' and inserting ''tax return, event,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) returns filed after the date of the enactment of this Act; and

(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of such taxes has not expired as of such date.

Subtitle C—Other Disclosure Provisions

SEC. 521. REPORTING OF ACTIVITIES WITH RESPECT TO PASSIVE FOREIGN INVESTMENT COMPANIES.

(a) IN GENERAL.—Section 1298 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) REPORTING REQUIREMENT.—Except as otherwise provided by the Secretary, each United States person who is a shareholder of a passive foreign investment company shall file an annual report containing such information as the Secretary may require.''.

(b) CONFORMING AMENDMENT.—Subsection (e) of section 1291 is amended by striking '', (d), and (f)'' and inserting ''and (d)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 522. SECRETARY PERMITTED TO REQUIRE FINANCIAL INSTITUTIONS TO FILE CERTAIN RETURNS RELATED TO WITHHOLDING ON FOREIGN TRANSFERS ELECTRONICALLY.

(a) IN GENERAL.—Subsection (e) of section 6011 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR RETURNS FILED BY FINANCIAL INSTITUTIONS WITH RESPECT TO WITHHOLDING ON FOREIGN TRANSFERS.—Paragraph (2)(A) shall not apply to any return filed by a financial institution (as defined in section 1471(d)(5)) with respect to tax for which such institution is made liable under section 1461 or 1474(a).''.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 6724 is amended by inserting ''or with respect to a return described in section 6011(e)(3)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle D—Provisions Related to Foreign Trusts

SEC. 531. CLARIFICATIONS WITH RESPECT TO FOREIGN TRUSTS WHICH ARE TREATED AS HAVING A UNITED STATES BENEFICIARY.

(a) IN GENERAL.—Paragraph (1) of section 679(c) is amended by adding at the end the following:

''For purposes of subparagraph (A), an amount shall be treated as accumulated for the benefit of a United States person even if the United States person's interest in the trust is contingent on a future event.''.

(b) CLARIFICATION REGARDING DISCRETION TO IDENTIFY BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE IN CASE OF DISCRETION TO IDENTIFY BENEFICIARIES.—For purposes of paragraph (1)(A), if any person has the discretion (by authority given in the trust agreement, by power of appointment, or otherwise) of making a distribution from the trust to, or for the benefit of, any person, such trust shall be treated as having a beneficiary who is a United States person unless—

''(A) the terms of the trust specifically identify the class of persons to whom such distributions may be made, and

''(B) none of those persons are United States persons during the taxable year.''.

(c) CLARIFICATION THAT CERTAIN AGREEMENTS AND UNDERSTANDINGS ARE TERMS OF THE TRUST.—Subsection (c) of section 679, as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(5) CERTAIN AGREEMENTS AND UNDERSTANDINGS TREATED AS TERMS OF THE TRUST.—For purposes of paragraph (1)(A), if any United States person who directly or indirectly transfers property to the trust is directly or indirectly involved in any agreement or understanding (whether written, oral, or otherwise) that may result in the income or corpus of the trust being paid or accumulated to or for the benefit of a United States person, such agreement or understanding shall be treated as a term of the trust.''.

SEC. 532. PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.

(a) IN GENERAL.—Section 679 is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

''(d) PRESUMPTION THAT FOREIGN TRUST HAS UNITED STATES BENEFICIARY.—If a United States person directly or indirectly transfers property to a foreign trust (other than a trust described in section 6048(a)(3)(B)(ii)), the Secretary may treat such trust as having a United States beneficiary for purposes of applying this section to such transfer unless such person—

''(1) submits such information to the Secretary as the Secretary may require with respect to such transfer, and

''(2) demonstrates to the satisfaction of the Secretary that such trust satisfies the requirements of subparagraphs (A) and (B) of subsection (c)(1).''.

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

SEC. 533. UNCOMPENSATED USE OF TRUST PROPERTY.

(a) IN GENERAL.—Paragraph (1) of section 643(i) is amended—

(1) by striking ''directly or indirectly to'' and inserting ''(or permits the use of any other trust property) directly or indirectly to or by'', and

(2) by inserting ''(or the fair market value of the use of such property)'' after ''the amount of such loan''.

(b) EXCEPTION FOR COMPENSATED USE.—Paragraph (2) of section 643(i) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR COMPENSATED USE OF PROPERTY.—In the case of the use of any trust property other than a loan of cash or marketable securities, paragraph (1) shall not apply to the extent that the trust is paid the fair market value of such use within a reasonable period of time of such use.''.

(c) APPLICATION TO GRANTOR TRUSTS.—Subsection (c) of section 679, as amended by section 531, is amended by adding at the end the following new paragraph:

''(6) UNCOMPENSATED USE OF TRUST PROPERTY TREATED AS A PAYMENT.—For purposes of this subsection, a loan of cash or marketable securities (or the use of any other trust property) directly or indirectly to or by any United States person (whether or not a beneficiary under the terms of the trust) shall be treated as paid or accumulated for the benefit of a United States person. The preceding sentence shall not apply to the extent that the United States person repays the loan at a market rate of interest (or pays the fair market value of the use of such property) within a reasonable period of time.''.

(d) CONFORMING AMENDMENTS.—Paragraph (3) of section 643(i) is amended—

(1) by inserting ''(or use of property)'' after ''If any loan'',

(2) by inserting ''or the return of such property'' before ''shall be disregarded'', and

(3) by striking ''REGARDING LOAN PRINCIPAL'' in the heading thereof.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made, and uses of property, after the date of the enactment of this Act.

SEC. 534. REPORTING REQUIREMENT OF UNITED STATES OWNERS OF FOREIGN TRUSTS.

(a) IN GENERAL.—Paragraph (1) of section 6048(b) is amended by inserting ''shall submit such information as the Secretary may prescribe with respect to such trust for such year and'' before ''shall be responsible to ensure''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 535. MINIMUM PENALTY WITH RESPECT TO FAILURE TO REPORT ON CERTAIN FOREIGN TRUSTS.

(a) IN GENERAL.—Subsection (a) of section 6677 is amended—

(1) by inserting ''the greater of $10,000 or'' before ''35 percent'', and

(2) by striking the last sentence and inserting the following: ''At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns required to be filed after December 31, 2009.

Subtitle E—Substitute Dividends and Dividend Equivalent Payments Received by Foreign Persons Treated as Dividends

SEC. 541. SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVALENT PAYMENTS RECEIVED BY FOREIGN PERSONS TREATED AS DIVIDENDS.

(a) IN GENERAL.—Section 871 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) TREATMENT OF DIVIDEND EQUIVALENT PAYMENTS.—

''(1) IN GENERAL.—For purposes of this section, sections 881 and 4948(a), and chapters 3 and 4, a dividend equivalent shall be treated as a dividend from sources within the United States.

''(2) DIVIDEND EQUIVALENT.—For purposes of this subsection, the term 'dividend equivalent' means—

''(A) any substitute dividend,

''(B) any payment made pursuant to a specified notional principal contract that (directly or indirectly) is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States, and

''(C) any other payment determined by the Secretary to be substantially similar to a payment described in subparagraph (A) or (B).

''(3) SPECIFIED NOTIONAL PRINCIPAL CONTRACT.—For purposes of this subsection, the term 'specified notional principal contract' means—

''(A) any notional principal contract if—

''(i) in connection with entering into such contract, any long party transfers the underlying security,

''(ii) in connection with the termination of such contract, any short party transfers the underlying security to any long party,

''(iii) the underlying security is not readily tradable on an established securities market,

''(iv) in connection with entering into such contract, the underlying security is posted as collateral by any short party to the contract, or

''(v) such contract is identified by the Secretary as a specified notional principal contract,

''(B) in the case of payments made after the date which is 2 years after the date of the enactment of this subsection, any notional principal contract unless the Secretary determines that such contract is of a type which does not have the potential for tax avoidance.

''(4) DEFINITIONS.—For purposes of paragraph (3)(A)—

''(A) LONG PARTY.—The term 'long party' means, with respect to any underlying security of any notional principal contract, any party to the contract which is entitled to receive any payment pursuant to such contract which is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States with respect to such underlying security.

''(B) SHORT PARTY.—The term 'short party' means, with respect to any underlying security of any notional principal contract, any party to the contract which is not a long party with respect to such underlying security.

''(C) UNDERLYING SECURITY.—The term 'underlying security' means, with respect to any notional principal contract, the security with respect to which the dividend referred to in paragraph (2)(B) is paid. For purposes of this paragraph, any index or fixed basket of securities shall be treated as a single security.

''(5) PAYMENTS DETERMINED ON GROSS BASIS.—For purposes of this subsection, the term 'payment' includes any gross amount which is used in computing any net amount which is transferred to or from the taxpayer.

''(6) PREVENTION OF OVER-WITHHOLDING.—In the case of any chain of dividend equivalents one or more of which is subject to tax under this section or section 881, the Secretary may reduce such tax, but only to the extent that the taxpayer can establish that such tax has been paid with respect to another dividend equivalent in such chain. For purposes of this paragraph, a dividend shall be treated as a dividend equivalent.

''(7) COORDINATION WITH CHAPTERS 3 AND 4.—For purposes of chapters 3 and 4, each person that is a party to any contract or other arrangement that provides for the payment of a dividend equivalent shall be treated as having control of such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date that is 90 days after the date of the enactment of this Act.

TITLE VI—OTHER REVENUE PROVISIONS

Subtitle A—Partnership Interests Held by Partners Providing Services

SEC. 601. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) MODIFICATION TO ELECTION TO INCLUDE PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF TRANSFER.—Subsection (c) of section 83 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

''(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

''(B) the person receiving such interest shall be treated as having made the election under subsection (b)(1) unless such person makes an election under this paragraph to have such subsection not apply.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 83(b) is amended by inserting ''or subsection (c)(4)(B)'' after ''paragraph (1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests

in partnerships transferred after the date of the enactment of this Act.

SEC. 602. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

"SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

''(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

''(2) TREATMENT OF LOSSES.—

''(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

''(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

''(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

''(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

''(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

''(D) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

''(3) NET INCOME AND LOSS.—For purposes of this section—

''(A) NET INCOME.—The term 'net income' means, with respect to any investment services partnership interest for any partnership taxable year, the excess (if any) of—

''(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

''(ii) all items of deduction and loss so taken into account.

''(B) NET LOSS.—The term 'net loss' means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be treated as ordinary income and shall be recognized notwithstanding any other provision of this subtitle.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate net income with respect to such interest for all partnership taxable years, over

''(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years.

''(3) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

''(4) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

''(A) the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner's distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

''(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

''(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence.

''(5) APPLICATION OF SECTION 751.—In applying section 751(a), an investment services partnership interest shall be treated as an inventory item.

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in a partnership which is held (directly or indirectly) by any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

For purposes of this paragraph, the term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

''(2) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(A) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

''(i) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in paragraph (1) and who are not related to the partner holding the qualified capital interest, and

''(ii) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

''(B) SPECIAL RULE FOR NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—To the extent provided by the Secretary in regulations or other guidance, in any case in which the requirements of subparagraph (A)(ii) are not satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

''(C) SPECIAL RULE FOR DISPOSITIONS.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

''(i) the distributive share of gain or loss that would have been allocable to the qualified capital interest under subparagraph (A) if the partnership sold all of its assets immediately before the disposition, bears to

''(ii) the distributive share of gain or loss that would have been so allocable to the investment services partnership interest of which such qualified capital interest is a part.

''(D) QUALIFIED CAPITAL INTEREST.—For purposes of this paragraph, the term 'qualified capital interest' means so much of a partner's interest in the capital of the partnership as is attributable to—

''(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)) ,

''(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

''(iii) the excess (if any) of—

''(I) any items of income and gain taken into account under section 702 with respect to such interest for taxable years to which this section applies, over

''(II) any items of deduction and loss so taken into account.

The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest for taxable years to which this section applies and by the excess (if any) of the amount described in clause (iii)(II) over the amount described in clause (iii)(I).

''(E) TREATMENT OF CERTAIN LOANS.—

''(i) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS QUALIFIED CAPITAL INTEREST OF SERVICE PROVIDING PARTNERS.—For purposes of this paragraph, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership).

''(ii) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this paragraph, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in paragraph (1) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

''(3) RELATED PERSONS.—A person shall be treated as related to another person if the

relationship between such persons would result in a disallowance of losses under section 267 or 707(b).

''(d) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any entity,

''(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—

''(i) IN GENERAL.—The term 'disqualified interest' means, with respect to any entity—

''(I) any interest in such entity other than indebtedness,

''(II) convertible or contingent debt of such entity,

''(III) any option or other right to acquire property described in subclause (I) or (II), and

''(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) a partnership interest,

''(II) except as provided by the Secretary, any interest in a taxable corporation, and

''(III) except as provided by the Secretary, stock in an S corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation substantially all of the income of which is—

''(I) effectively connected with the conduct of a trade or business in the United States, or

''(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(1).

''(e) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

''(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

''(2) prevent the avoidance of the purposes of this section, and

''(3) coordinate this section with the other provisions of this title.

''(f) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT TREATED AS QUALIFYING INCOME OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:

''(6) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT QUALIFIED.—

''(A) IN GENERAL.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership).

''(B) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

''(i) CERTAIN PARTNERSHIPS OWNED BY REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

''(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNERSHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

''(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

''(C) TRANSITIONAL RULE.—In the case of a partnership which is a publicly traded partnership on the date of the enactment of this paragraph, subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.''.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662, as amended by section 512, is amended by inserting after paragraph (6) the following new paragraph:

''(7) The application of subsection (d) of section 710 or the regulations prescribed under section 710(e) to prevent the avoidance of the purposes of section 710.''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662, as amended by section 512, is amended by adding at the end the following new subsection:

''(j) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(7), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 6662A(e)(2) is amended—

(i) by striking ''section 6662(h)'' and inserting ''subsection (h) or (i) of section 6662'', and

(ii) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking ''paragraph (2)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)'', and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(7) unless—

''(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

''(ii) there is or was substantial authority for such treatment, and

''(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(B) RULES RELATING TO REASONABLE BELIEF.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).''.

(d) INCOME AND LOSS FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) INTERNAL REVENUE CODE.—Section 1402(a) is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ''; and'', and by inserting after paragraph (17) the following new paragraph:

''(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(2) SOCIAL SECURITY ACT.—Section 211(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

''(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(e) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' after ''to the extent otherwise provided by''.

(2) Section 741 is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnership)'' before the period at the end.

(3) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnership.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2009.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2009, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of

the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2009.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(d) of such Code (as added by this section) shall take effect on January 1, 2010.

(5) PUBLICLY TRADED PARTNERSHIPS.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Time for Payment of Corporate Estimated Taxes

SEC. 611. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 in effect on the date of the enactment of this Act is increased by 26.5 percentage points.

Subtitle C—Tax Expenditure Study

SEC. 621. FINDINGS.

Congress finds the following:

(1) Currently, the aggregate cost of Federal tax expenditures rivals, or even exceeds, the amount of total Federal discretionary spending.

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.

(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

SEC. 622. STUDY OF EXTENDED TAX EXPENDITURES.

(a) IN GENERAL.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this Act.

(b) ROLLING SUBMISSION OF REPORTS.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in subtitle B of title I (relating to business tax relief) and title IV (relating to energy provisions) in order of the tax expenditure incurring the least aggregate cost to the greatest aggregate cost (determined by reference to the cost estimate of this Act by the Joint Committee on Taxation). Thereafter, such reports may be submitted in such order as the Chief of Staff determines appropriate.

(c) CONTENTS OF REPORT.—Such reports shall contain the following:

(1) An explanation of the tax expenditure and any relevant economic, social, or other context under which it was first enacted.

(2) A description of the intended purpose of the tax expenditure.

(3) An analysis of the overall success of the tax expenditure in achieving such purpose, and evidence supporting such analysis.

(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

(5) A description of the direct and indirect beneficiaries of the tax expenditure, including identifying any unintended beneficiaries.

(6) An analysis of whether the tax expenditure is the most cost-effective method for achieving the purpose for which it was intended, and a description of any more cost-effective methods through which such purpose could be accomplished.

(7) A description of any unintended effects of the tax expenditure that are useful in understanding the tax expenditure's overall value.

(8) An analysis of how the tax expenditure could be modified to better achieve its original purpose.

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

(10) A description of any unavailable information the staff of the Joint Committee on Taxation may need to complete a more thorough examination and analysis of the tax expenditure, and what must be done to make such information available.

(d) MINIMUM ANALYSIS BY DEADLINE.—In the event the Chief of Staff of the Joint Committee on Taxation concludes it will not be feasible to complete all reports by the date specified in subsection (a), at a minimum, the reports for each tax expenditure enacted in subtitle B of title I (relating to business tax relief) and title IV (relating to energy provisions) shall be completed by such date.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. CAMP) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask that all Members have 5 legislative days to revise and extend their remarks and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, this package of extensions of legislation that are about to expire represents the real need for tax reform in this country. I have talked with the Ways and Means Committee ranking member to see whether or not our leadership can agree that the taxpayer really deserves better than this and should be able to depend on some continuity in the law.

To that extent, we will be sending to the nonpartisan Joint Committee on Taxation all of these extenders that we hope will be supported overwhelmingly today to better advise us how we can get on with the tax reform to make certain that certain things like research and development and other great things that we have in this package would be made permanent, so that the taxpayers, corporate and private, would know what they can depend on, instead of just relying on the constant extensions which have passed this body before.

So along with Ways and Means Committee Ranking Member CAMP, we ask that this committee take this up. And also we want to make it clear that the contents of this bill and the understandings of legislative intent is available on the Joint Committee's Web site, www.jct.gov. And it's listed under the document number JCX–60–09.

This list of bills, as I said, concerns very important legislation, and our committee has worked very hard on this legislation.

Mr. Speaker, I would like permission for the balance of my time to be turned over to RICHARD NEAL, who heads up a special subcommittee on our Ways and Means Committee, who spent a great deal of time evaluating what we should do, along with Congressman LEVIN and other members of the Ways and Means Committee, and with your permission and the permission of the House, I'd like to yield the balance of the time that I have to Congressman NEAL.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts will control the balance of the time.

There was no objection.

Mr. YOUNG of Alaska. Will the gentleman yield?

Mr. RANGEL. Yes, I will.

Mr. YOUNG of Alaska. Mr. Chairman, may I indulge in a colloquy with you?

Mr. RANGEL. Yes, I yield to the gentleman.

Mr. YOUNG of Alaska. I would like to engage in a brief colloquy with you regarding a provision of great importance to the Alaska Native community. As you and I have previously discussed on numerous occasions, section 646 of the Internal Revenue Code allows Alaska Native Settlement Trusts to provide health, education, and welfare benefits to Alaska Natives, who are generally recognized as among the most economically disadvantaged populations in the United States.

It is my understanding that this provision was not included in the bill before us today because the bill only extends tax benefits that terminate in 2009, and this benefit does not terminate until December 31, 2010. Its omission is not a reflection of your views on the merits of the provision.

Mr. RANGEL. The gentleman from Alaska is correct. I look forward to working with him on this important legislation for the Alaska Native community; and when the committee considered this and other provisions that have a later termination, all the other provisions we plan to take up with priority. And I thank you for bringing this to my attention.

Mr. YOUNG of Alaska. Thank you, Mr. Chairman. I'd like to thank you for your commitment to work on this provision and for your support of the Alaska Native people.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

It is the tradition of this House to annually extend certain tax relief items, everything from a research and development tax credit to incentives for the manufacture, purchase and use of alternative fuels, to credits that help offset out-of-pocket expenses for teachers that they incur buying materials for their classrooms.

I helped write many of these provisions, and if the bill before us were truly a tax extenders bill, I'd be voting for it, as I have in previous years. However, the Democrats seemingly have never met a tax cut they liked; and, thus, the Democrats have turned tax extenders into tax extenders and tax raisers.

I want each of my colleagues to think about that for a minute. The bill before us proposes permanent tax increases and just 1 year of tax relief. Unemployment is at 10 percent. Nearly 3 million Americans have lost their jobs since the start of the year. The economy is continuing to hemorrhage thousands of jobs every month. Small businesses continue to struggle as credit markets remain tight. And this proposes to raise taxes on economic investment.

Just yesterday the President called for a Stimulus II package to help small businesses and to help start job creation. Part of that was to cut capital gains taxes on investments in small businesses, showing he understands the importance of capital to growing business and creating jobs.

By contrast, this bill changes how carried interest has been treated for decades, and it is nothing short of a new tax on the very investments needed to start a new business and create economic growth in this country.

So while Democrats claim they want to stimulate growth, they are actually increasing taxes in a way that will discourage job creation. And they left more than two dozen expiring tax relief provisions out of the bill, including the biggest of them all, the AMT patch.

So in addition to the tax increases within this bill, there are, by omission, close to 30 tax increases that Americans will face next year because of the bill's shortcomings, including higher taxes for small businesses and approximately $2,600 in higher taxes for millions of middle class families.

While some of those admissions might be justified, I'm disappointed that, once again, the Ways and Means Committee held neither a hearing nor a mark-up to consider legislation within our jurisdiction. Given the disconnect between House Democrats' rhetoric on jobs and their votes for tax increases, it is no wonder employers are confused. New investments aren't being made, and unemployment remains high. I support tax extenders, and that's what we should pass today, not this tax-increasing, job-killing bill before us.

I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I guess Mr. CAMP, who is my friend, wasn't referring to me when he talked about the Democrats who didn't like tax relief. They forgot about the idea that I was the lead sponsor on the net operating loss bill, and have supported accelerated depreciation allowance, and believe that there are some tax cuts, in fact, that are better than others. And, at the same time, I think we could all find unity in the suggestion today that one thing we've discovered is that tax cuts really don't pay for themselves.

But I rise in support of this extenders legislation that we're considering today, and certainly Mr. RANGEL should be acknowledged for the hard work that he has offered on this legislation. There ought to be an opportunity here for us, Mr. Speaker, to find some common ground. There are many, many, many good parts of this legislation that I know our friends on the other side support.

There are provisions here in the bottom of the ninth inning, with two out, that are expiring; and we need to give some predictability to decisions that will be made by businesses and individuals over the course of the next year. And this is going to be the last chance that we're going to have to do it this year.

This bill contains extensions of many popular incentives. For my home State of Massachusetts, this bill means that 94,000 teachers will get a deduction for their out-of-pocket expenses for classroom supplies, no small matter.

□ 1345

It means that more than 1,000 businesses in Massachusetts will get some credits for the millions they spend on research here in the United States. A reminder, the research and development tax credit is in this bill, and it is critical to retaining American jobs. Without this bill, 125,000 families in Massachusetts cannot take the deduction for college tuition expenses. This legislation provides significant tax relief to millions of families nationwide both in red States, purple States, and blue States.

There are 12 million families nationwide who live in States with no income tax; however, this bill does provide a State sales tax deduction.

This bill also includes a number of popular tax incentives for alternative fuels. There are also packages of tax benefits to assist distressed communities and those hit by natural disasters. There are many well-crafted provisions in this bill. There's not really enough time to address all of them.

This bill does no harm to the Federal budget. The cost of these cuts is completely offset by two revenue raisers, one of which I have offered and authored, and I know there is broad support across America for that issue. This is the Foreign Bank Account Reporting bill, which will shut down abuses by wealthy taxpayers hiding money in overseas banks.

And for the life of me, I can't understand why everybody in this institution is not supportive of this measure. Transparency is important. 160,000 soldiers in Iraq, about to be 160,000 soldiers in Afghanistan, and we have taken our sweet time by not cracking down on these tax evaders who don't want to pay their fair share at the same time that we had these extensive commitments around the world. I'd like to poll that question in any congressional district in America. We have taken the comments of those who are impacted and we have made this reporting regime a workable enforcement tool in this legislation. Again, you should not be hiding money in foreign bank accounts for the sole purpose of avoiding American taxes.

The second offset is a carry interest proposal which seeks to ensure investment managers pay taxes on their earnings as income tax rates rather than capital gains.

Let me also suggest that Mr. RANGEL has crafted a balanced bill. Again, I will repeat, it does no harm to the Federal Treasury. He has included a directive to the nonpartisan and, I think, highly effective and professional Joint Committee on Taxation to review the effectiveness of all of these extenders so that we could begin in earnest our effort to reform the Tax Code.

I certainly am supportive of this measure. I hope it will find broad support across this institution.

With that, I reserve the balance of my time.

Mr. CAMP. At this time, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. I thank my good friend from Michigan.

Mr. Speaker, there is a long tradition of bipartisan support for extending these expiring tax relief provisions. I have personally been a strong supporter of the research and development tax credit, the 5-year depreciation schedule for farm equipment, and tax-free charitable contributions from individual retirement accounts. That is why I'm very disappointed that the majority party has chosen to bypass the Ways and Means Committee and bring a partisan extenders bill to the floor.

The bill before us raises taxes by nearly $25 billion at a time of 10 percent unemployment. As our economy is struggling to recover, this tax increase directly targets hard-hit sectors like real estate. It simply does not make sense that at the same time we are talking about the need to create jobs, this House is voting for the second time in as many weeks to raise taxes for next year.

H.R. 4213 also fails to extend the renewable energy credit for open-loop biomass plants. That's very important to my northern California district. But the President and the Speaker heading overseas to talk about how we need more renewable energy, I can't imagine why we would pull the plug on successful biomass producers. Mr. Speaker, if we had moved this bill through the committee process, we could have fixed this oversight, and I hope we can address it in conference.

Mr. NEAL of Massachusetts. Just before I recognize my friend from Michigan, I want to remind my friend from

California there are 320,000 teachers in his home State who will not get a tax benefit if this legislation does not pass, 571,000 families will not be able to deduct higher education costs, 1.2 million families will not be able to deduct home State sales taxes that they currently pay, and 4,000 businesses in a State that is so dependent upon high technology in California will not be able to get the credit for their crucial research and development costs.

With that, I yield to my friend from Michigan (Mr. LEVIN) for 3 minutes.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Let's be clear what's involved in the pay-fors: tax-haven legislation, also the issue of fairness.

Those who invest their own money will continue to receive capital gains tax treatment, period. Those who manage other people's money will have to pay ordinary income tax like everybody else who performs services. There is widespread support for this.

Gregory Mankiw, who was on President Bush's Council of Economic Advisors, said this: ''Deferred compensation, even risky compensation, is still compensation, and it should be taxed as such . . . When I wrote my book, that was sweat equity . . . I oppose different levels of taxation on different types of compensation.''

This from a former member of President Reagan's Council of Economic Advisors, William Niskanen: ''The share of investment profits are basically fees for managing other people's money.''

Also, another person who was deputy undersecretary under George H.W. Bush, Professor Michael Graetz: ''I think it's odd that people making that much money off of essentially labor income should be paying lower rates than, than the average . . . than their secretaries are, to put it baldly.''

And then from the New York Times: ''They're actively managing assets, and should be taxed accordingly as managers earning compensation . . . Congress will achieve a significant victory, for fairness and for fiscal responsibility, if it ends the breaks that are skewing the Tax Code in favor of the most advantaged Americans.''

And likewise, the Washington Post: ''But these fund managers, for the most part, are not risking their own money.'' And I insert to the extent they are, they get capital gains treatment. ''Besides, plenty of risky industries don't enjoy comparable tax benefits. Income earned from managing an investment partnership fund should be treated just like the income earned for providing any other service.''

And I could quote this from William Stanfill, who's a manager of venture capital. He says, ''Many Americans invest sweat equity in their jobs and their businesses, take risks, contribute to the economy, and may have to wait a long time before their hard work pays off. But they still pay ordinary income tax rates on their compensation. To the extent we take risk, we take it with other people's money.''

And that's why the statement of administration policy is very clear from the President. ''The legislation would fulfill the administration's commitment to crack down on overseas tax havens and put a stop to billions of dollars' worth of tax abuse and would end the special preferential treatment for carried interest income.''

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. NEAL of Massachusetts. I yield the gentleman an additional 30 seconds.

Mr. LEVIN. In terms of sparking economic growth, we need to have measures that target investment, not give a special break for those who perform services. For example, I have introduced a bill to eliminate capital gains on investments in certain small business stock for 2010. On investments. That's the issue here, that nobody blur it. Those who work with other people's money will pay ordinary income tax; those who invest their own money will continue to receive capital gains tax treatment.

Mr. CAMP. At this time, Mr. Speaker, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY), who has been a leader in the effort to restore the local sales tax deduction.

Mr. BRADY of Texas. Mr. Speaker, I rise and strongly oppose this bill.

Encouraging research jobs on the one hand while killing local real estate and construction jobs on the other makes no economic sense. In making one of our most vulnerable sectors, commercial real estate, which faces the next real crisis in America, making that situation worse is going to kill jobs in this country. That type of thing is the reason that this new Congress and this White House has failed to get the American economy going.

Let me explain. There are parts of this bill that all of us support, including cracking down on tax evaders but encouraging companies to keep research and development jobs; letting States, local taxpayers, write off the State and local sales taxes. And our State, I'm proud to say, we fought to restore this. It saves our taxpayers $1.2 billion a year, creates 22,000 jobs. That's fairness. In helping teachers write off, for example, their supplies they pay out of their pocket to help educate their students, we all agree on that. That's not the question.

But what they do in this bill as well, they target some of our most basic companies at home. They say they're going after those Wall Street managers of your money, the ones who have their feet up on the desk who just shuffle money back and forth and make billions of dollars. That's what they say they're aiming at. What they're hitting is Main Street, our real estate partnerships. These are our local companies that build our office buildings, apartments, shopping centers, movie theaters, our industrial parks. There are no abuses in this. These are the people who create jobs at home.

This bill increases their tax, almost triples their taxes, and these are people who put in sweat equity for 15 years, 20 years. Only if they get it right do they make a dollar back on all of their hard work. This is who they nearly triple the taxes on.

These are the people, 1.2 million, traditional real estate partnerships, who will pay the price if this bill passes, because this makes no economic sense and damages jobs. That's why this bill is dead on arrival in the Senate, deader than a doornail, because with this economy, we ought to be creating jobs and not killing jobs.

Mr. NEAL of Massachusetts. Mr. Speaker, a reminder that there are 303,000 people in the State of Texas who will not be able to deduct their higher education tuition costs. That is for the State of Texas a $690 million benefit.

With that, I would yield 30 seconds to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Mr. Speaker, we spend more on tax expenditures authorized by Congress and the Committee on Ways and Means than we do on the entire appropriations budget. It really matters. This is the third year I've served in Congress, the third year we've had tax extenders. And the question for many of us is the one that was raised by Chairman RANGEL: Is it time to take a look at this, kick the tires of each one of these to see not just how it affects the particular beneficiary—they always are in favor—but how it affects the overall economy for creating wealth in jobs and how it affects the burden of fairness that is our responsibility? So I applaud the chairman in his effort to do that.

Mr. CAMP. At this time, I yield 2 minutes to the distinguished gentleman from the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentleman for yielding.

I think it's a sad argument, ironically, that the majority is using, and that is to kind of procedurally hold hostage, a group of teachers who are counting on predictability and clarity and forthrightness and transparency from this Congress, and now it is 21 days before a tax provision upon which they are going to rely is now dangling before them.

And what this House is being told by the majority is either you vote for these teachers or you push them off, and these are your choices. Is that really as good as it gets? Is that really as robust a tax provision and a tax policy that we can come up with, to dangle a group of teachers out and sort of manipulate them on the House floor in terms of an argument and say, ''You're either for teachers or you're not''?

□ 1400

Well, I think the American public sees through that argument, Mr. Speaker. I think that the American public has a hope and an expectation that we are not going to get to this false trade; that is, that we are going to permanently increase taxes on job creators while offering temporary tax relief. That's a bad deal. That's a real bad deal all the way around.

And it gets particularly difficult if you think about the extension of that logic: Are we going to have this same debate in the 2010 cycle when we're going to be dealing with tax rates, we're going to be talking about dividend rates, and we're going to be talking about individual rates? Are we going to be having this same permanent tax increase in exchange for temporary tax relief?

Mr. Speaker, that's a bad deal. We ought to walk away from this. We ought to vote ''no'' and send this back to the committee where it belongs.

Mr. NEAL of Massachusetts. Mr. Speaker, since the gentleman was concerned that I was picking on teachers, let me raise this point. There are 2,274 businesses in his home State of Illinois that will not be able to get a credit for their crucial research and development costs, a $23 million benefit.

And with that, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

(Mr. ETHERIDGE asked and was given permission to revise and extend his remarks.)

Mr. ETHERIDGE. I thank the gentleman for yielding, and I thank Mr. RANGEL for his hard work on this legislation. I support the bill. The Tax Extenders Act of 2009 reduces taxes by more than $30 billion for individuals and businesses to support small businesses and fuel job growth.

To help create high-tech jobs and support American competitiveness, H.R. 4213 extends the R&D tax credit. North Carolina's growth has been supported by technology and the health and energy industries. The R&D tax credit is vital to this sector of the economy, a sector that spurs innovation and creates new jobs all across America.

H.R. 4213 extends the accelerated cost recovery credit for restaurant and retail improvements, and incentivizes more businesses to grow, retool, modernize, and expand their facilities. To help struggling communities, the bill extends incentives like the new markets tax credits and tax incentives for businesses in designated Empowerment Zones. These provisions are more important than ever. As we help businesses grow, we help grow our workforce and strengthen our economy.

Education is the key to the future for both our young people and those who are retraining for new jobs. The bill protects tuition deductions to help make more students afford school. For individuals, it also extends the deductions for State and local taxes, and property taxes, while also preserving $7 billion in deductions that encourage charitable giving.

I also am pleased to know that this bill extends tax credits for teachers. Even though they are often underpaid, many teachers use their own money. I happen to know. I was a State superintendent of schools in North Carolina for 8 years and worked with this tax credit. I thank the committee for putting it in and keeping it in. It's unfair to ask them to continue year after year to pay. I thank you for doing it. This is a tax credit that helps them contribute to the success of future generations.

I support this legislation and encourage its passage.

Mr. CAMP. I yield myself such time as I may consume, and I think the point that we're trying to make on the floor here is that this is a false choice: Either you're for teachers or you're for the research and development tax credit, or you're against it. And the false choice is: Do we really have to raise taxes on job creators in order to get the extension of the research and development tax credit temporarily? Do we have to have this permanent tax increase that, frankly, will make us one of the highest-taxed countries in the world on this sort of investment tax? And I think that's a false choice being presented today.

And with that, I yield to the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentleman. I want to thank the gentleman from Massachusetts for highlighting the research and development elements of my home State. And I guess my reply is that simply casting a wider net and grabbing more procedural hostages, I don't find it persuasive, because I think the false premise that is the basis of this bill is the permanence versus temporary argument; in other words, that the tax hikes that are being articulated are going to be permanent tax hikes. The tax relief that is being used, Mr. Speaker, to really sell the bill are going to be temporary tax relief.

I find it ironic that here we have had a jobs summit at the White House with the congressional leadership and obviously the President, and so much consternation that we all share about what? About the unpredictability of our economy.

This is an opportunity, I think, for us to come together on the research and development tax credit, for example, and cast a larger vision, and to say for R&D to make great strides in this country, there has to be a sense of predictability to it. We can't keep it on a short leash of 12 months. That's too short of a cycle. The accountants in these firms are going to be saying, Look, you can't rely on the Congress necessarily to come through.

So I think that is ultimately the argument that I'm making. I think we have a false choice, as Mr. CAMP said. I think we can do better, and I would hope that we did. But I appreciate the gentleman from Massachusetts highlighting the State of Illinois.

Mr. NEAL of Massachusetts. Just reminding him of those numbers. I yield myself as much time as I might consume.

In response to my friend's, Mr. ROSKAM's, argument here about these tax proposals being made permanent, I don't understand how the other side could have been witness to borrowing billions and billions of dollars for Iraq and not having had the courage to speak to the issue of transparency and allowing the American people to see what Iraq was going to cost.

In addition, remember, they talk about fiscal responsibility? They cut taxes six times while committing 160,000 soldiers to Iraq. On January 19 of 2001, they inherited an almost perfect economic picture: unparalleled economic growth, the deficits had been paid off, the debt was coming down. And do you know what? To show you my bipartisan position here, let's give Bush I some credit for that, having had the courage to do it, and Clinton twice. It was the recklessness that the other side embraced that now we have to pay for.

And this bill today, as unpalatable as some of them might argue that it is, it's paid for. We square this issue with the American people. This legislation is paid for.

Mr. CAMP. At this time, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. I would point out, Mr. Speaker, that when Republicans lost control of Congress, the deficit was $160 billion, too high. Today, just 2½ years later, it is nearly nine times that high. It is greater than all the deficits in 1 year and all the deficits under President Bush. We are on an unsustainable path where our children and grandchildren will never be able to afford what is being spent today.

And I will remind, too, my friend from Massachusetts that when Democrats took that gavel, Speaker PELOSI pledged she would pay every dime of our wars in Iraq and Afghanistan. Nearly 3 years later, they haven't paid for a dime of those wars.

Let me make a point here. The reason I think Congress' approval ratings are lower than Bernie Madoff's is that we keep pitting Americans against other Americans. In this case, we keep pitting teachers and research workers and local taxpayers, you hear the numbers, against our local real estate workers and our local construction workers. This bill will seriously damage our ability to create jobs and raise property values at the local level. Our real estate partners, the real target of this bill, the real losers in this bill, these are average people who build our local facilities, who create construction jobs, who are the backbone of our economy. And in this case, they will have their taxes nearly tripled. It will

result in lower property values and fewer jobs at home.

What it really does is it punishes people who put in sweat equity and work for decades to bring it about. And it forces them to go to the bank and take debt, to seek capital at a time when there is no bank and no lending available. So we have taken one of the toughest parts of our economy, commercial real estate, and punished them. It is a false choice, as the gentleman from Michigan has said. It's the wrong choice. This is a bad deal.

Mr. CAMP. I just want to comment, too, on this perfect economic picture you said occurred in 2001. As we all know, the bubble burst in 2000. So that history is not quite accurate. I just want to correct that for the record.

Mr. NEAL of Massachusetts. Let me yield 2 minutes to the very important member of the Ways and Means Committee, the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank the gentleman, who is doing a remarkably good job, in spite of all the misinformation on the other side, of moving this bill along.

I rise in support of this legislation to extend expiring tax provisions. It is very important that Congress pass this bill this year.

Allowing these provisions to expire would amount to a tax increase at a most challenging economic time for our Nation's businesses and families. Waiting to enact an extension retroactively would add to the already uncertain business climate and make tax planning all the more difficult for companies and individuals that depend on these tax credits.

The bill extends necessary tax relief to parents and teachers, college students, homeowners, small businesses, and millions of other middle-income families. This legislation is needed in my State for so many critical things. It ensures that Nevada residents who do not pay a State income tax can continue to deduct their sales and State tax from their Federal income tax. For Nevada college students, most of whom come from middle-income families, deduction of their tuition makes the difference between going to college and not going to college.

The bill extends a few alternative and renewable energy tax credits, so critical at this particular time, such as the tax incentive for natural gas and propane used as a fuel in transportation vehicles. These important provisions will help increase clean energy production and consumption.

When it comes to the State of Nevada, and all politics is local, I would like to tell the other side how important this is to the people I represent. This is not a joke, and this is not using these people. This is providing tax relief for millions and millions of people across the country and hundreds of thousands of Nevadans.

Over 23,000 teachers in my home State will not get a tax benefit for purchasing school supplies out-of-pocket if we don't pass this.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. NEAL of Massachusetts. I yield the gentlewoman 30 additional seconds.

Ms. BERKLEY. Over 32,000 families in my State will not be able to deduct their higher education tuition costs, and 346,000 Nevada families in my State will not be able to deduct the State sales tax that they pay. This would be a loss of a $574 million benefit for the State of Nevada. And 141 businesses in my State will not be able to get a credit for their crucial research and development costs.

I submit to you, Mr. Speaker, this is an important piece of legislation. It is timely. We need to pass it now.

Mr. CAMP. I yield myself such time as I may consume.

What we're being offered here is temporary tax relief for 1 year paid for with permanent tax increases. And I would just say that while the majority disingenuously portrays this provision as targeting only rich Wall Street financiers, it actually goes well beyond that, affecting investments and transactions along Main Street as well. This extremely broad provision applies not only to private equity firms and hedge funds, but also to real estate partnerships that invest in every congressional district and venture capital funds that help finance start-up, high-tech and biotechnology investments all across America.

This provision would have far-reaching consequences on the returns of the pension funds, university endowments, and philanthropic foundations that invest in these partnerships that are targeted by the majority.

Let me just, for the record, say that in CQ there is a quote from Chairman BAUCUS on the Senate side that said the House on Wednesday will take up a roughly $31 billion bill extending dozens of provisions expiring December 31. The major offset for the package, raising $24.6 billion through taxing investment on partners income for managerial services as regular income rather than capital gains, is unlikely to survive in the Senate.

□ 1415

Again, we are moving forward on a funding mechanism that is permanent for 1 year of tax relief, and it is something that the Senate will not take up. To go on further, he says the provision passed the House twice in the 110th Congress but went nowhere in the Senate where Democratic leaders deemed it too contentious. Earlier this year, Baucus said he did not want to spook shaky financial markets by using the measure as an offset.

I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, might I inquire as to how much time remains on both sides.

The SPEAKER pro tempore. The majority has 12¾ minutes and the minority has 16½ minutes.

Mr. NEAL of Massachusetts. Just before I recognize the gentleman from Illinois (Mr. DAVIS), I hope that my friend Mr. CAMP will have a chance—he spoke to one provision of the pay-for. Maybe he will speak to the issue of tax evasion as to whether or not he supports the $8 billion that's being raised in this legislation to pay for this bill.

With that, I would like to recognize the gentleman from Illinois, my friend, Mr. DAVIS, for 2 minutes.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Let me first of all thank the gentleman from Massachusetts for yielding.

I rise in strong support of H.R. 4213, the Tax Extenders Act of 2009. There are multiple provisions within this bill that are needed by individuals, businesses as well as State and local governments. This bill is good for Chicago, it's good for the State of Illinois and, indeed, it is good for the Nation.

This bill helps individuals with the cost of education, both for teachers who pay out of pocket for supplies and for students who pay for tuition and books. It helps families cover the cost of property taxes and sales taxes. It helps business invest in research and development, equipment, maintenance and certain capital improvements.

It promotes charitable giving of food, equipment and inventory. This bill also supports critical community assistance programs. It encourages empowerment zones and renewal communities in economically depressed areas. It supports areas that experienced natural disasters, such as the gulf coast and the Midwest.

The Chicago Reporter, a newspaper that does an outstanding job, found that the west and south sides of Chicago have unemployment rates of over 20 percent. It is obvious to me that the city of Chicago, the State of Illinois, and, indeed, the Nation, need this bill. I am proud to support it.

Mr. CAMP. At this time I am prepared to close if the gentleman has no further speakers.

I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, we are trying to just assess how much time is here, if you will give me a second.

Mr. Speaker, I would like to recognize the gentleman from Michigan (Mr. LEVIN) for 3 minutes.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. I think it's important that we look at the facts here. The gentleman from Texas and others have raised issues regarding real estate. These are the figures that have been compiled by our staff based on IRS data. That less than 10 percent of all of the income earned in real estate construction and development is earned by partnerships that might be involved here, that less than 5 percent of all

wages earned by employees in real estate construction and real estate development are earned by employees of partnerships.

Ninety percent of the income earned in real estate construction and real estate development is earned by C corporations or S corporations. Let me just say, in terms of corporations that are involved in real estate, when they give stock options, when those are exercised, and these are the vast majority of cases, the people who exercised the stock option pay ordinary income tax.

Essentially, you have here an argument undercutting the basic proposition. That is that those who invest their own money get capital gains treatment and those who provide services, in whatever circumstances, they pay ordinary income tax.

Also let me just mention that the President has suggested some specific provisions that will encourage investment. There is a basic structure in question here, a basic structure. When people invest their own money, they should pay capital gains tax on the profits. When they perform services managing other people's money, like everybody else who performs services, should they not pay ordinary income tax as does the waitress, no money except a small amount of minimum wage, and not even that, perhaps, if there are no tips; and the author, if the books aren't sold, then they don't get anything.

What is being proposed here, as I said earlier, is what has been suggested by economists, whether they are conservative, moderate, liberal, whatever you want to call them, and by various other sources. That there is a basic issue here. This legislation is an effort to address that basic issue and to pay for the tax extenders. In previous years, in so many cases, you have passed legislation without paying for it and the debt goes up and up.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I yield the gentleman an additional 15 seconds.

Mr. LEVIN. What we are suggesting here is fiscal responsibility. Don't dig the hole deeper and deeper. Step up and pay for it, and pay for it by making the Tax Code equitable for all of the citizens of the United States of America.

Mr. NEAL of Massachusetts. I would like to yield to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for the purpose of a unanimous consent request.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of HR 4213, the Tax Extenders of 2009 Act which contains the crucial extension of the rum cover-over program to the American Caribbean territories. The annual extension, which raises at least $20 million for the Virgin Islands for infrastructure development, is a vital component of our economic development strategies for continued growth and self sufficiency. In 1954, Congress extended the equalization cover-over provision to the Virgin Islands to foster greater fiscal autonomy and in 1983 and 2000, it enacted laws which vested the Legislature of the Virgin Islands with sole authority to determine how rum cover-over revenues should be utilized.

Recently, that authority has been challenged by legislation that would tie the hands of our local territorial governments in regards to determining how best to utilize those funds. The government and people of the Virgin Islands commend the early foresight of the Congress and reserve the right to determine what is in the best interest of our community.

Madame Speaker, Congress designed the rum cover-over program to create economic stability for its territories in the Caribbean, to include the U.S. Virgin Islands and Puerto Rico. Over the years, each has benefited from this program and hopes to continue to do so in the future. If one territory believes that they no longer need or require this benefit, I am here today to tell you, that the people of the Virgin Islands are grateful for the continued opportunity to have this funding and to determine how best it can be utilized for their ultimate benefit.

In the present global economic development environment, the U.S. Virgin Islands has moved to stabilize this industry on its shore, guaranteeing revenue and jobs for Americans, securing our retirement system and repairing schools while at the same time working to clean up environmental issues associated with the rum industry.

The Congress support of today's rum revenue extenders and indeed the entire rum cover program is crucial to the economic future of the territories and today, I, along with the people of the U.S. Virgin Islands thank Chairman RANGEL, the leadership of the House and my colleagues on both sides of the aisle for your continued support.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself 2 minutes.

There is an opportunity here today to begin the discussion of fundamental tax reform. If we could move past the ideology that is so rigid, where we can only discuss cuts and never revenue or, on the other side, only revenue and never cuts, then we could move this debate and discussion forward.

Now, the other side today, they are suggesting to the American people, we like the R&D tax credit. We like teachers. We like tuition assistance, and what we are saying on this side is we like all of those institutions as well, but we think they should be paid for. Sometimes you have to eat the broccoli before you have your dessert.

Tax reform is an opportunity. I hope that the strategy that got us into this difficulty—remember the old argument here that tax cuts pay for themselves? You couldn't even get our friend who ran for President on the Republican ticket last year to have his top economic adviser say that was true. That's part of the problem here, being married to rigid ideology as opposed to common solutions that might make this work for the American people.

I reserve the balance of my time.

Mr. CAMP. At this time I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, well, there is no question we all support extending the Republican State and local sales tax deduction put in place, restored by a Republican Congress.

I am pleased to extend the teachers' classroom supply deduction, again, something created and fostered under a Republican Congress, the same with the renewable energy credits, much of which expanded under a Republican Congress. But make no mistake, this isn't about paying for these issues.

This Congress, this White House is paying for nothing these days; $700 billion, $800 billion stimulus bill, not a dime paid for. All the new spending, TARP II, second part of the bailout, not a dime paid for.

Two weeks ago they pass out this bill, a quarter of a trillion dollars out of this House, to help doctors with their Medicare reimbursements. Guess how much is paid for? Not a dime, zero. This new fiscal responsibility, while we appreciate it, you shouldn't achieve it by raising taxes and punishing our local real estate and construction people.

I do take exception. We were told today, well, don't worry about it. It's only 10 percent of our local real estate and construction jobs, only 10 percent. Well, that's $4.5 trillion of local and real estate investment along Main Street America.

Here, I guess they think we can just sacrifice one out of every 10 local construction jobs. We will just sacrifice one out of every 10 local real estate jobs. That's just collateral damage up here.

It's real damage back home. Picking winners and losers, rewarding those, our teachers, our research workers, those who are sending their kids to college, and taking away jobs from Main Street America in real estate, construction from those who build our communities is a false choice.

The gentleman from Michigan is correct: this is a false choice that damages our economy, that's dead on arrival in the Senate, as it should be. We ought to be working together finding a way to help people, not picking winners and damaging jobs in America today. No wonder we face 10 percent unemployment.

Mr. NEAL of Massachusetts. My friend from Texas conveniently left out TARP I, which was a Bush initiative; conveniently left out the cost of the Iraq war, which was borrowed money; and conveniently left out the Bush tax cuts, which cost $2.3 trillion that only went to people at the very top of the economic strata of America.

I reserve the balance of my time.

Mr. CAMP. To close, Mr. Speaker, the American people don't need to be reminded of the dire economic situation we face today. The American people know unemployment at 10 percent

remains far too high. They know it's tough to make ends meet without having to pay higher taxes. They know higher taxes on investment, on business investment, won't create jobs. In fact, it will hurt job creation.

The American people need not be reminded of those things, but apparently the majority does. Nearly 3 million Americans have lost their jobs since the Democrats enacted their so-called stimulus bill. Unemployment is 25 percent higher than the administration promised, and yet the bill before us proposes to add a new $24.6 billion tax on business investment.

Now, frankly, I wish we could end this year-end process we go through, and I know the chairman of the Ways and Means Committee gave an interview yesterday where he suggested a way out of this year-end extenders process we find ourselves in. I look forward to working with the chairman to try to find a solution to this problem.

The bottom line is the decision we are faced with today means we should be encouraging business investment, not discouraging it through higher taxes. I would just say to my friend that our motion to recommit would not repeal the international banking disclosure provisions.

In fact, Republicans share the majority's concern about the illegal use of offshore accounts to evade U.S. taxes. Tax evasion is a Federal crime and individuals who break the law by illegally hiding their income in offshore accounts and any financial institutions that facilitate that tax evasion should be aggressively pursued and punished to the fullest extent of the law.

If loopholes exist in law that allow tax cheats to illegally hide assets offshore, obviously Republicans stand ready to help close those loopholes in an appropriate way. As I said, our motion to recommit would retain the language in the majority's bill on that provision.

Again, these extensions of tax relief, which in many cases are policies Republicans passed and voted for when we were in the majority, they are helpful, and they are important to do, but they are temporary. They last 1 year. In order to get that done, the majority would increase taxes on economic investment.

Let's just be clear about this. It changes how business income has been taxed for decades, making it so that income that is currently taxed at a rate of 15 percent would be taxed at 35 percent, more than doubling that tax in an economic recession. It places one of the highest taxes on investment found anywhere in the world, and its reach and scope will increase taxes on everyone from the largest investors to the local real estate partnerships, again, permanent tax increases for 1 year of tax relief. With that, I would urge my colleagues to oppose this legislation.

I yield back the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, at this time I would like to yield the balance of my time to the chairman of the Ways and Means Committee, my friend, the gentleman from New York (Mr. RANGEL).

□ 1430

Mr. RANGEL. Mr. Speaker, I thank Chairman NEAL for the fantastic job he has done, along with my good friend Mr. LEVIN, for presenting the position of the Ways and Means Committee, which, Republican or Democrat, we are so proud to be a part of.

We have produced for this Congress $30 billion of benefits to the American people. Some may be critical because it's only for 1 year, but I think we have made it abundantly clear that because we are on the brink of reform of the entire system, as Mr. LEVIN said, we've got to study this to evaluate how we can better serve our teachers, our State and local governments in order to make certain that the things that everybody here is in support of can be made permanent so that they can plan and understand exactly where this Congress is coming from for the people of the United States.

It's interesting to note that the opposition to this bill, nobody has criticized any of the benefits that are in this extender bill. Let me say this again. This is a very, very unique thing that would happen in the Halls of Congress. The bill that we are presenting and asking for an affirmative vote, H.R. 4213, there is no criticism of any provisions of the benefits that are in this legislation. I'm going to rest for a moment and let that sink in.

The opposition to this bill, it appears to me from listening to the responses from my Republican friends, is that their problem is that we don't want to increase the deficit. Their problem is they just don't like the way we are indeed closing the loopholes. When we say, We're closing loopholes, they say, You are raising taxes. You bet your life we are. We are getting the resources that America deserves by fairness and equities in the tax system. There's no way to clean up the tax system without making those who should be paying taxes to pay it.

So if indeed you have some criticism of the loopholes that we're closing, let's take a look at the loopholes. That sounds fair, because my friends have not been talking about the benefits in these bills. My friends on the other side are talking about taxes. If you want to make this a case of forgetting all of these good people that deserve and relied on the extension and make this a tax reform argument—which I really think should be at another time and another place. I really think that tax reform really deserves the study, the research, and the debate so at the end of the day we don't have a Democratic tax bill. This country deserves a bipartisan tax bill, because there's going to be pain in it; because every time we try to bring equity into it, if the other side is to say I don't have any tax reform, but you're raising taxes by cutting away a lot of benefits that we say people don't deserve, and you say that we're increasing taxes.

Well, let's talk about it. A part of this good bill is being funded so that we don't have a deficit by making certain that, during this time of war, American taxpayers don't avoid their fair share of taxes and they get together in an unpatriotic way and pick foreign countries to determine how they can avoid American taxes and pick foreign countries to invest in and put foreign countries that really are not concerned with our need for jobs and equity but they're concerned with greed for their stockholders and corporations. Did one Republican get up and say this is a good thing? And I would yield to anyone on the other side who wants to say it is not a good thing to go after these people who are taking advantage of our law.

So we can't reform it all at one time, but we can knock out these things where people are taking unfair advantage of our Tax Code.

The other issue, which made me think in listening to the response to this extender bill where hardly anyone talked about the benefits, seemed to be centered around some tax provision that is commonly referred to as carried interest. It seems as though the minority is saying that there's a certain group of people that do work and they're entitled to get compensation for their work.

For those who think this is a complicated issue, it is not. It means that we really think as a body that those people who take outstanding risk, who are not employees but are adventurous, creative people, that they be given 15 percent, a lower tax rate than 35 percent. And we're saying that those people who put capital in, who work in order to develop jobs in whatever they want to develop, if their money is in, they should get a 15 percent tax cut because they took risks. Anybody who doesn't put money in here that becomes a partnership and acts like they're taking risk should not be able to enjoy this benefit.

So I do hope that you consider the weight of the debate and then vote accordingly.

Mr. HIMES. Mr. Speaker, I rise to express my serious concern regarding the revenue provisions of H.R. 4213, The Tax Extenders Act of 2009, specifically the provision affecting the treatment of "carried interest" in our tax code. I believe this provision, as currently worded, does not represent an optimal solution to the underlying challenge of fairly and appropriately taxing investment management professionals.

My concerns are tempered by my enthusiastic support for many of the provisions in the bill as a whole, which would provide individuals and businesses with approximately $31 billion in tax relief in 2009. As families and businesses in my district struggle to make ends meet, these provisions will provide swift and cost-effective support to research and development, to alternative fuels, and to the ability of U.S. companies to serve customers in foreign markets.

My concerns with the legislation rest with the changes it would make to the tax treatment of ''carried interest'' on investment managers.

Current law treats carried interest the same as all other profits derived from a partnership and thus characterizes carried interest as being derived from an interest in the partnership's capital. In a broad-brush fashion, the legislation would transform these capital gains into ordinary income for tax purposes, a change that would increase taxes on carried interest income from the current 15 percent capital gains rate to as much as 35 percent beginning next year. It should be noted that this date is a good deal more aggressive than a similar provision in President Obama's budget, which in the interest of economic recovery would start taxing carried interest as regular income only in 2011.

While I respect the view that in some cases carried interest represents a form of compensation for services provided by the general partner, this distinction is far from clear in every case. Professionals in this industry should be taxed fairly and appropriately, but I disagree that the only way to achieve this goal is to apply one of two pre-existing categories to their services.

Industry analysts generally base their characterization of carried interest upon the degree to which a general partner's own assets are at risk and differences in the profit interest of the general and limited partners. Many observers, such as Professor Victor Fleischer of the University of Colorado School of Law, argue with sound legal justification that these professionals should be taxed somewhere between that of pure capital and pure ordinary income.

Given the widespread reliance of partnerships on these rules, I believe we in Congress must be more cautious in enacting such a significant change in the rules at this juncture. Such a reformulation at the least deserves a greater hearing of views in a full and deliberate committee process.

Our venture capitalists risk significant quantities of time, money, and effort to assist the most compelling business models to improve the way that Americans live and work. Before we enact changes to our tax system which could threaten existing incentives to innovation and investment, I believe such changes deserve the fullest possible consideration to arrive at the most practical and fair solution.

I am hopeful that the underlying legislation will undergo revisions to its revenue-raising provisions which enable me to support it. Given the concerns voiced above, however, I regret that I am unable to cast my vote in support of the bill as it stands.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to show my support for H.R. 4213, the Tax Extenders Package that includes several critical extensions important to Texas.

The package will extend through 2010 the $1 per gallon credit for producing biodiesel and the $1 per gallon credit for producing diesel from biomass, which is especially important to my district as it is home to the struggling biodiesel industry.

Texas is the leading producer of biodiesel in the nation. The industry supported up to 8,600 jobs in the State and over 50,000 jobs in the U.S. in the past year. It is both fiscally and environmentally responsible to extend these tax credits and to promote the development of biodiesel here at home.

The biodiesel excise tax credit enables biodiesel to remain price competitive with conventional diesel. Without the prompt extension of the tax credits before they expire on December 31, 2009, we risk reducing the domestic production of low carbon, renewable energy sources that help our nation to significantly reduce carbon emissions, as well as our dependence on foreign oil.

The biodiesel industry has already been forced to close several plants and is operating at about 20 percent capacity due in large part to the weak economy. A retroactive extension of the credit after December 31, 2009 could further exacerbate the industry's job losses, and place this important industry in a precarious position.

I appreciate the bipartisan support of the following Texas members who recently joined me in sending a letter to House Leadership supporting the biodiesel tax extension: AL GREEN, CHET EDWARDS, SILVESTRE REYES, SOLOMON ORTIZ, RUBÉN HINOJOSA, HENRY CUELLAR, CIRO RODRIGUEZ, CHARLIE GONZALEZ, and JOE BARTON. This support exemplifies the importance of protecting the biodiesel industry for the nation and for Texans.

It is imperative that we move forward expeditiously to extend the biodiesel and renewable diesel excise tax credits to protect American jobs and to help our nation move towards a clean energy future.

Mr. SKELTON. Mr. Speaker, today the House of Representatives is considering H.R. 4213, the Tax Extenders Act of 2009. I wish to express my support for this legislation, which would continue a number of expiring provisions of the U.S. tax code that are important to the people and businesses I am privileged to represent in rural Missouri. Without Congressional action, these tax cuts will expire on December 31st.

For Missouri families, H.R. 4213 would provide important tax relief. The measure would extend deductions for state and local sales and property taxes and for college tuition. It would extend a special deduction for teachers and other school professionals who use personal funds to buy school supplies for their classrooms. And, the legislation would take steps to ensure activated military reservists do not suffer a pay reduction by providing a tax credit for small businesses that continue to pay National Guard and Reserve employees when they are called to active duty.

For Missouri farmers, H.R. 4213 would extend the five-year depreciation for farming machinery and equipment, would extend the charitable tax deduction for donated food, and would extend the tax deduction for donating conservation easements. H.R. 4213 would also extend critical tax incentives for biodiesel and renewable diesel fuel. The biodiesel tax credit is very important to the development and sustainability of America's renewable fuel industry and is particularly beneficial to biodiesel facilities, like Prairie Pride, located in Missouri's Fourth Congressional District.

For Missouri businesses, H.R. 4213 would extend the research and development (R&D) tax credit that encourages financial investment and job creation in America's high tech sector. The legislation would also strengthen the ability of American companies to serve customers overseas, would extend benefits for investments in economically distressed areas of our country, and would extend the 15-year cost recovery for qualified improvements to restaurants and retail space. H.R. 4213 would also extend a low-income housing tax credit exchange program that has invested more than $3.7 billion in the construction of over 49,000 low-income housing units.

H.R. 4213 would extend other valuable provisions of the U.S. tax code, including deductions for charitable contributions by individuals and businesses. And, to ensure the legislation does not add to the deficit, the $31 billion cost of this legislation is offset by cracking down on tax evaders who hide their assets in offshore tax havens and ending special tax treatment for hedge fund and investment bank managers.

I urge my colleagues to support H.R. 4213 so that we can provide tax relief and economic certainty to families and businesses in 2010.

Mr. VAN HOLLEN. Mr. Speaker, I rise in strong support of the Tax Extenders Act of 2009. This legislation will provide businesses and individuals with $31 billion in tax relief over the next year to continue creating jobs and strengthening our economy. It is on time, fully paid for and deserves this chamber's support.

The R&D Tax Credit extension in this bill will enhance the competitiveness of nearly 11,000 corporations driving innovation in the global marketplace. The above-the-line deductions for school supplies and qualified tuition expenses will continue to support our teachers and students' education. The IRA Charitable Rollover and Conservation Easement provisions maintain important incentives for critical work in our non-profit sector. And the clean energy credits move us towards the energy independence, reliability and efficiency we know we must embrace in the 21st century.

This is an important bill, strongly supported by the Obama Administration. For that reason, I urge our colleagues in the Senate to act expeditiously on H.R. 4213 so that the President can sign extenders legislation into law this year. I yield back the balance of my time.

Mr. KIND. Mr. Speaker, I rise today in strong support of H.R. 4213, the Tax Extenders Act of 2009. This bill extends several badly needed tax provisions that will continue to provide economic benefits to struggling families and businesses. While these temporary, last-minute patches are not the preferred means of action for anyone, this action is better than none, and I urge my colleagues to support it.

Passage of this bill will ensure that individuals already facing the worst economic situation in decades will retain the ability to deduct state and local taxes, preventing a $3.3 billion tax increase. It also extends the deduction that students receive for tuition payments and the credit teachers receive for stocking their classrooms out of their own pocket. both are essential for making a quality education accessible to all.

For businesses, this bill will extend the invaluable R&D tax credit so they can continue to invest in the innovation that will keep America competitive in the industries of today and tomorrow. I have long advocated making this credit permanent so companies can make it a permanent part of their business plans. I hope we will do that as part of overall tax reform starting next year.

Other provisions important to my district in Western Wisconsin include the Conservation Easement Credit, which gives individuals an incentive to protect environmentally important

land in perpetuity, and the extension of a 5–year depreciation period for farm and agricultural equipment. This extended period has been highly successful in spurring capital improvements on the farm and improving farm output and efficiency.

Finally, I am particularly pleased that this bill extends a provision I authored last year that provides tax relief to families and businesses who are impacted by natural disasters. Following devastating floods in my district in 2007 and 2008, it became clear to me that more tools were needed to assist individuals and businesses to recover. The tax relief provided here offers a more systematic and fair method than the previous system of ad hoc assistance on a case-by-case basis. I thank Chairman RANGEL and the rest of the committee for including it in the extenders package today.

Mr. Speaker, I would like to note that all of these benefits are completely paid for, meaning this bill will not add one dime to the deficit. In fact, one of the ways we pay for this bill is by cracking down on foreign bank accounts, where millionaires have been hiding their fortunes from the IRS for years. This type of enforcement has been sorely lacking. It is unfortunate, however, that the bulk of revenue for this bill will come from higher taxation of venture capital funds that have been leaders in spurring job growth and innovation. I sincerely wish we had been able to find an alternative revenue source that would not raise taxes on these entrepreneurs at the exact time when we need them the most. Twice before the Senate has rejected this pay-for, and I hope they will do so again.

On balance, Mr. Speaker, this is a critically important piece of legislation before us that will prevent disastrous consequences in this fragile economic environment. I ask my colleagues to join me in supporting its passage today.

Mr. LANGEVIN. Mr. Speaker, I rise in support of H.R. 4213, the Tax Extenders Act of 2009. This bill provides $31 billion in tax relief to individuals, families, businesses and charitable organizations by extending over forty tax provisions that are set to expire at the end of 2009. These tax breaks are an important component to rebuilding the financial and economic strength of Rhode Islanders struggling in the wake of the worst recession in decades.

H.R. 4213 contains more than $5 billion in individual tax relief and more than $17 billion in tax cuts for American businesses. To strengthen pocketbooks of families and inject demand into the economy, this measure extends property tax relief for up to 30 million homeowners. It helps 4.5 million families better afford college with tuition deductions and saves 3.4 million teachers money with a deduction for classroom expenses. This measure further extends the research and development tax credit for thousands of American corporations, encouraging businesses to increase investments in technology and create more high-tech jobs for the twenty-first century.

Also included in this package is more than $7 billion in tax provisions that encourage charitable contributions, provide community development incentives, and support alternative energy investments.

In tough economic times, it is important to enact tax policies that spur job creation and foster economic growth, innovation and opportunity. The annual extension of these tax cuts is an important step toward achieving that goal, and I look forward to working with my colleagues on more permanent solutions to simplify the Internal Revenue Code and ease the tax burden on millions of Americans.

Mr. LARSON of Connecticut. Mr. Speaker, I rise in support of H.R. 4213, the Tax Extenders Act of 2009, and applaud the leadership of Chairman RANGEL and the Ways and Means Committee in crafting this bill. I commend the Chairman for the inclusion of the alternative fuel tax credit, which incentivizes individuals and businesses to purchase energy for vehicles that run on clean energy sources. This continues Congress' commitment to reduce our dependence on foreign oil. As long as we are exporting our dollars overseas in exchange for oil, our economic and national security are at risk.

Natural gas is an abundant transition energy that is twice as clean as coal. While 69% of the oil consumed in America is for transportation (two-thirds of which we import from foreign nations), 98% of the natural gas we consume is produced in North America.

The more than 100 years of natural gas reserves in the U.S. will provide thousands of domestic jobs that cannot be outsourced and will help keep taxpayer dollars in the U.S. Approximately 1.3 million Americans are directly employed by natural gas companies, and the entire U.S. natural gas industry supports nearly three million U.S. jobs, with the potential to add many more.

Natural gas will play an increasing role in reducing U.S. carbon emissions, creating jobs, and enhancing U.S. security. I thank Chairman RANGEL for extending the alternative fuel tax credit and for recognizing the importance of natural gas.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 955, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. CAMP. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CAMP. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Camp moves to recommit the bill H.R. 4213 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

In subtitle A of title I, add at the end the following:

SEC. 105. ALTERNATIVE MINIMUM TAX RELIEF.

(a) INCREASED EXEMPTION AMOUNT.—Paragraph (1) of section 55(d) is amended—

(1) by striking ''($70,950 in the case of taxable years beginning in 2009)'' in subparagraph (A) and inserting ''($72,650 in the case of taxable years beginning in 2010)'', and

(2) by striking ''($46,700 in the case of taxable years beginning in 2009)'' in subparagraph (B) and inserting ''($47,550 in the case of taxable years beginning in 2010)''.

(b) ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST ALTERNATIVE MINIMUM TAX.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''or 2009'' and inserting ''2009, or 2010'', and

(2) by striking ''2009'' in the heading thereof and inserting ''2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

In subtitle B of title I, add at the end the following:

SEC. 127. INCREASED LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''or 2009'' in the text thereof and inserting ''2009, or 2010'', and

(2) by striking ''AND 2009'' in the heading thereof and inserting ''2009, AND 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

In title VI, strike subtitles A and B.

Mr. CAMP (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER

Mr. NEAL of Massachusetts. Mr. Speaker, I make a point of order that the motion before us is in violation of clause 10 of rule XXI of the rules of the House.

The SPEAKER pro tempore. Does any Member wish to be heard on the point of order?

Mr. CAMP. Mr. Speaker, I ask to be heard on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan.

Mr. CAMP. Mr. Speaker, this point of order illustrates the dangers raised by the majority's PAYGO rule and its decision at the start of this Congress to prohibit us from offering motions to recommit that are not PAYGO compliant, something that all minorities, Republican and Democrat, over the last many years have been permitted to do in prior sessions, including as recently as last year.

The majority has asserted the motion to recommit violates clause 10 of rule XXI, known as the PAYGO rule, which requires amendments, including those contained in a motion to recommit, to be budget neutral.

I submit, Mr. Speaker, that his point of order should be overturned because it precludes the House from considering the merits of a different approach to the underlying bill, one that would let the American people keep more of their hard-earned income.

By contrast, granting the PAYGO point of order would prevent the House from considering whether to extend this tax relief, as it has done many times before, without offsets. We should be encouraging business investment, not discouraging it through higher taxes.

Let's be clear. This carried interest tax of over $25 billion changes how business income has been taxed for decades, making income currently taxed at 15 percent up to 30 percent, more than doubling it.

Mr. Speaker, granting this point of order would foreclose the House from even considering whether it might want to pass this bill with fewer offsets or further tax relief.

Accordingly, I ask that you overrule the point of order and allow the House to debate and vote on our alternative, which would provide additional tax relief for families and small businesses without some of the most objectionable offsets found in the underlying bill.

The SPEAKER pro tempore. The gentleman from Massachusetts makes a point of order that the amendment proposed in the instructions included in the motion to recommit offered by the gentleman from Michigan violates clause 10 of rule XXI by proposing a change in revenues that would increase the deficit.

Pursuant to clause 10 of rule XXI, the Chair is authoritatively guided by estimates from the Committee on the Budget that the net effect of the provisions in the amendment affecting revenues would increase the deficit for a relevant period.

Accordingly, the point of order is sustained and the motion is not in order.

Mr. CAMP. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE

Mr. NEAL of Massachusetts. Mr. Speaker, I move to table the motion to appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CAMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to table will be followed by 5-minute votes on passage of the bill, if arising without further proceedings in recommittal, and suspending the rules with regard to H.R. 3603.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 11, as follows:

[Roll No. 942]

YEAS—251

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—172

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Baldwin
Barrett (SC)
Carter
Fudge
Granger
LaTourette
Lewis (GA)
Moran (VA)
Murtha
Radanovich
Sanchez, Loretta

□ 1508

Messrs. DUNCAN, ROONEY and Mrs. MYRICK changed their vote from ''yea'' to ''nay.''

Messrs. GORDON of Tennessee and FILNER changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 241, noes 181, not voting 12, as follows:

[Roll No. 943]

AYES—241

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Garamendi
Giffords
Gonzalez

Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NOES—181

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Himes
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Maffei
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Polis (CO)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Schrader
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Wexler
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Baldwin
Barrett (SC)
Carter
Fudge
Granger
Hinchey
Kaptur
Lewis (GA)
Moran (VA)
Murtha
Radanovich
Sanchez, Loretta

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1517

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RENAMING THE OCMULGEE NATIONAL MONUMENT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3603, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 3603, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 15, as follows:

[Roll No. 944]

YEAS—419

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Austria
Baca
Bachmann
Bachus
Baird
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor

Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—15

Arcuri
Baldwin
Barrett (SC)
Carter
DeLauro
Doyle
Fudge
Granger
LaTourette
Lewis (GA)
McKeon
Moran (VA)
Murtha
Radanovich
Sanchez, Loretta

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 1 minute to record their votes.

□ 1526

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 26 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1847

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. JACKSON of Illinois) at 6 o'clock and 47 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3288, CONSOLIDATED APPROPRIATIONS ACT, 2010

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–368) on the resolution (H. Res. 961) providing for consideration of the conference report to accompany the bill (H.R. 3288) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM THE HONORABLE JOHN SARBANES, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN SARBANES, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a third-party subpoena for production of documents issued by the U.S. District Court for the District of Maryland, in connection with a civil matter now pending in that court.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JOHN SARBANES,
Member of Congress.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 8, 2009.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol,
Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to Section 125(c)(1) of the Emergency Economic Stabilization Act of 2008 (P.L. 110–343), I am pleased to appoint Mr. J. Mark McWatters of Dallas, Texas to the Congressional Oversight Panel. Mr. McWatters' appointment fills the vacancy created by the Honorable Jeb Hensarling, who has resigned the position, effective upon Mr. McWatters' appointment.

Mr. McWatters has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 2009.

Hon. JOHN A. BOEHNER,
Republican Leader, The Capitol,
Washington, DC.

DEAR LEADER BOEHNER: After one year of service on the Congressional Oversight Panel (Panel), I am writing today to inform you of my resignation from the Panel, effective upon the designation of my replacement.

As you are aware, with some notable exceptions, I have been disappointed with the Panel's work that too often focuses upon making policy recommendations to Congress in place of critical and badly needed oversight. As a Member of Congress, I already possess ample opportunities to advise my colleagues. Still, I respect the commitment and dedication of each of my fellow Panel members and the hard work of the Panel's staff.

Now that the Obama Administration has chosen to extend the Troubled Asset Relief Program into next year, I want to devote more of my time and energy as a Member of Congress to fighting its continued efforts to misuse the program and thus the taxpayers' money as a revolving bailout fund.

It has been an honor to serve on the Panel, and I want to thank you for providing me with the opportunity.

Yours respectfully,

JEB HENSARLING,
Member of Congress.

PROVIDING FOR CONSIDERATION OF H.R. 4173, WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

Mr. PERLMUTTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 956 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 956

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. General debate shall be confined to the bill, as amended, and shall not exceed three hours, with two hours equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services, 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Agriculture, and 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

SEC. 2. During consideration of H.R. 4173 pursuant to this resolution, the Chair of the Committee of the Whole may entertain a motion that the Committee rise only if offered by the chair of the Committee on Financial Services or his designee.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. PERLMUTTER) is recognized for 1 hour.

Mr. PERLMUTTER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER).

GENERAL LEAVE

Mr. PERLMUTTER. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 956.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. PERLMUTTER. Mr. Speaker, I yield myself such time as I may consume.

House Resolution 956 provides for general debate on the bill, H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. It provides 3 hours of general debate, which will be evenly divided between the chairmen and ranking members of the various committees of jurisdiction. It self-executes an amendment to resolve jurisdictional concerns among the committees of jurisdiction of this bill. The

amendment also includes the text of H.R. 1728, regarding predatory lending, which the House passed earlier this year overwhelmingly. It also makes certain revisions to the bill to ensure it complies with pay-as-you-go rules.

Mr. Speaker, for more than a year, the Financial Services Committee, of which I am a member, has held hearings and conducted a thorough oversight into the causes of last year's financial meltdown which caused our current economic troubles. After exhaustive work, the House now has before it a comprehensive package of reforms to address the numerous failures that led to the near collapse of our financial system last year.

The banking system is our Nation's circulatory system for our economy; and last year that circulatory system had a heart attack. We cannot and will not let the banking system fail, which is why this House had to take bold action last year to stabilize it. However, now we must turn and look to the causes at the root of the meltdown and make targeted reforms and repairs to address the inefficiencies and failures we found in the system.

The legislation before us is the most significant reform to our financial system since the New Deal of the 1930s. The bill creates a Financial Stability Oversight Council to monitor systemically significant institutions, counterparties and potential threats to the financial system. This ensures that there is no place to hide by closing loopholes, improving consolidated supervision, and establishing robust regulatory oversights.

We provide for the orderly wind-down of failing firms that are systemically significant, ending the notion of ''too big to fail.'' By dissolving these firms, we end them. We kill them. We put them out of their misery, so we say ''no'' to any more taxpayer bailouts.

This legislation also makes robust consumer protection repair and reform. It puts the regulation of consumer protection on a level playing field with the regulation of safety and soundness of our financial institutions. It creates an independent agency focused solely on writing meaningful consumer protection standards and keeping watch over predatory practices that some lenders have shown a propensity to pursue.

Additionally, we increase transparency and accountability by establishing a regulatory system for the over-the-counter derivative market. Now most derivative trades will be done on exchanges or through clearinghouses. Again, we have made sure that there is no place to hide. Other important pieces of this legislation include the registration of hedge funds and the doubling of SEC funding to hire more experts and investigators. Investor protection is substantially strengthened. A Federal insurance office is created to gather information, mitigate systemic risk and provide for insurance expertise to the Federal Government.

In this legislation, we have also included two very important measures which passed the House earlier this year. First, is the say-on-pay, and the second is on mortgage reform aimed at curbing the abusive and predatory practices that led to the subprime lending problems. This legislation is critical to protect taxpayers and consumers by reining in the abuses of Wall Street, while enabling a balanced environment for the financial markets to grow and stabilize our economy.

These changes are essential to rebuilding Main Street and getting credit flowing to small businesses, creating jobs, and rebuilding our economy.

I'm proud to stand here with my colleagues today while we consider this important set of reforms. We cannot afford another collapse as we had last fall. It cost this Nation trillions of dollars and millions of jobs, and is no longer acceptable. We need to repair and restore the system so that confidence is restored by the American public and people around world. We make these necessary reforms that establish robust regulatory oversight. This bill is another step toward economic recovery, and I urge its adoption.

I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have to say at the outset that I have a slightly different take than was just offered by my Rules Committee colleague, the gentleman from Golden, Colorado. As our economy, Mr. Speaker, and our jobs market continue to struggle and families face the coming year with deep worries for their own financial futures, I believe that our responsibility here in this institution as Members of Congress is very clear. We must reform our financial regulatory system to prevent the kind of catastrophic breakdown that occurred last year. We both can agree on that. We know that what happened last year, I mean, a year ago right now, many of us were sensing that our economy was in peril, and we could have seen a major meltdown.

We need to ensure that that doesn't happen again, the threat that we went through does not happen again. We must do so in a way that preserves access to credit for families and small businesses, promotes job creation, ends taxpayer-funded bailouts, and allows us to begin to pay down this horrendous national debt that we're all facing. Unfortunately, the proposal that is before us this evening fails on all counts.

At a time when we need to reform and streamline our regulatory regime, the Democratic majority proposes to make it more complicated and less accountable, more unworkable and less transparent. The majority wants to keep the taxpayers on the hook for a permanent system of bailouts. Now, my friend said we were going to ensure that we no longer had bailouts. Clearly, from our perspective, this will continue the pattern of bailouts; and they're attempting to use repaid TARP funds as what is little more than a slush fund that will create a wide range of additional Federal spending.

The net effect of the underlying bill that the Democratic majority has put forward will be to reduce consumers' access to credit, destroy jobs, and leave our deficit spiraling out of control. This is not the solution that the American people were hoping for from this institution. They understand while the circumstances leading up to our current economic crisis involved incredibly complex and arcane regulations, policies and institutions, the lack of accountability and transparency was the core problem.

They understood that a lack of accountability, a lack of transparency, that that really was the core problem that led up to the crisis. Financial institutions took on unsustainable levels of risk and used highly questionable practices that fed into a bubble that we all know inevitably burst.

□ 1900

Individuals took on an enormous amount of debt that they simply could not afford, and we all know that the Federal Government did the exact same thing. The result was frozen credit markets, declining growth, and hundreds of thousands of jobs lost. We're still trying to climb out of this hole, as we all know. The task at hand is not about increasing regulation or diminishing regulation. It is about making it smarter, more accountable, and more effective.

The Democratic majority's so-called reform bill takes us in the opposite direction. By adding multiple layers of new bureaucracy and making agencies like the Fed even less accountable than before, they threaten to compound the very problems that led to our current situation.

What's more, by further tangling this Byzantine mess of regulators and superregulators, they will further tie up credit that families and small businesses desperately need. This is credit that enables small companies to grow, expand, make payroll for current employees, and create positions for new employees. This is credit that enables responsible homeowners to make purchases and help get our housing market back on track. By exacerbating the credit crunch, today's underlying bill threatens further job destruction and stymied growth.

The bill also creates this $150 billion fund paid for with new taxes to continue to bail out failing institutions. Now, if that $150 billion turns out to not be enough, who's on the hook for more bailouts? Well, surprise, surprise. It's the U.S. taxpayer.

The Democratic majority was given the opportunity to remove these bailout provisions from the bill in committee, but they chose to keep them in place. And if that weren't bad enough, this bill will take the bailout dollars

that are repaid to the taxpayers and put them into a slush fund for more government spending rather than paying down the national debt. The Democratic majority has apparently forgotten that they voted last fall to consider the taxpayer first as bailout dollars are repaid rather than putting it off into some other fund. The path charted by this legislation is utterly reckless at a time when prudence and accountability are more needed than ever.

But, Mr. Speaker, I'm happy to say that we, as Republicans, have an alternative. We have a very viable alternative. We put forth the proposal that reforms our financial regulatory system without threatening access to credit or job creation. We enhance rather than diminish accountability for agencies like the Fed. We tackle the issue of fraud and give shareholders greater rights when it comes to executive compensation. We put an end to the bailouts once and for all, and we return repaid bailout dollars to the Federal Treasury where they belong. Our alternative accomplishes the goal of guarding against future crises without imperiling our recovery. This is what the American people are demanding of us.

Mr. Speaker, I urge my colleagues—while we're considering this as a general debate rule, I'm urging my colleagues to reject this because we can do better. Reject taxpayer-funded bailouts, reject the credit crunch for small businesses with families, reject greater job losses, and reject a new slush fund for even more wasteful spending.

With that, I reserve the balance of my time

Mr. PERLMUTTER. I yield myself as much time as I may consume.

As much as I enjoy listening to my friend from California, I'm afraid that I would have to say, Mr. Speaker, he hasn't read much of this bill. And the reason I would say that is that under the proposal the Republicans presented to us in Financial Services, they were going to allow this thing to linger through a chapter 11. If there was a failed banking institution, it would linger, as opposed to the proposal by the Democrats which says, and which is the bill before us, a financial company that comes within the coverage of this title for resolution shall be placed in liquidation, period. It's over. It's done. Number one.

Number two, with respect to this comment or his comments and general comments about job creation and the debacle that occurred last fall, it came under the watch of President Bush, who has the worst track record for job creation of any President since the job creation records have been taken. Also, we've lost trillions of dollars because of the types of casino-like approaches that were taken in and on Wall Street and other places that cost millions of investors thousands and thousands of dollars each and cost so many jobs.

I would like to now yield 4½ minutes to my friend from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. Mr. Speaker, I rise tonight in support of the rule and in support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, a comprehensive package that the House Financial Services Committee and other committees have worked this year to produce. I commend the leadership of Chairman FRANK. Without his hard work and many committee hearings, long committee markups and behind the scenes to listen and address concerns, we would not be on the floor tonight with the bill we have.

We spent over 50 hours debating the various pieces of this regulatory reform package, and our work was bipartisan. Over 50 Republican amendments were accepted along with over 20 bipartisan amendments. This package, Mr. Speaker, contains ideas put forward by Democrats and Republicans, as it should, creating a better and more thoughtful bill that we are considering tonight.

We should never forget why we're here tonight with the most sweeping financial regulatory reform since the Great Depression. Last year, due to years of little oversight of our financial system, credit was overextended and financial firms were overleveraged to a point that was unsustainable.

Henry Paulson, Secretary of the Treasury in the Bush administration, said to a group of us, ''We may not have a market on Monday'' if Congress did not quickly approve the TARP legislation he requested. So more than a year later, it's well past time for Congress to take the next step and create strong, fair, and clear rules of the road for Wall Street.

I believe in free and open markets, but I don't believe in letting people game the system. This bill will make sure that that can't happen by, number one, ending ''too big to fail'' and putting an end to taxpayer bailouts; number two, strengthening investor protections to prevent Bernie Madoff Ponzi schemes; and number three, improving consumer protection so that innocent people are no longer taken advantage of by terms of agreement they don't understand and can't afford.

I worked with my colleagues in our committee offering amendments to strengthen and improve this regulatory reform package such as, number one, the Moore-Meeks amendment, which will require ''too big to fail'' firms and other large financial institutions to conduct stress tests to ensure, in good times or in bad, these firms are fully prepared for the worst; and second, my amendment to strike ''qualified receivership,'' which is a form of conservatorship which would have allowed the government or revive a failing firm. The amendment ensures the next AIG or Lehman Brothers will be required to fail and be put out of its misery. And three, the Moore-Lynch amendment creates a council of inspectors general on financial oversight. This I.G. council will conduct strong oversight of the systemic risk council, ensuring they respond to legitimate concerns that are raised by independent inspectors general.

I urge my colleagues to support the Wall Street Reform and Consumer Protection Act to guarantee we have tough, new rules of the road for Wall Street to play by and to fully protect consumers, investors, and U.S. taxpayers.

Mr. DREIER. Mr. Speaker, at this time I'm happy to yield 2 minutes to your Illinois colleague, the gentlewoman from Hinsdale, a hardworking member of the Financial Services Committee, Mrs. BIGGERT.

Mrs. BIGGERT. I thank the gentleman for yielding.

Mr. Speaker, I rise today in opposition to this rule and the underlying bill. This massive financial overhaul would permanently entrench the Federal Government and taxpayers in the very position we have worked to avoid since the beginning of this economic crisis.

We must crack down on illegal, unfair, and deceptive activity, eliminate regulatory gaps, and strengthen the effectiveness of the enforcement agencies. We should create a culture of transparency and accountability on Wall Street that will discourage, not promote, risky behavior, and never ever allow taxpayers to be left holding the bag when those deemed ''too big to fail'' cannot make their obligations. Instead, this bill creates a vast new government agency, permanently codifies the practice of bailouts, and doubles down on government intrusion in the financial sector.

I have joined my colleagues in the Financial Services Committee at every step of the way to offer ideas for smarter, stronger financial regulations, and yet this proposal continues to weaken the economic competitiveness of our markets, limit consumer choice, and place taxpayers on the hook for Wall Street's mistakes.

Mr. Speaker, American taxpayers cannot afford any more bailouts, and our financial markets cannot weather another storm of mismanagement.

I ask my colleagues to vote ''no'' on this rule and the underlying big bill.

Mr. PERLMUTTER. Mr. Speaker, I yield 4 minutes to my friend from Florida, a member of the Financial Services Committee, Mr. KLEIN.

Mr. KLEIN of Florida. I thank the gentleman from Colorado and thank him for his work both on the Financial Services Committee and on this rule, and certainly I support the rule and the underlying bill, H.R. 4173, Wall Street Reform and Consumer Protection Act.

And we think about the name, Wall Street Reform and Consumer Protection Act. This is self-descriptive, exactly what Americans have been looking for for the past year. Our current economic crisis is the worst in decades, and it certainly didn't happen overnight. It happened over the last number of years because of a failure of regulation and oversight.

The one thing I'll agree with Mr. DREIER from California is that it's not a question of more or less regulation. It's smart regulation. It's the right type of regulation. It's the right type of people in those agencies that know what they're doing, that have the proper training, they're probably paid, and they're not outsmarted by some people who are trying to scam the system. That's what Americans have been asking for. That's what Americans are looking for Congress to do.

And finally, after a tremendous amount of work—and again, a lot of it has been through good work by Democrats and Republicans—I'm very sorry to see that this moment it's becoming a partisan issue. But the good news is this bill is good quality, is one of the most important things that has been done in our economy and our financial system in over 50 years, and it will be an answer to not only figure out what went wrong in the past and learn from those mistakes, but also anticipate what can go wrong in the future. There are a lot of very smart people out there that have learned how to scam the system, and we as Americans need to make sure that we are anticipating what those kinds of problems may be so we can avoid those problems from happening again.

Under the bill before us today, we've created a regulatory structure that will protect consumers and ensure that investors have the appropriate information to make knowledgeable investment decisions. There's no guarantee in investing, and every person has to take personal responsibility for themselves in making those decisions, but at the same time, you can't be fraudulently misled. You can't have a lack of information, a lack of context. And it's important to have an agency that will stand up for the consumers or abusive other financial institutions that are out there.

This legislation also restores responsibility and accountability through Wall Street. Regulatory loopholes and gaps in regulation have been closed to make sure that there is common sense, transparency, and adequate oversight. Financial institutions that were previously unregulated—and we've already heard the stories of who they are—will now be brought under government supervision. Derivatives and other complex financial products that we've never even heard of—credit default swaps and other things—will now be tightly regulated to eliminate unnecessary risk taking by financial institutions. And executive compensation at these institutions has also been modified to discourage risky speculation for short-term gains that have negative effects on our overall economy.

This bill also makes sure the American taxpayer, all of us, won't have to bail out Wall Street banks by putting in place resolution authority that will allow these firms to fail without damaging the financial system and the entire economy. No more ''too big to fail'' or we have to rescue them because, if they fall, the whole economy fails.

□ 1915

We cannot let it get to that point, and that's exactly what this bill does. It stops it before it gets to that point.

We've also learned that both quality and the quantity of staff at regulatory agencies, as I said before, are very important. We want to have qualified technical staff, and we want to know that if someone blows the whistle and calls something out that the staff at these agencies will respond quickly and efficiently to make sure that that doesn't continue.

It's also important to hold individuals who committed misdeeds to account. Many financial players committed abusive and fraudulent acts, from Wall Street to local mortgage brokers, and we have to hold these people accountable. Americans, all they ask for is a sense of fairness. They want to know if they play by the rules, that people who sell them products are also playing by those same rules.

And unfortunately, there haven't been enough prosecutions for those who committed some of these very bad acts that brought us to our knees. That's unacceptable. People that commit these types of criminal fraudulent acts must be punished.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PERLMUTTER. I yield the gentleman 1 additional minute.

Mr. KLEIN of Florida. Yet simply punishing these bad actors is not enough. We have to learn from the past and anticipate the future and make sure our financial structures are adapted accordingly. The reforms made by this legislation are essential to creating a functional, sustainable financial system that families and our businesses can count on.

We cannot and will not, as Americans, allow what happened last year to happen again. I look forward to working with my colleagues in the Congress, to the passage of this bill, to the President signing it, and to Americans knowing that they will have confidence in their financial system. I thank the gentleman.

Mr. DREIER. Mr. Speaker, at this time, I am very privileged to yield 2 minutes to the senior Republican Californian on the Committee on Financial Services, my friend from Fullerton, Mr. ROYCE.

Mr. ROYCE. Mr. Speaker, as our colleague has said, this crisis occurred over the last several years. I will remind the body that the Democrats have controlled this Congress over the last 3 years, and I agree here tonight with my Republican colleagues who oppose permanent bailout authority which is put in this bill, and the fact that this legislation institutionalizes the ''too big to fail'' model. I would like to focus on one other critical shortcoming in this legislation, and that's the failure of this bill to address one of the key causes of this financial collapse.

While others may claim it was a lack of government involvement in the market, I think history is going to show that government intervention in the market also had a major role. And let me show you how. It was government-sponsored enterprises, Fannie Mae and Freddie Mac, that were at the heart of the housing market and largely responsible for the proliferation of subprime and Alt-A mortgages throughout the financial system. Over the years, they loaded up on over $1 trillion of these junk loans, pushed by initiatives on the other side of the aisle, and they signaled to the market that these were safe loans when we know, in fact, they were not. There was $1 trillion in losses out of this.

It was the Federal Reserve also, and the central banks around the world setting negative real interest rates, when measured against inflation, for 4 years running. And the effect of those negative interest rates was devastating, because instead of mitigating the ups and downs in the economy, the Fed's actions had the opposite effect. The negative real interest rates intensified the boom-and-bust cycle, and it encouraged excessive risk-taking throughout the economy, especially in the financial sector and in housing, something economists have been warning about for decades.

While there have been other blunders that contributed to the crisis, these two steps taken by the Federal Government were at the heart of the boom and subsequent bust in the housing market and the broader financial system. And until we address these market distortions, we are simply treating the symptoms rather than the disease.

Mr. PERLMUTTER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time, I'm very happy to yield 2 minutes to my good friend from Roswell, Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank my colleague from California for his leadership on this issue and so many other things. Here we go again, Mr. Speaker. Here it is. We got the bill right here. Another late night, another thousand-plus-page bill that virtually nobody in this House has read, and another government takeover.

This ought to be called the ''unending bailout authority, credit-restricting, and permanent job loss act,'' Mr. Speaker. It not only doesn't solve the problem of government bailouts, it codifies them. It writes them into law. It makes them permanent, putting us into a permanent political economy, politicians picking winners and losers.

Mr. Speaker, this is a very dangerous time. The American people are concerned about jobs and the stagnant economy, and the majority party comes to this floor with this bill that will destroy hundreds of thousands of jobs and further harm the economy.

Why? Well, Mr. Speaker, as a physician, I'm here to tell you, I think they got the wrong diagnosis, just like in health care. Their prescription for health care was a government takeover, and now they want a government takeover of our economy and our financial services area because their prescription is wrong.

If we conclude as a society that we are here because of a failure of free-market capitalism and a failure of deregulation, then our kids and our grandkids will lose, because all of the solutions will harm free-market capitalism, depress the economy, and increase regulation, which will destroy jobs and destroy our economy.

We're not here because of a failure of free-market capitalism, Mr. Speaker. We're here because of a failure of the government distorting the market, because of politicians getting involved. We're not here because of a failure of deregulation. We're here because of foolish and inflexible regulation and because of government edicts that made it so people couldn't do their jobs.

The Democrat prescription for this, then, is to take over and control the entire economy, thereby destroying jobs and destroying our economy. The shame of all of that, Mr. Speaker, is that there are wonderful solutions. We believe that there ought not be any more bailouts.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. PRICE of Georgia. I thank the gentleman.

We believe there ought not be any more bailouts. No more bailouts. Like the American people, we know what the American people know, and that is if there is no risk, there can be no reward.

Mr. Speaker, we believe that government ought to get out of the business of picking winners and losers. This bill doesn't create jobs; it destroys them, absolutely destroys them. We know that markets must be allowed to function and to innovate in order to be profitable. And the economy cannot and will not recover without these things.

In so many ways, this bill kills jobs and harms the economy. The American people want to end the bailouts, the Wall Street bailouts that the majority party so desires to have that they wrote it into this law, and they want to make certain we get back to the business of freeing up the economy to increase jobs and allow free-market capitalism to work. That's what will restore the confidence of the American people.

I thank the gentleman from California for this time.

Mr. PERLMUTTER. Mr. Speaker, how much time does each side have?

The SPEAKER pro tempore. The gentleman from Colorado has 16 minutes remaining. The gentleman from California has 16½ minutes remaining.

Mr. PERLMUTTER. I yield myself so much time as I may consume.

I just want to respond to my two colleagues from the Financial Services Committee. After all the hearings we had, after all the witnesses that we heard from, it's almost as if they forgot everything they heard. The Wild West mentality that permeated Wall Street permeated the investment community and the banking system and brought this country to its knees last fall. And as a consequence, trillions of dollars of wealth were lost, and millions of jobs have been lost, and it was based on a belief within the Bush administration and the Republican Congress that participated with it that you don't need regulation, these markets will take care of themselves. Well, what they ended up doing is, we had three of the biggest Ponzi schemes ever, Madoff, Petters and Stanford, under that regime, under that administration. And that's just wrong.

Our bill has nine sections to it, Mr. Speaker. The first is on consumer protection. The second is on investor protection. The third is on hedge funds. The fourth is on credit rating agencies, the fifth on derivatives, the sixth on life insurance companies, and the seventh on dealing with banks that are so big or financial institutions that have so many components to them that they are a threat to the system. And we force those institutions to either raise all their reserves and their capital or sell different parts of their company if they are a threat to the system, and if they finally fail, we put them out of their misery. We don't let them linger like the Republicans would have us do, and bail them out some more. We are done with those bailouts.

The last sections of the bill, one is ''say on pay.'' Executive salary got completely out of control and was part of the gambling that was going on. And so now we allow the shareholders to have some opportunity to say what their executives should be paid. And the final piece deals with subprime mortgages where people were allowed to just get into mortgages that had teaser rates and were impossible to repay. And we now require that financial institutions have skin in the game.

These are nine sections of reasonable regulation to restore confidence in the system and stop the kind of failures that we saw in this last administration that cost this country trillions of dollars, trillions of dollars and millions of jobs. And we're not going to let that happen again.

With that, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time, I am happy to yield 2 minutes to a very hardworking member of the Committee on Financial Services, my friend from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman from California for yielding.

I've listened to my friend from Colorado say that under their plan, they are done with the bailouts. Well, Mr. Speaker, it kind of begs the question: Why do they have a bailout fund? Why do you have a bailout fund if you're not going to bail people out? My wife and I started a college fund for our children, and the reason we are having a college fund is because we intend to send our children to college.

Why is it, Mr. Speaker, that the Democrats have a bailout fund, but now they expect us to suspend disbelief that they won't use it? If I can paraphrase a line from the famous Kevin Costner film, ''Field of Dreams,'' ''if you build it, they will come.'' If you create a bailout fund, people will come for bailouts. That's what this is. This is the TARP bill in perpetuity.

So, Mr. Speaker, if the American people like bailouts, our friends on the other side of the aisle certainly have the bill for them.

But as I talk to my constituents in the Fifth Congressional District of Texas, they are tired of the bailouts. The school teacher in Mesquite, the fireman in Malakoff, the farmer in Henderson County—they are tired of the bailouts. They are tired of paying for this. And yet they create a $200 billion bailout fund.

Worse than that, Mr. Speaker, this is a job-killing bill. It is a bill that creates a huge Federal bureaucracy to ban and ration credit. I mean this is the group of people who have brought us double-digit unemployment, the worst unemployment in a generation. I would just ask my friends on the other side of the aisle, how many more jobs have to be lost under your plan? Small business needs credit. You're going to crush it.

Reject the rule. Reject the bill.

Mr. PERLMUTTER. Mr. Speaker, I would yield 5 minutes to the chairman of the committee, Mr. FRANK.

Mr. FRANK of Massachusetts. Mr. Speaker, few people in this House apparently recognize, or in the country, the enormous significance of January 21, 2009. That is apparently the day in which a number of extraordinary things happened. It's the day on which bailouts began. According to my Republican colleagues, there weren't any before. Bailouts, you may think they started under George Bush, the bailout of General Motors, of AIG, of Chrysler, and the TARP bill. Some people may think they happened in 2008. No. Apparently, they started on January 21, 2009. That's also the day, of course, that the war in Afghanistan, which was going wonderfully, began to go bad. It's the day in which a surplus magically became an enormous deficit. It's also the day in which we had a recession.

My Republican colleagues talk about job loss. Job loss was, of course, I thought, begun with a recession that started in 2007 and got worse and worse during 2008 and is only now beginning to moderate.

And not only did all those bad things happen on January 21, 2009—the bailout began, the TARP sprang full-blown, the deficits came, the war in Afghanistan turned south, but it was also the day in

which we had one of the worst outbreaks of illness in American history, mass amnesia on the part of the Republican Party, who forgot everything that had happened before.

Every single bailout now going on in America started under the Bush administration. In some cases, some of us thought we had to cooperate because the lack of regulation, the ideologically driven opposition to any regulation of derivatives, of subprime mortgages, of excessive leverage by banks; all of those things were Republican policy. And now, Members have said, that's their answer.

□ 1930

Leave it to the market, because if you try to regulate, you will kill the economy.

Well, Members who are impressed by that don't have to wait and listen to my Republican colleagues say it. Go back and read the CONGRESSIONAL RECORD from 1900 when they were saying that about Theodore Roosevelt and the antitrust, actually 1902, 1903.

Read what they said when Franklin Roosevelt set up the SEC during the 1930s. Yes, we believe that there should be some regulation. We are told, leave it to the markets.

Leave it to AIG to sell as many credit default swaps as they want to without any ability to pay them back; leave it to people unregulated to sell subprime mortgages to people who shouldn't have them. Leave it to the rating agencies to then say to AIG, Hey, those are a great deals, buy them, or insure them, rather, through the people who bought them.

Do nothing about executive compensation. Do nothing about a salary structure that incentivizes excessive risk. Don't let the shareholders have a say. Now, one of my colleagues said, I guess the gentleman from Texas, that it is a bailout fund. No, there is not.

He talks about a bailout fund as if it were a reality. Here is the deal: we did have bailout starting with the TARP bill in September, which I voted for when the Bush administration, I think, said, look, as a result, not—they didn't say this—but as a result of lack of regulation, we were in a terrible crisis.

We, in this bill, end those. The authority that the Federal Reserve, George Bush's appointees to the Federal Reserve, they were all his, used to give money to AIG, that's abolished in our bill. Section 13.3 will no longer allow them to do what they did with Bear Stearns or do with AIG.

It will allow a facility to be set up, and here we agree—the Republicans said the same thing in their bill—to provide for some liquidity for solvent institutions, but there is no more of the Federal Reserve doing what they did with AIG and Bear Stearns.

We do take a fund, not from the taxpayers, as we were asked to do by the Bush administration, and as I went along with, along with the Republican leadership of the House and the Senate—because I didn't think we had an option at that time to avert disaster—but we now with some time will assess the financial institutions for that fund. The fund is not used to bail out any failing institution.

The bill specifically says the money only comes to put that institution to death. There is nothing in here that allows a failing institution to be continued with Federal money. There is a dissolution fund, not a bailout fund; and it does say that it may be that to dissolve this in an orderly way, as opposed to Lehman Brothers, where you just had a flat bankruptcy, that you need to put some money into it, maybe pay off some of the States that would otherwise be hurt because they got into investments they shouldn't have gotten into. That's the only fund, so there is no bailout. The institution has died.

Here is another difference, though. The Republican bill does zero, proudly, does zero to prevent those institutions from getting to that point. The bill that we are putting forward says the regulators, as a systemic risk council, will monitor institutions and will monitor activity. If we see an institution getting to that point, we step in and say, raise your capital, stop selling CDSs, stop selling mortgages, giving mortgages to people who shouldn't get them, divest yourself of this or that.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PERLMUTTER. I yield the gentleman 1 more minute.

Mr. FRANK of Massachusetts. Mr. Speaker, I know that some of my conservative colleagues who have aligned themselves with people who came to be the new American patriots want to emulate the people who revolted against George III, but there is another monarch who comes to mind when I come to think of them. When in the 19th century the Bourbons were restored after the French Revolution, it was said of them that they had forgotten nothing because they learned nothing.

That's my Republican colleagues. They have learned absolutely nothing from the fact that a total absence of regulation caused this enormous financial crisis.

Do we care about jobs, yes. We don't want, as their bill would do, their substitute to allow an AIG to continue to do what it did to allow subprime mortgages to continue, to allow executive pay to have that perverse incentive. Yes, we are trying to prevent another job loss like the one President Obama inherited from President Bush.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 3 minutes to the very distinguished chairman of the Republican Conference, the gentleman from Columbus, Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in opposition to the rule and the underlying bill, the so-called Wall Street Reform and Consumer Protection Act of 2009. Unfortunately, as has been said, there is not much taxpayer protection in the bill, and there is even less Wall Street reform.

Now, I see this bill as nothing more than a permanent bailout and a job killer. I must say I relish the opportunity to rise in the immediate aftermath of the formidable debating skills of the chairman of this committee, who I respect, both personally and as a colleague.

But I respectfully differ with him on this bailout, as I did on the bailout that he authored last year during the Bush administration.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. PENCE. I would be pleased to yield.

Mr. FRANK of Massachusetts. I didn't offer it. It was offered by President Bush. I did vote for it, but it was President Bush's offer. I give credit where credit is due.

Mr. PENCE. Reclaiming my time, I believe it was a bill that bore the gentleman's cosponsorship.

I opposed the Wall Street bailout last fall, and I oppose this Wall Street bailout today. The truth is the American people that are looking in tonight really have got to be astounded that Washington DC, in response to these extraordinary economic times, is now launching and making permanent the policies of bailouts that millions of Americans have rejected over the last year.

After more than a year of the Federal Government's heavy-handed intervention in our financial services industry, this bill continues to take the country in the wrong direction: more government, more bailouts. The legislation before us today makes permanent the failed policy of taxpayer-funded abortions that led to record deficits and undermined our economic freedom.

In this cause, House Republicans stand with the American people who have said virtually with one voice in the last year: no more bailouts. No more bailouts by Republican administrations; no more bailouts by Democrat administrations. We stand with them in their cause.

This Democrat plan for regulatory reform will vastly expand the power of the Federal Government and further empower Washington bureaucrats over the financial decisions of America's families and businesses. It creates a so-called credit czar that will have the authority to determine what financial products are available for consumers.

The President yesterday said at the Brookings Institution that we need to address ''the continuing struggle of small businesses to get loans.'' He is right about that. He said the same thing at a White House meeting I attended today, but apparently Democrats in Congress didn't get the message.

The bill before us today will severely restrict the flow of credit. At a time

when families are struggling to make ends meet, small businesses are trying hard to keep the doors open.

I say with respect to my Democrat colleagues and to the President, American small business doesn't want a hand out; they want the Federal Government to get out of their way. Instead of providing taxpayers with an exit strategy for government involvement in Wall Street, this bill makes it permanent.

Now, House Republicans have a good alternative, regulatory reform that ensures that the era of taxpayer bailouts will come to an end. It's an interesting choice tonight, Mr. Speaker. Do we want to make bailouts permanent? Do we want to set our Nation on a path of ending the era of bailouts once and for all?

I urge support of the Republican alternative in opposition to this rule and this bill, which is really the Wall Street bailout and protection act, rightly understood.

Mr. PERLMUTTER. I just want to respond to my friend from Indiana, who continues to call this a bailout. All it does is put big institutions that fail out of their misery, just like we liquidate banks who have failed. Big financial institutions on Wall Street, whether they are insurance companies or credit companies or banks or stockbrokers, are placed into liquidation and finished.

With that, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 2 minutes to our great new colleague from Eden Prairie, Minnesota, a hardworking member of the Financial Services Committee, Mr. PAULSEN.

Mr. PAULSEN. I thank the gentleman.

Mr. Speaker, I rise tonight in opposition to the rule for H.R. 4173 and the underlying legislation.

Mr. Speaker, the effects of this bill, as we have already heard, will further harm our economy, draining capital from our economy and reducing overall lending by over as much as $55 billion, as studies have shown. The effects of this bill further harming our economy will hurt small business and consumers alike. They are going to considerably find it much more difficult to access the credit they need in a very challenging economy in addition to dealing with more government bureaucracy.

This bill, this legislation, will create a new credit czar with a mandate to limit consumer choice, to ration credit, and to increase the cost of financial transactions. Congress should be focusing on measures that will lead to job creation and encourage American prosperity, not implementing policies that will increase the unemployment numbers. Again, studies have shown that this legislation will literally cost hundreds of thousands of jobs in our economy.

We should be putting an end to all Washington bailouts and the Washington bailout mentality. This legislation does not firmly put an end to taxpayer-funded bailouts. Rather, it could increase the likelihood of future bailouts. This legislation should also be ending the ''too big to fail'' mentality that has dominated Washington. Instead, this legislation will institutionalize it.

By creating institutions that are too big to fail, we are implying that certain financial companies will be sheltered by a Federal safety net. Mr. Speaker, I urge a ''no'' vote on the rule.

Mr. PERLMUTTER. I would like to ask again how much time each side has.

The SPEAKER pro tempore. The gentleman from Colorado has 7 minutes remaining, and the gentleman from California has 10 minutes remaining.

Mr. PERLMUTTER. I continue to reserve the balance of my time.

Mr. DREIER. At this time, Mr. Speaker, I am very happy to yield 1½ minutes to my friend from Mesa, Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

I wish the gentleman from Massachusetts were here to hear this discussion. Earlier in the year we had a discussion about moral hazard. I think all of us recognize that moral hazard played a role in the mess that we got in last year and have been in for a couple of years. The implied guarantees that we had at Freddie and Fannie played a role, a rather large role, in the problems that we later had.

I had mentioned to the gentleman from Massachusetts that some legislation we were passing earlier this year would further foster that principle of moral hazard. He said to me that, yes, that would be a problem if what we were doing were permanent, but it wasn't. It was simply temporary.

But here what we are doing is very permanent. We are establishing a permanent, in a sense, a permanent bailout fund. We are told only to believe that we are establishing a bailout fund that will never bail out any companies but, rather, will be used to shut companies down, or something like that, to establish a fund.

Fifty billion seed money from the Treasury, 50 billion in taxes from other companies to establish a fund to shut companies down? I don't think so. I think what we are establishing here, it's rather clear, is a bailout fund, a permanent bailout fund.

If you want to talk about moral hazard, this is it. This is moral hazard institutionalized that will lead to the types of problems that we have seen. It's not a Republican issue or a Democrat issue. This is a principle, an economic principle that simply we cannot ignore.

Mr. PERLMUTTER. I continue to reserve the balance of my time.

Mr. DREIER. Mr. Speaker, may I inquire again how much time remains on each side.

The SPEAKER pro tempore. The gentleman from California has 8½ minutes remaining, and the gentleman from Colorado has 7 minutes remaining.

Mr. DREIER. Let me just say to my friend, if I might, Mr. Speaker, that we are winding down. If the gentleman has no further speakers, we are prepared to close.

Mr. PERLMUTTER. I have one.

Mr. DREIER. At this time I am happy to yield 2 minutes to my very good friend, the former Rules Committee member from Charleston, West Virginia (Mrs. CAPITO).

Mrs. CAPITO. I would like to thank the ranking member and my former Chair for yielding this time to me and thank him for his leadership on every important debate.

My colleagues, our friends on the other side of the aisle would have us believe that the Wall Street Reform and Consumer Protection Act derives its name from the assumption that the underlying text will prevent Americans from the impact of future economic disturbances like the one we experienced last fall. If only that were true.

Instead, this bill is nothing more than a continuation of the bailout mentality that has put trillions of taxpayer dollars on the hook for the mistakes of Wall Street. Are we finally putting an end to the bailout culture on this bill? No, we are not.

Rather than ending the bailouts, this legislation institutionalizes them. Instead of protecting taxpayers, this bill puts them at further risk. The Democrats' bill will grant authority to both the Treasury and the Federal Reserve to create a new $200 billion fund to finance future bailouts of the big banks and financial institutions. Who will be paying for this fund? The consumers.

Furthermore, if there is another market-wide disturbance like the experience last fall, it will be the taxpayers who will be called upon to pick up the tab. Unfortunately, the chairman's bill also fails to put an end to ''too big to fail.'' If certain institutions are too big to fail, then that means that the rest are too small to save.

□ 1945

This will no doubt continue the troubling practice of government's picking winners and losers in the marketplace. This bill will do nothing more than set up an unlevel playing field that penalizes consumers, puts taxpayers' dollars at risk, and restricts the flow of credit at a time when our small businesses need it most.

Republicans on the House Financial Services Committee have put forth a better proposal. We believe it's time to truly put an end to the bailouts. Business decisions have consequences, and Wall Street needs to know that taxpayers will not be there to help them pick up the pieces of their risky business practices. Instead of permanent bailouts, we propose a new chapter of the bankruptcy code capable of ensuring the orderly unwinding of failed firms.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. DREIER. Mr. Speaker, I yield my friend an additional 30 seconds.

Mrs. CAPITO. We would give bankruptcy judges the authority to stay claims by creditors and counterparties to prevent runs on troubled institutions, alleviating potential panics if a large institution faces trouble. Under this proposal, all market participants, large and small, will know the rules of the game. If they take on too much risk, they'll face bankruptcy just like any other failed business.

We'll also protect consumers with increased investment fraud enforcement. We'll monitor systemic risk through improved coordination between regulators. Yet, most importantly, we'll provide market certainty by making it clear to Wall Street that no firm is ''too big to fail.''

I urge my colleagues to say ''no'' to bailouts and oppose the underlying bill.

Mr. PERLMUTTER. Mr. Speaker, I say to my good friend from West Virginia she continues to use the word ''bailout,'' but as it's clear in the bill, this is not any taxpayer-funded money. The continued use by my Republican colleagues of the word ''bailout'' is simply wrong and misleading because what is stated in the bill is the creation of a fund based on assessments paid by the biggest financial institutions in the world, $50 billion and bigger in terms of assets, so that those institutions, if they fail, will have a liquidation fund to put themselves out of their misery. That's what this is all about, to just be finished with it.

Now, one thing I would like to say about my Republican colleagues. They've forgotten. They've talked about two sections of the bill: consumer protection, which is absolutely essential in this bill, as well as dealing with huge financial institutions that are risky to our financial system and could create a domino effect like we had last fall.

The seven other sections of the bill—hedge funds, credit rating agencies, derivatives, life insurance, executive pay, and subprime—those were bipartisan sections of the bill. So this bill covers a lot of topics to rein in our financial system and restore it and strengthen it as we go forward.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this juncture I am happy to yield 1 minute to the gentleman from Savannah, Georgia (Mr. KINGSTON).

Mr. KINGSTON. I thank the chairman for yielding.

I stand in opposition to the rule and in opposition to the bill. One reason is that in 1969, when Congress passed Truth in Lending, it was with great intent. Nobody would argue against the purism of the heart. But the reality is, in 1969 before the bill even went into effect, before the new law became effective on the books, there were 34 official interpretations of what the rule would mean, and 10 years later there were over 13,000 lawsuits about it just trying to figure out what does this thing mean.

Now here comes this bill and there are all kinds of terms in there like ''excessive,'' ''unreasonable,'' and ''abusive,'' and they're not defined. Those are going to be defined in a court system by trial and error over a period of time.

We need to send this bill back to the committee and ask for definitions on this stuff so that we can, during these uncertain economic times, not put one more ambiguity on the private sector. I think that's the better way to do reform.

The SPEAKER pro tempore. The gentleman from California has 5 minutes remaining, and the gentleman from Colorado has 5½ minutes remaining.

Mr. PERLMUTTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the gentleman very much for yielding.

There's nothing like delay, delay, delay when we begin to talk about helping the American people. If my good friends on the other side of the aisle would look at what the intent of this bill is, I think we'd find common ground. So I rise to support the rule and the underlying bill because it does point to some of the major crises that we have been contending with.

I am glad that we are ending the bailout and preventing the rise of institutions that are ''too big to fail.'' We're dismantling large, failing institutions, and we're getting money back for the taxpayer. I am very glad that we have a financial stability council that has been enhanced by the Congressional Black Caucus where we will have diverse membership so the oversight will be effective and consistent. Executive compensation gives shareholders a say on pay. Never before have we had that. This is long overdue. Investor protections and certainly to be able to respond to too big and too fat cats like Madoff, it's long overdue.

Then to emphasize the importance that I have heard from so many of my constituents on the whole question of mortgage foreclosure modification, and that is they need to have real foreclosure modification, and only 6 percent of those that have been in trial modifications have now been moved to permanent foreclosure modifications. The process is too slow.

We are kicking this down the road by adding $3 billion from the Federal Troubled Assets Relief Program toward mortgage relief for jobless Americans. The measure would designate another $1 billion for a program that gives grants to State and local governments to purchase foreclosed properties and use them for many productive purposes, according to the members of the Financial Services Committee and the Congressional Black Caucus task force that have worked with Congresswoman MAXINE WATERS. We stand together united on the idea that the financial structure has not worked for the jobless, the poor, and working Americans. This legislation helps to generate that kind of pathway and that kind of roadway.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. PERLMUTTER. I yield the gentlewoman an additional 15 seconds.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

I think it is extremely important that we protect and consider our credit unions. I have met with those today, and I want to ensure that if this bill has any language in it about the overdraft not being protected that, in essence, we work through that process. They are very much a part of this, and I want to make sure that this bill is supported.

I support the rule and the underlying bill.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 2 minutes to a hardworking member of the Financial Services Committee, the gentleman from Wantage, New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the gentleman for yielding.

Delay, delay, delay? Ms. JACKSON-LEE just made the comment. It's absolutely delay. We've been waiting here for the last 4 hours for your side of the aisle to come to the floor to be able to debate this bill. So Ms. JACKSON-LEE, I would ask, through the Chair, who it is on your side that was delay, delay, delay, and I would be glad to bring that person to the floor to ask, Why are you delaying trying to reform the system in this country?

But I rushed to the floor because I was just doing a telephone town hall and people were watching what is going on on the floor right now, and they said, Congressman, you must go down to the floor to end the bailouts, end this piece of legislation that will cut jobs in this country, and end this piece of legislation that will expand the size of government.

Now, I understand the reason the gentleman from Colorado says that we are mistaken with regard to whether or not there are bailouts in the bill. This bill is larger than the health care bill. It's larger than the cap-and-trade bill. You remember the bill that no one read before they came here or the health care bill that no one read before they came here? Maybe the reason why the gentleman from Colorado is perhaps mistaken on this point is because, quite candidly, enough people on your side of the aisle haven't read the bill. And if you did, you would see that there are bailouts and that the taxpayer is ultimately on the hook to the tune of upwards of $150 billion.

How does that work? Well, we set up this system where, in essence, we're going to say we're going to set up a slush fund that eventually will tax businesses that are causing cuts in jobs across this country, but until we get

that up and running, where are we going to get that money? Well, we're going to get it by essentially allowing the U.S. Treasury to go to the American public and ask them once again, once again, to bail out the mistakes on Wall Street.

Well, we say enough to the bailouts. Enough of putting the taxpayer on the hook for the bailouts. Enough for all the mistakes, both by Wall Street and government. And enough to these bailouts passed in legislation that this administration has passed and that the chairman in this committee has ushered through in the past. Whether it's the past administration or this administration, that side of the aisle has been at the forefront of having the American taxpayer bailing out Wall Street and the government as well.

Mr. PERLMUTTER. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been a very interesting debate as we talk about where we are economically and the challenges with which we are trying to contend. It's a very serious time. The American people are hurting. People are losing their businesses, their homes, their jobs all across this country. They want us to get our economy back on track, and they want us to ensure that we do this in a very, very responsible way.

Well, Mr. Speaker, my colleague Mr. GARRETT has just put before us the 1,279-page bill that is to be considered under this measure, and I have to say that as we look at it, it is voluminous. And I will admit I haven't read every single page of that bill and I doubt that there are many of our colleagues who have.

The fact of the matter is we have a 170-page alternative. This one, by the way, is on both sides of the pages, and ours is on one side, Mr. Speaker. It's 170 pages, and it's a proposal that clearly will ensure that we don't proceed down the road towards bailouts. It will make sure that we don't jeopardize our economic growth. It will make sure that we create greater transparency and accountability, and that is a key priority that I believe the American people want us to pursue.

□ 2000

We all hear David Letterman's regular Top 10 list. I was just handed a Top 10 list as to why we should support the 170-page bill that provides transparency and accountability and will work to get our economy back on track without increasing taxes or permanent bailouts, and to oppose this 1,279-page bill.

Number one: This one creates a permanent TARP-like bailout authority.

Number two: It imposes a massive tax during a credit crisis and weak economy.

Number three: It expands the powers of the Federal Reserve.

Number four: It creates a credit czar with the authority to restrict access to credit and impose taxes on consumers and small businesses.

Number five: It undermines the ''safety and soundness'' regulation of financial institutions.

Number six: It rewards trial lawyers at the expense of investors.

Number seven: It kills jobs by undermining the ability of Main Street companies to manage risk.

Number eight: It empowers regulators to impose wage controls on workers and enterprises.

Number nine: It continues ''business as usual'' at Fannie Mae and Freddie Mac.

And number 10: Our Republican substitute ends the bailouts, restores market discipline, and protects consumers, small businesses, and taxpayers.

Reject this rule. Reject this legislation. We can do better. We have it in our hands right here, Mr. Speaker.

With that, I yield back the balance of my time.

Mr. PERLMUTTER. Mr. Speaker, my friend from California wanted to compare the 170-page proposal that they have versus the 1,300 pages of the bill that we have. I would just say to him, in his proposal, he doesn't deal with hedge funds, he doesn't deal with credit rating agencies, he doesn't deal with derivatives, he doesn't deal with excessive compensation to executives, he doesn't deal with life insurance. He doesn't deal with a whole range of things. He just deals with one thing: Let's put them in bankruptcy. Let's do a chapter 11. Let's let these things go on forever in a chapter 11.

Well, ladies and gentlemen, we can't afford this anymore. The status quo, which is more or less what the Republicans are proposing—they should call their bill ''Let's Protect Wall Street'' because that's all it does. It doesn't change anything.

When we lose trillions of dollars and people's livelihoods, and retirement funds, and pension plans, and jobs are lost, and they come in here and say, Oh, theirs is 1,300 pages, that's got to be bad because ours is 170 pages, when people's lives have changed, the debate on this floor and the debate about American futures is more than that. This is about restoring confidence in a financial system that was allowed to be the Wild West under George Bush and under the Republicans. This is no longer going to be the case. We are going to have reasonable regulation that people can rely on; certainty will be restored and confidence in the system regained.

There are nine sections: Consumer protection; investor protection; dealing with derivatives; dealing with credit rating agencies; dealing with executive compensation; dealing with hedge funds; and specifically, and most importantly, dealing with those financial institutions that have become so risky that they are going to cause a collapse of our entire banking system, which we cannot allow. So we require those institutions to post themselves $150 billion so they can be liquidated without any cost to the taxpayer.

Their proposal is nothing but bailouts. Their proposal is nothing but protecting Wall Street. We've got to change that. This bill changes the future of our financial system in a way that we haven't seen since the New Deal. We need to restore confidence. That's what we do.

I urge a ''yes'' vote on the previous question and on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adopting House Resolution 956 will be followed by a 5-minute vote on suspending the rules and passing H.R. 86.

The vote was taken by electronic device, and there were—yeas 235, nays 177, not voting 22, as follows:

[Roll No. 945]

YEAS—235

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Minnick
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye

Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Wu
Yarmuth

NAYS—177

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kaptur
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Baldwin
Barrett (SC)
Berry
Buyer
Davis (TN)
DeGette
Fudge
Granger
Hunter
Lee (NY)
Lewis (GA)
McHenry
Miller, George
Moran (VA)
Murtha
Pastor (AZ)
Payne
Radanovich
Sanchez, Loretta
Stark
Wexler
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 2029

Mr. TERRY and Ms. KAPTUR changed their vote from ''yea'' to ''nay.''

Messrs. SPRATT and PERRIELLO changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRESERVING ORANGE COUNTY'S ROCKS AND SMALL ISLANDS

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 86, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 86, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 4, not voting 33, as follows:

[Roll No. 946]

YEAS—397

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Deal (GA)
DeFazio
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Green, Gene
Griffith
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Paul
Paulsen
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sires
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Wu
Yarmuth
Young (FL)

NAYS—4

Emerson
Kennedy
Skelton
Young (AK)

NOT VOTING—33

Bachus
Baird
Baldwin
Barrett (SC)
Berry
Bilirakis
Buyer
Davis (TN)
DeGette
Delahunt
Doggett
Fudge
Granger
Grijalva
Halvorson
Harman
Holden
Kagen

Lewis (GA)	Murtha	Sanchez, Loretta
McNerney	Obey	Shuler
Melancon	Pastor (AZ)	Stark
Miller, George	Payne	Wexler
Moran (VA)	Radanovich	Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 2036

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: ''A bill to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.''.

A motion to reconsider was laid on the table.

PERMISSION TO REALLOCATE TIME FOR GENERAL DEBATE DURING CONSIDERATION OF H.R. 4173

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4173 pursuant to H. Res. 956, the Chair of the Committee on Financial Services be permitted to control 10 minutes of the time allocated to the Chair of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4173 pursuant to H. Res. 956, the ranking member of the Committee on Financial Services be permitted to control 10 minutes of the time allocated to the Chair of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4173 and to insert extraneous material therein.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 956 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4173.

□ 2041

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Mr. TEAGUE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time and the amendment printed in House Report 111–365 is adopted.

Pursuant to the rule and the earlier orders of the House, general debate shall not exceed 3 hours, with 2 hours and 20 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Financial Services, 30 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Agriculture, and 10 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Energy and Commerce.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 1 hour and 10 minutes. The gentleman from Minnesota (Mr. PETERSON) and the gentleman from Oklahoma (Mr. LUCAS) each will control 15 minutes. The gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BARTON) each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. I have long advocated for comprehensive and effective financial regulatory reform. Last year, as the chairman of the Oversight Committee, we held many hearings examining the causes of the financial crisis. Those hearings showed government regulators were asleep at the switch while Wall Street banks drove our economy off a cliff. Change is necessary, and I believe this legislation will strengthen the Federal Government's ability to prevent and respond to future crises.

Consumer protection is a central element of the Energy and Commerce Committee's jurisdiction, and I support the reforms in the bill.

□ 2045

The legislation provides four essential improvements to the operations of the Federal Trade Commission. These improvements allow the FTC to seek civil penalties in enforcement actions against violations of the FTC Act, not just violations of rules and orders, as the FTC Act currently allows; enforce against those who provide substantial assistance to entities that commit fraud; promulgate rules using the Standard Administrative Procedures Act, processes used by virtually all other agencies; and litigate its own cases without delay when it seeks civil penalties against fraudulent actors.

Each of these four provisions will strengthen FTC's consumer protection abilities and enable it to be a powerful partner with the Consumer Financial Protection Agency in protecting consumers from financial fraud.

The Energy and Commerce Committee shares jurisdiction over the new Consumer Financial Protection Agency with the Financial Services Committee, and I am pleased Chairman FRANK and I were able to find a compromise in this area. Under the agreement we have reached, the agency will start off with a single director who can take early leadership in establishing the agency and getting it off the ground. After a period of 2 years, the agency will continue operations with the leadership from a bipartisan commission.

I have also been concerned about the provisions of this legislation relating to the regulation of financial instruments associated with the energy sector. I'm pleased to report that the Agriculture Committee and the Energy and Commerce Committee reached an agreement to address potential regulatory conflicts where the jurisdiction of the Commodity Futures Trading Commission as enhanced by the proposed bill could overlap with the jurisdiction of the Federal Energy Regulatory Commission.

I want to thank Chairman FRANK and his staff for leading this important legislation through Congress. I also want to thank Commerce, Trade, and Consumer Protection Subcommittee Chairman BOBBY RUSH for taking an early lead in examining the CFPA proposal in his subcommittee, and Chairman Emeritus DINGELL for ensuring that we enhance FTC's role. Ranking Member BARTON worked closely with us on our proposal to create a commission to lead the CFPA. And I finally want to thank Chairman PETERSON for working with us to resolve the energy regulatory issues.

I urge all of my colleagues to support this legislation.

I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I would yield myself 4 minutes.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. First, let me say I rise in strong opposition to this bill. I did support marking it up at the Energy and Commerce Committee to maintain jurisdiction over this agency and other agencies in our committee's jurisdictions, and I did work with

Chairman WAXMAN to make some perfecting changes to the bill that is before us. But having said that, I think that it is a bad bill, it's an unnecessary bill, and it's a bill that will have unintended consequences of a negative fashion if enacted in its current form.

I'm glad that some of the Federal Trade Commission's jurisdiction that was originally stripped from the bill and given to the new agency has been retained and put back with the FTC. I also think, though, that a new agency cobbled together by Congress from existing regulatory structure will not eliminate one of the world's oldest sins. Hucksters and scam artists will not throw up their hands and turn honest because there is a new Federal regulator on the block. They will simply find new ways to cheat the government as it tries to get on its wobbly new feet. Bureaucracies, particularly new ones, don't move at the speed of businesses, especially shady, illegal businesses, and they certainly don't move at the speed of fraudsters.

I want to commend Chairman FRANK for his hard work on a tough issue. Having said that, the outcome of his hard work is an enormous bill and an enormous bureaucracy that, in my opinion, just won't do the job. Having said that, the Obama administration apparently wants this new behemoth, so we're going to get it—at least we're going to attempt to get it through the House on the floor this evening or tomorrow, whenever the vote may occur.

I wish that a superregulator could find and repair the underlying problems with the housing and mortgage markets, but I don't think it can. Empowering a new agency with nearly limitless power to deem almost any product or service of financial activity is questionable at best and tyrannical at worse. This legislation even fails to create a national standard for the superregulator to enforce. Instead, it adds another layer of Federal regulation on top of existing State laws.

Finally, the legislation gives broad, new authority to the FTC that really has nothing to do with the proposed agency and covers everything beyond consumer financial products.

Mr. Chairman, I rise in opposition to the bill, and I would hope that we would defeat it.

With that, I want to yield the balance of my time that I control to the distinguished ranking member of the Financial Services Committee, Congressman BACHUS of Alabama.

The CHAIR. The Chair cannot entertain that request in the Committee of the Whole.

Mr. BARTON of Texas. I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I begin by yielding 4 minutes to one of the Members of the House who has a very significant imprint in this bill, all to the protection of investors and the integrity of our markets, the chairman of the Capital Markets Subcommittee, the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I want to thank the chairman of the full committee for recognizing me and to assert for the record in the full House that although today this huge bill of 1,300 pages or 1,200 pages will be difficult to describe and probably not well understood by either the people watching this proceeding nor all of the Members of the House, I want to say that I am proud to have worked under the tutelage of the chairman, Mr. FRANK, and I think that in years to come, history will look back at this moment and say, when there was need in this country for reformation, it was had in the major part of this bill.

Mr. Chairman, I have had the pleasure of participating in major portions of the bill—Title V, Title VI, and then part of Title I.

What we tried to do, in essence, so that the viewing public can understand, is to recognize some of the problems, not all of the problems, but some of the problems that we were facing as a result of the actions of last year of the capital markets of the United States.

First and foremost, we had discovered that there were great irregularities in transparency and accountability in the rating agencies as they acted to evaluate various sets of securities in the world markets. And when we examined the rating agencies in great detail and through hearings and examination, we found that these entities were poorly—not really regulated at all but certainly poorly accounting for their own responsibilities in the system. We found they were enticing investors throughout the world to buy securities that were rated AAA when, in fact, some of those securities weren't even of B class quality. As a result, millions of people around the world and billions of dollars came in to the purchase of these securitized—or these securities, and as a result, when the market failed, they failed. And there was an impression around the world created that the American Government, the United States of America, stood behind these rating agencies when, in fact, we didn't, and that there was a great compromise.

Some of these rating agencies, because of the internal conflicts within the agencies, were taking great liberty in evaluating and analyzing the values of certain securities to the extent that, because they were paid by the individuals that were issuing the agency, there was an internal conflict. Whether that conflict caused, to a large extent, a scandal or caused failure in the system, one will probably never know, but certainly the aspects of the operations of the rating agencies have been called into question, were called into question at the time, and certainly have been since our examination.

So what have we done? We have developed a set of principles and rules to account for accountability and transparency in the rating agencies in the United States. Will that cure the problem? No. We're going to have to watch very closely, monitor very closely that these rating agencies do not stray from the straight path. If they do, we will have to come back and impose greater restrictions on them and take extraordinary actions in the future if necessary.

But we will have rating agencies now that can be sued when they could never be sued before. We will have rating agencies that will have the responsibility to provide disclosure, will have the responsibility of showing their methodologies and explanations to the buying public of the securities they rate and analyze. To that extent, we hope the public will be protected.

Next, we looked at who is accounted for in our system, and we found, as we've all known, that some 10, 12 years ago, hedge funds were denied the examination of the Securities and Exchange Commission. We have now formed what is known as the Private-Funded Investment Advisors Registration Act, which is Title V of this act, part A, and that provides that all advisers that want to play in the capital markets must register and must disclose certain information so that knowledge of what capital is doing, where it is and in what amounts will be known by our regulators. That is the first time in the history of the United States that that will prevail. It should go a long way of having inside information in the role of the regulators of the United States as to what is at risk.

Then, finally, we created an Investors Protection Act. The Investors Protection Act has done so many things it's almost impossible to enumerate, but the SEC gave recommendations which were incorporated in the bill.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield an additional 1 minute.

Mr. KANJORSKI. Authorities that they lacked, they were given. With that inclusion, I think we have one of the finest investment protection acts that ever existed.

Finally, we have something new we created. We created the Federal insurance office that will, for the first time, will encompass information encompassing the insurance industry in the United States.

Finally, I'm proud to say I had a major part in putting together an amendment to the act, the first provision of the act, part one, that allows ''too big to fail'' protection in the United States. For the first time, the regulators in the United States will have the opportunity to analyze the structure of corporations and the financial service industry that either may be too large, interconnected, or too large in scope or too inexperienced in management or some other condition that may, in the future, cause them to be of systemic risk to the economic system of the United States. And we've empowered the regulators to move in and require changes, controls,

and regulations to prevent that occurrence so that never again, we hope, the ''too large to fail,'' in fact, will be, in fact, too large not to fail.

So with that, I recommend to all of my colleagues on both the Democrat side and the Republican side, stop for a moment and think what we've done.

May I call the attention of the Republican side, three of the eight bills that we passed through our committee went through with significant bipartisan support.

Mr. Chair, over the next few days this body will have the opportunity to consider sweeping, meaningful reforms to protect American investors, safeguard consumers on Main Street, and fundamentally change the way Wall Street and large financial institutions operate. For roughly two years, we have endured a severe crisis that exposed vulnerabilities in our system for overseeing the financial sector and demonstrated the perils of deregulation.

During this calamity, Americans have unfortunately lost trillions of dollars in personal wealth and retirement savings, millions of families have lost their homes, and far too many workers have lost their jobs. Last year, in order to save the financial system itself, we had to act courageously and pass the Troubled Asset Relief Program, despite considerable criticism. This law has worked to stabilize our system, but public faith in our financial markets has also nearly vanished. We therefore must now take bold steps to restore trust in the financial services industry by significantly modifying its regulation. H.R. 4173, the Wall Street Reform and Consumer Protection Act, will do just that.

While this broad, comprehensive legislation encompasses substantial reforms in many areas—from the regulation of complex financial derivatives to the creation of a Consumer Financial Protection Agency—I want to focus my comments on the proposals that I worked to develop and incorporate into this package. These reforms include investor protection improvements, the registration of hedge fund advisers, changes to credit rating agency oversight, and the creation of a Federal insurance office. I also want to discuss how this legislation will rein in ''too-big-to-fail'' financial institutions.

The failure to detect the massive $65 billion Madoff Ponzi scheme, the problematic securities lending program of American International Group, the freezing up of the auction-rate securities market, and the ''breaking of the buck'' by Reserve Primary Fund each demonstrated the need for comprehensive investor protection reform. In response, the Investor Protection Act of 2009—a key part of H.R. 4173—contains more than six dozen provisions aimed at strengthening the oversight of U.S. securities markets and closing regulatory loopholes.

For the first time, every professional who offers investment advice about a securities product will have a fiduciary duty to their customer. For the first time, we will create a bounty program to encourage tipsters to come forward with information about securities fraud. For the first time, we will regulate municipal financial advisers. Moreover, by doubling the budget of the U.S. Securities and Exchange Commission and by requiring a comprehensive study to fundamentally reform the way the agency operates, this bill lays the foundation for us to put in place a superior securities regulatory system going forward.

We also need to regulate everyone who plays in our capital markets. By mandating the registration of hedge fund advisers and others who currently operate in the shadows of our markets and subjecting them to recordkeeping and disclosure requirements, for the first time regulators will have the information needed to better understand exactly how these entities operate and whether their actions pose a threat to the financial system as a whole.

Without question, the actions of Moody's, Standard and Poor's, and Fitch exacerbated this financial crisis. In response, H.R. 4173 takes strong steps to reduce conflicts of interest, stem market reliance on credit rating agencies, and impose accountability on rating agencies by increasing liability. As gatekeepers to our markets, credit rating agencies must be held to higher standards. We need to incentivize them to do their jobs correctly and effectively, and there must be repercussions if they fall short.

Insurance also plays a vital role in the smooth and efficient functioning of our economy, but the credit crisis highlighted the lack of expertise within the Federal Government on the industry, especially during the collapse of American International Group and last year's turmoil in the bond insurance industry. I have long championed the need to establish a place within the Federal Government to collect information and build expertise on this sizable industry. The Federal Government needs a fundamental knowledge base on these matters, and for the first time we will have such a repository because of this bill.

Finally, I am pleased that H.R. 4173 includes my amendment addressing companies that have become too big to fail. This bill will empower Federal regulators to rein in and dismantle financial firms that are so large, interconnected, or risky that their collapse would put at risk the entire American economic system, even if those firms currently appear to be well-capitalized and healthy. By ensuring that financial companies cannot become so big that their failure would pose a threat to economic stability, we will protect American taxpayers from future bailouts. By outlining clear and objective standards for regulators to examine financial companies, we will also reduce the level of risk their activities pose to our financial stability and our economy.

In sum, I want to thank the Members of the Financial Services Committee for their hard work and their support of my efforts to better protect investors, advance credit rating agency accountability, register hedge fund advisers, establish a knowledge base on insurance, and curb too-big-to-fail companies. I especially want to congratulate the Chairman of our Committee, the gentleman from Massachusetts (Mr. FRANK), for his tireless efforts in pulling this comprehensive package together during the last year. I urge all of my colleagues to support this landmark bill.

Mr. BARTON of Texas. May I inquire how much time I still control, Mr. Chairman?

The CHAIR. The gentleman has 2 minutes remaining.

Mr. BARTON of Texas. I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Thank you.

The gentleman from California referred to the Wild West earlier. No two institutions better fit that description than the government-sponsored enterprises Fannie Mae and Freddie Mac.

Over the years, some of us pleaded for additional regulation. You may recall, in 2005, we tried to pass strong legislation to fix this problem and bring reforms to the government-sponsored enterprises. I brought an amendment to this floor to give the regulator the ability to rein in their mortgage portfolios that were spiraling out of control. The Federal Reserve came to us and said, These institutions at the heart of the U.S. mortgage market pose a systemic threat to our economy.

That is why I offered my amendment, which was defeated, as were others, that would have provided stronger regulation. That is why Senator Chuck Hagel offered similar legislation which passed the Senate Banking Committee on a party-line vote but was blocked by the Senate Democrats from coming to the floor.

We understood the risks posed by those government companies, especially when it came to the affordable housing goals the Democratic-controlled Congress mandated in 1992. Those affordable housing goals led the GSEs into the subprime Alt-A market, and they ultimately led to their collapse.

Former President Bill Clinton understands this epic blunder. Last September, the former President said in an interview, ''I think the responsibility that the Democrats have may rest more in resisting any efforts by Republicans in the Congress, or by me when I was President, to put some standards and tighten up a little on Fannie Mae and Freddie Mac.''

□ 2100

This is one of the main reasons why our economy is where it is today. And this is why we must reform the GSEs, which this bill does not do. Instead, this bill creates a perpetual bailout fund and ensures that the ''too big to fail'' doctrine is with us definitely.

For the first time in its history, Washington will officially become the center of our financial system.

The CHAIR. The time of the gentleman has expired.

Mr. BACHUS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. ROYCE. Regulators will be able to rescue certain companies and liquidate others. They will be able to pay off some creditors and counterparties and not others, and keep failed or failing companies operating and competing in the market for years. They will even be able to dismantle a healthy institution that they believe may pose a risk.

If there is any doubt that this type of authority will be abused, look at how the administration handled the Chrysler bankruptcy earlier this year. It was their desire to do away with the clearly defined rules of the road found in the bankruptcy code in order to reward their political allies. Those rules of the

road that were so easily dismissed by the administration have acted as the bedrock of our capital markets for decades. They differentiate us from much of the world and serve to attract capital from all corners of the globe. This bill throws that model out the window. It replaces objectivity with subjectivity, market discipline with political pull.

What is the likely outcome of all of this? The larger, politically connected institutions will have the edge over their competitors.

Mr. PETERSON. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of H.R. 4173 and of the Peterson-Frank amendment to this legislation, which will be considered at a later time. I want to thank Chairman FRANK and his staff for working with us and our staff over the last few months on the amendment and on the provisions in the underlying bill that affect both of our committees. Mr. Chairman, passage of this bill is necessary to improve the financial regulatory structure in America.

The House Agriculture Committee has played a significant role in contributing to this legislation, and while I may not agree with every provision in this bill, I support the goals of increased oversight, more transparency, and an end to taxpayer bailouts of large financial institutions.

Mr. Chairman, our committee has spent over 2 years examining various elements of derivatives markets, and we have focused for the last year specifically on their contribution to this financial meltdown, most notably the prevalence of unregulated, heavily traded bilateral swaps used by large financial institutions that either collapsed or received taxpayer bailouts.

Now derivatives, in and of themselves, were not the cause of the financial meltdown in the second half of last year, but they did play a role. Had the provisions of the Peterson-Frank amendment that we will consider later been in place last year, financial institutions like AIG would have never gotten themselves into a position where they needed billions of taxpayer dollars just to keep them solvent.

The derivatives reforms in the Peterson-Frank amendment and the resolution authority provided for in the underlying bill will mean large financial institutions, and not the taxpayers, will be financially responsible for their own undoing.

I also want to thank Chairman FRANK for the work he did with our committee on ensuring that this legislation does not have unintended consequences for the Farm Credit System, a network of rural lenders that support local agricultural producers, utilities and businesses. So Mr. Chairman, Farm Credit had nothing to do with the financial crisis, and in fact, the strong underwriting, capital, security, appraisal, and repayment statutory standards that we put in place after farm country went through its own stressful credit period have resulted in a more stable financing network. The Treasury Department agreed with this assessment when they said it was not their intention to bring Farm Credit into the regulatory reform discussion, and I thank Chairman FRANK for recognizing this.

With that said, Mr. Chairman, I still have some concerns with some parts of the underlying bill, particularly the establishment of a systemic risk regulator and the empowerment of the Federal Reserve to take a leading role.

I am concerned that the real power resides in the Federal Reserve instead of the Financial Services Oversight Council established by this bill, particularly the ability to impose whatever prudential standards it sees fit. And there does not seem to be any mechanism for the Council to check the power of the Federal Reserve if it believes the Fed is going too far.

While I think the systemic risk language needs much more refinement, I will not let these concerns deter my support for the underlying bill and the much-needed Peterson-Frank amendment that will finally shine light on the previously dark markets for over-the-counter derivatives and ensure that we will never again threaten the stability of our financial system.

Mr. Chairman, I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield myself what time I might consume.

Mr. Chairman, I must rise today in opposition to H.R. 4173. Regulatory reform of our financial system is indeed needed. However, rather than using this opportunity to enact meaningful reform that creates financial stability and encourages economic growth, the majority has constructed a massive piece of legislation that will restrict credit availability and does little to address the real problems in the financial industry.

In addition to dramatically expanding the power of the Federal Reserve and establishing what is, in effect, a ''credit czar'' who will have virtually unlimited authority to restrict consumer choices, this bill will create a permanent bailout, some would call slush fund, for so-called ''too big to fail'' companies funded by a $150 billion tax on financial institutions. This tax will reduce available capital for lending and will most certainly be passed on to consumers in the form of higher fees.

As the ranking member of the Agriculture Committee, I also rise in opposition to title III, the OTC derivatives title, that is currently in H.R. 4173. This is the same title that was adopted by the Financial Services Committee. I opposed this title in the committee, where I'm also a member, because it makes it too costly for end-users to manage risk and unnecessarily ties up capital that could otherwise be used to create jobs and grow their businesses.

However, Chairman PETERSON and Chairman FRANK will bring an amendment to the floor that will strike and replace this derivatives title. This Peterson-Frank amendment is the product of negotiations between our two committees. I prefer, I must admit, the version reported by the Agriculture Committee, but this compromise is significantly better than the current title in the bill, and I will support its inclusion. But, I support its inclusion only if the other secondary amendments that may be offered by my friends on the other side of the aisle are defeated, save one.

I would be remiss if I didn't thank Chairman PETERSON for working with Agriculture Committee Republicans in a process that started back in February when our committee reported out H.R. 977. Chairman PETERSON worked in good faith to address issues our members brought to the table, and we learned together the concerns of all of the participants in the over-the-counter derivatives markets. Although we were able to address some of these concerns, many still remain unresolved.

We were able to improve areas most important to end-users; the manufacturers, the energy companies and food processors that use swap agreements to manage price risk so they can provide consumers with the lowest-cost products. End-users should not be regulated as though they were major financial houses residing on Wall Street. They did not cause the financial collapse. They should not be regulated like they did.

I would have preferred language that would have made clear that only those entities that can have a significant adverse impact on the U.S. financial system be regulated as major swap participants. Similarly, I don't understand why market makers that only deal in cleared products need to have additional capital and margin requirements imposed upon them by the Federal Government.

Finally, we should not forget that new opportunities, innovative products and services, and ultimately economic growth are born from people willing and able to take risk and invest. We should not attempt to regulate risk out of existence. As it stands now, the Peterson-Frank amendment allows the appropriate financial regulator to closely monitor market trends and market participants who may generate too much risk for a healthy and robust financial system. This amendment also gives the regulator the appropriate tools to reduce risk before it can negatively affect our economy. The Peterson-Frank amendment isn't perfect, but it is a marked improvement over other legislative efforts either proposed or considered.

Mr. FRANK of Massachusetts. I yield myself such time as I may consume.

Mr. Chairman, my Republican colleagues are in the throes of regret that things that they would like to have denounced are not in this bill. There will

be a certain amount of fantasy tonight on the floor of the House as they lament the existence of things that are not here.

One of the major bailout instruments, section 13.3 of the Federal Reserve Act, was used during the Bush years to bail out not the institution, but the creditors of Bear Stearns, but then it was used by a unilateral decision by the Federal Reserve with no congressional input in September during the Bush year of 2008 to provide substantial amounts of money to AIG. The bill before us today wipes that power out. There will be no more use of section 13.3 to provide funds to any existing institution.

There will be, as the Republican bill also said, instead, the ability to fund an instrument to which companies can apply if they are solvent in the midst of a national liquidity crisis. But there will be nothing like AIG.

There is a fund in here for the FDIC to use if a financial institution has to be put out of existence because it had become too indebted and unable to meet its debts, and it was big enough so that its failure would cause the kind of systemic negative consequences that we saw from Lehman Brothers.

Last year, the problem was Lehman Brothers went under, and the Bush administration felt they couldn't pay anybody, and there was a crisis. So then AIG went under, and the Bush administration said, well, we better pay everybody because we don't have the legal authority to pick and choose. We now end that dilemma. We say, and this is absolutely crystal clear in the bill, it says if an institution gets to the point where it cannot pay its debts, and it is of such size that those debts threaten systemic negative consequences reverberating throughout the economy, it dies. There is no bailout. There is no continuation of that entity. It's a dissolution fund. It is put into receivership.

There is a fund raised, it is true, by assessments on the financial institutions, and my Republican colleagues are far more solicitous than I of those institutions. They don't want to restrain their compensation, and they don't want them to have to contribute to expenses that may be incurred by their own irresponsibility. That is clearly a difference between us.

We say that if the Federal agency that is putting this out of business and takes it over, and, yeah, there's a takeover of failing institutions who threaten, by the size and complexity of their indebtedness, to threaten the stability of the country, we take them over to put them out of business. The shareholders are wiped out, the boards of directors. These are all absolute conditions that have to be met.

And it may be that in winding them down, some money has to be spent. You don't just walk in the next day and say, okay, the door is closed. That is irresponsible. We say it may take some money to wind them down. So we assess the business community that caused these problems in the whole for that. And we do say if there is a need and there's a shortfall before, if one of these things happens before the fund is built up, money will be borrowed from the Treasury with an absolute requirement of repayment in this fund. There are no taxpayer dollars that will be used. They will be lent, in some cases, as has been lent in other cases, but they must be repaid, and there must be a repayment schedule.

□ 2115

The assessments will continue until they are repaid.

Now, one of the odd things is, and I apologize to my colleagues, the bill is too big. I don't know whether that means it was too much to read or too heavy to carry, or some really short ones can't see over it when they are sitting down. I don't know what the problem was. This notion that the value of a piece of legislation is inversely related to its size is rather odd.

But let me tell you how they managed to slim down—which I would like to do, now that I am through with all of that, but I will have to start my diet next week. How do they slim it down? They don't do anything in their bill about executive compensation.

I agree, we spent some pages saying that the kind of bonuses and large payments to take risks and not be penalized if they fail, we have language in here to stop that. They don't. Save some pages.

We say, let's ban the kind of subprime loans that got this country into so much trouble. We have a lot of language in here to ban subprime loans. They don't. Save some more pages.

We do regulation in other ways that they don't do. They don't have registration of hedge funds. They don't have requirements on private advisers. They don't have anything about a whole lot of things. It is true if you avoid subjects, you shrink the size of the bill.

By the way, as to the size of the bill, this didn't come—one of the things, you know, sometimes it's what's not said that you open—you haven't heard any complaints today, and I appreciate that, about the process. We began marking up the elements of this bill before the summer recess. We have had a large number of hearings. We have spent over 50 hours in actual markup debate on this bill.

There have been hundreds of amendments offered, dozens of amendments accepted from both the Republican and Democratic sides in many days of markups. It has been very thoroughly vetted. It was made public and available.

I am sorry that they had to read a lot of pages about things they didn't want to read about. They don't like to be reminded of compensation abuses. They don't want to hear about subprime, but we do. We want to stop it.

There is no bailout fund. The bailouts of AIG and Bear Stearns, not possible, illegal under this bill. If a company fails, it will be put to death. Yes, we have death panels, but they got the death panels in the wrong bill. The death panels are in this bill. We will spend money to get rid of them in ways that will minimize damage, money that will come from the financial community.

Now, we heard that it's going to have a restriction on credit. Well, it's true, many of them were opposed to the credit card bill. Many voted for it. The National Federation of Independent Business supported the credit card bill. They say there is a credit czar. That one is too odd to put any meaning behind. I would like them to point to the sections that do it. Maybe, if it's too much to read all at once, they could divide it up. Like there are 177, if they each read 8 pages, I think they could get the whole bill done. Maybe they could then find a credit czar in there. I can't.

We do say that if you are identified by the systemic risk council as overleveraged, and you are big, we will step in and tell you, as the gentleman from Pennsylvania's amendment said, you are too big, raise your capital. Maybe that's a credit czar.

Maybe when someone would have told AIG a couple of years ago, stop selling those credit default swaps that you can't back up, because mortgages that you are ensuring against loss can lose money, maybe they think that's a credit czar if you tell AIG don't do it, because nothing in that bill, nothing, zero in that bill would have interfered with AIG's recklessness. There's not a word in here that would have done that in terms of the overleveraging of AIG, nor of the subprime loans that were there.

Yes, the lack of regulation over many years allowed big problems to grow up. It takes a fairly comprehensive bill to do it. We have been working on this bill for literally months. We have had days and days of hearings. We have voted on it; we have amended it. It's been available.

I would hope they would stop complaining about the size. I would hope they would deal with the substance. But the real substance of this bill, not a bailout that does not exist, I want someone to read me the sections that show there is taxpayer money that can go to keep a failing institution going. There absolutely is not. I would like them to tell me, do they think we should ever do anything about subprime loans, anything about executive compensation, anything about subprime hedge funds, about any of these other things?

Yes, here is the situation. Years of an absence of regulation, both an absence of war and an absence of will to regulate—mostly under Republican rule but some with Democratic complicity—led to the largest crisis in recent memory since the Depression.

They talk about job loss. As I said before, what a terrible day January 21 was. Apparently, we had a wonderful economy up until January 20. Barack Obama took power and millions of jobs disappeared retroactively. A deficit sprung up that had not been there. Bailouts were retroactively pushed back to September.

The major factor in jobs loss was this terrible crisis. What we do for jobs is to say you will not be allowed, once again, the financial irresponsibility of some in that community to get us into trouble.

The Republican proposal is very clear. Do not interfere with the ability of an AIG, Lehman Brothers, Citicorp, Countrywide or any of those other financial entities. Do not prevent them from doing again what they did before. If and when they have done such a bad job that they are collapsing, then let them go bankrupt and don't do anything to deal with the consequences. Let's have another Lehman Brothers.

We say ''no.'' Let's try to stop them from getting there. If they do get there, yes, we will put them out of business, but in a more orderly way.

I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a great country, and I think we are all proud of our country. It is no small tribute to our country that people all over the world dream about coming to America. Our forefathers, they were either born here or they dreamed of coming to America.

America is not just a country; it's an idea, and that idea is about the individual. That's the basis of our country. It's not about the government. It's about the individual, it's about the citizen, it's about freedom, it's about choice.

Mr. Chairman, the problem with this bill isn't the size of the bill. The problem with this bill is that it goes right to the heart and strikes a wound against the character of our country. It's the character and the culture of this legislation that is so wrong, and not the size.

Individuals in this country ought to have the right to choose. They ought to have the right to choose their health care provider, their doctor. They ought to be able to make choices, health care choices, treatment choices between themselves, their doctor, their family, not the government.

We see with health care that this idea of the individual, this idea of choice, this idea of freedom to make those choices is under attack. We found that with energy that not the individual, the country, but the government determined that we weren't going to use coal, our most abundant source. We weren't going to use oil, that we were going to tax, that we were going to tax energy, we were going to discourage that. We are taxing health care in the health care bill.

In this bill we levy taxes. We have sanctions. People may still be able to make choices, but they will be discouraged or they will be taxed when they make those choices.

The decision about seeking the doctor of your choice or the decision about borrowing money or the choice about lending money or the choice about the terms of that loan, those ought to be choices between individuals; those should not be managed by the government.

Now, the chairman has brought this legislation before, and it is his legislation. I mean, his image and his imprint is clear on each and every page of this legislation.

I have not really seen such an individual drive legislation since perhaps the first lady, Hillary Clinton, brought her government-managed health care to the floor in the early 1990s. This is just simply another way of an attempt on the part of, really—and I think the chairman really has faith in the government and the government's ability to manage and the government's ability to make decisions, that he actually has a sincere faith.

In fact, members of this committee, members of this committee on TV this morning, and Democratic members, actually made references to Europe, the way they do things in Europe, the fact that the government is making these decisions in Europe. We are the greatest, as I said, the greatest country on the face of the Earth, and we didn't get there through government management. We didn't get there through government management of health care. We won't get there by government management of creditor or of lending or of other financial services. It won't happen.

We are the largest economy in the world. It's not the British economy, it's not the French economy, it's not the Chinese economy, it's not the Japanese economy. It's the American economy. How did we get to be the largest economy in the world, three times larger than the next largest economy, the Japanese economy, bigger than the Chinese economy, the Japanese economy, the British economy and the French economy put together? We got there with faith in the individual, not in the government.

That is what's wrong with this bill. You can clearly look, and nowhere is it more evident than in this bill that not only do we not have faith in the individual and in individual responsibility and an individual's right, sometimes, to take risk, but we also give individuals the right in this country to succeed. But when you do that, unlike in other countries, you give them the right to fail.

This bill clearly establishes a bailout fund. It says when the largest companies in this country, when the largest companies in this country, when they fail, we are going to establish a $150 billion fund, a permanent fund, a permanent TARP.

The Democratic gentleman from California, Mr. BRAD SHERMAN, said TARP on steroids, and where do you get this money from? Well, actually, it's 200 billion, 150 you get, not from the companies that are failing, but from their competitors who are succeeding. You transfer that money to those companies that have taken risk they shouldn't have taken. You take it from those companies that didn't take those risks. That's not competition; that's socialism.

Now, you can call it what you want to, but it's socialism. It's government managed. It's not what America is about.

This is not about a crisis that occurred last September. This is not about the continuing bailouts that started with the Federal Reserve, an independent body, but continued and have grown in intensity under the Obama administration. But there is enough fault to go around.

But can we not agree on one thing, that it is time that we allow people in this country to succeed, and we allow them to fail? Isn't it time in this country that we decide that there is no more ''too big to fail,'' because if you make that determination, you make the determination, as we have over the past year, that there are thousands of small businesses and medium-sized businesses and companies that were too small to save.

That's not fair. That's not what America is about. It is not about taking from people who pay their mortgage.

No matter what the circumstances of those who failed to pay their mortgage, it's not about transferring money from one to the other. That's not about America. It might be about charity, it might be about neighbor helping neighbor, but that is not what this country was established about.

□ 2130

So let's not use the crisis that we have experienced this past year to create the calamity of a government-managed country where the individual, where freedom, where choice is a thing of the past.

Mr. Chairman, I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. BOCCIERI), a member of our committee.

Mr. BOCCIERI. Mr. Chairman, in this season of yule tidings, gift gifting, and silver and gold, just what are my colleagues on the Republican side attempting to give Americans with their opposition to this bill?

My colleagues who oppose this bill would rather give gold to the big executive corporate execs at Goldman Sachs rather than put a little silver and gold under the Christmas tree of ordinary Americans. Bah humbug.

My friends on the other side of the aisle would rather stand with corporate executives and their thousand dollar suits than stand with those who are in the unemployment line. Bah humbug.

They'd rather bail out the big banks on Wall Street than help Americans try to keep their homes on Main Street. Bah humbug.

My colleagues who oppose this bill would rather give bonuses to big corporate executives than protect the pensions of millions of middle class Americans. Bah humbug.

They'd rather stand with hedge fund managers, predatory lenders who are betting on the price of oil going up, betting on the price of food going up, and betting on Americans failing to pay their mortgages rather than helping those families who are now standing in the line at food banks this holiday season. Bah humbug.

This bill will end taxpayer bailouts so that Americans are never again on the hook for Wall Street's risky behavior and bad bets. It protects families and retirement funds and college savings and small businesses' financial futures from the unnecessary risks by Wall Street lenders and speculators and high-paid execs. It brings transparency and accountability to a financial system that has run amok. This bill is about instituting commonsense reforms, holding Wall Street and big banks accountable.

Now, Republican leaders would rather vote to rescue big banks on Wall Street than find it in their hearts to help struggling Americans on Main Street.

Don't be a Scrooge this Christmas and vote against this bill. Help our people, or surely you're going to be visited by the ghosts of Christmas past.

Mr. LUCAS. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, I rise this evening, as one might expect, in my opposition to H.R. 4173 certainly as written, as the gentleman from Massachusetts says, this massive financial regulation bill.

Once again we have 1,200-plus pages, a so-called ''reform'' bill before the House of Representatives that would dramatically increase government involvement in our economy. If this Congress is serious about economic recovery, then we should be reducing burdensome regulations, not increasing them.

I have heard from many Kansans about their inability to access credit from their local community-based lending institutions. Small businesses and farmers rely upon these loans to make payroll, expand, and to make their ends meet. Local lending institutions would love nothing more than to make these loans, but the overly broad regulations and the inconsistency with which different examiners enforce those regulations, together with higher FDIC insurance premiums and increased reserve requirements, has greatly restricted family and small business access to capital. This House should be more focused on the credit crunch and helping institutions cut through the bureaucracy and lend money, not creating more layers of regulation.

Among the provisions I oppose within this legislation is the creation of a permanent TARP-like bailout authority. This authority will continue to shield large financial firms from their mistakes and pass those costs of their miscalculations on to the American taxpayer. The legislation takes an overly broad approach, disrupting markets that have performed well and placing more regulatory burdens into places where they are not needed.

One example of these changes that this legislation would make is the commodities futures market known as designated contract markets. These are not the over-the-counter derivatives markets you will hear most Members discuss during this debate. In the wake of last fall's financial collapse, these regulated contract markets performed relatively well under the current core principle regulatory regime. This regime allowed both regulators and exchanges the ability to adapt their regulatory approach to changing market conditions.

Rather than recognize the success, this legislation replaces those core principle regimes with an antiquated rules-based structure that has failed at the SEC. This legislation also redefines the definition of a bona fide hedging transaction in the contract markets so narrowly that it will be difficult for many commercial market participants to properly hedge their risk. These changes will hurt, not help, our economic recovery and introduce more, not less, volatility into the marketplace.

For these and many other reasons, I urge the House to reject this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds to note that with all these assertions that this is going to hurt credit and small banks, the Independent Community Bankers Association, a great representative of small banks, supports this bill. Now, they'll be upset if we do bankruptcy. But as far as the bill is concerned and the provisions we have been talking about now, the Independent Community Bankers Association supports this bill. They believe exactly the opposite about credit.

Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. The ranking member came to the floor and quoted me as describing this bill as ''TARP on steroids.'' That's the phrase I used to describe the original bill submitted to us by the Secretary of the Treasury. This bill is very different.

I want to thank Chairman FRANK for all the changes we have been able to make and declare that this bill is now a step forward in limiting, on balance, the power of the executive branch to put taxpayer money at risk or to bail out private institutions.

The bill does include two provisions that those concerned with bailouts might object to, but these provisions are limited as to amount and purpose, and they are sunsetted in 2013. Finally, while taxpayer money may be put at risk initially, ultimately the cost falls on the industry.

But you cannot call this bill ''TARP on steroids'' and quote me to that effect without noting the major change this bill now makes in section 13(3) of the Federal Reserve Act. That is the most dangerous provision in the U.S. Code, and this bill is a major step toward limiting that section. Code section 13(3) now allows the Federal Reserve to lend, at times of systemic risk that they declare to be in existence, unlimited amounts to just about anyone on whatever terms the Fed thinks is adequately secured. Unlimited amounts. They've already done about $3 trillion, and under current statute they could do $30 trillion. And the Republican alternative does nothing to limit section 13(3). It leaves the giant freeway of bailouts open forever.

In contrast, this bill contains three important limitations. The first was drafted by the chairman, and it says that 13(3) can only be used to put money in the economy in general, not to bail out one or two firms. And I thank the chairman for accepting two of my amendments. One limits section 13(3) to $4 trillion and does not adjust that amount for inflation so that the power of the Fed will decline with inflation over time, which is only fair since it's the Fed that's supposed to be in charge of limiting and eliminating inflation.

The second amendment that was accepted was the idea of requiring the highest possible security for amounts of credit extended under 13(3). This bill is a step toward limiting the power of the executive branch to put money, taxpayer money, at risk. It does contain section 1109 and 1604, both of which are, pursuant to an amendment accepted in committee which I authored, sunsetted in 2013.

Section 1109 replaces 1823 under current statute, so it doesn't expand bailout authority. In fact, it contrasts it, because it's limited to $500 billion, while 1823, which is suspended by this bill, is an unlimited amount. Section 1109 as it will appear in the manager's amendment requires an advance fee so that taxpayers are compensated for any money put at risk and, finally, any losses to be collected from those companies which participate in the section 1109 loan guarantee program.

Section 1604 does provide funds to resolve insolvent institutions, but as the chairman points out, it's a death panel, not a bailout. It's only for institutions that are going to be liquidated.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman 1 additional minute.

Mr. SHERMAN. It's limited to $150 billion collected in advance from the same large companies whose creditors could be eligible for relief. And section 1604 is sunsetted in the year 2013.

Taken as a whole, this is antibailout legislation and contrasts with the Republican alternative that does nothing to limit section 13(3), which has already been used chiefly under the Bush administration to put over $3 trillion of taxpayer money at risk. It does provide for section 1109 and 1604, but under the bill these are limited in amount and they're temporary in time. And most importantly, it limits section 13(3) three ways: as to dollar amount, as to the purpose that money is put at risk, and, finally, as to the degree of risk which the Fed is able to take.

What I said about this bill when it was originally proposed may well have been true. The bill now is a step away from the TARP approach, a step away from bailouts.

Mr. BACHUS. Mr. Chairman, I yield 4 minutes to the ranking member of the Subcommittee on Oversight and Investigations, the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding me the time.

There's no question and no disagreement among Members from both sides of the aisle that we need financial reform, for consumers, for the health of our financial services industry, and for the economy. But this bill isn't the answer.

In fairness, you can find some good bipartisan provisions in this bill. For example, Mr. KANJORSKI and I worked out insurance language to bridge the gap in communication among regulators and address problems with multifaceted businesses like AIG. Mr. HINOJOSA and I worked on language to bolster housing counseling efforts at HUD. And the bill contains much-needed credit rating agency reform.

Unfortunately, the good does not outweigh the bad. Today credit is less available than ever, small businesses are struggling to keep their doors open, and a record number of Americans are jobless. According to a report issued yesterday by the U.S. Conference of Mayors, the number of homeless and hungry families is still on the rise.

We need a bill to unfreeze the credit markets so that financing is available to allow U.S. businesses to grow and create jobs. We need a bill to improve regulation. We need a bill to help Americans get back to work so that they can provide for their families and put food on the table.

Instead, Mr. FRANK's bill sets us back. It imposes a new tax on financial institutions, diverts financing away from lending and job creation, and creates a permanent Federal bailout fund, TARP II. Successful businesses and taxpayers will pay in advance for the failings of those that are reckless. And guess what? Taxpayers are on the hook once again if there isn't enough money. Does that sound familiar? Of course, because it's more of the same.

This bill doubles down the government intrusion in the private sector, and it increases fees and Federal spending. Instead of strengthening consumer protections, it creates a giant new Federal bureaucracy. Five D.C. bureaucrats will tell groups across America, anyone involved in financial activities, including churches that provide payment plans for funerals, what products and services they can offer. Did churches cause the financial meltdown? No. Why not address the disconnect among dozens of existing Federal agencies before layering on a new one? Are we creating another agency or another problem?

Finally, we need straightforward, over-the-counter derivatives reform. What we don't need is regulation that charges regulators with creating a one-size-fits-all approach to regulatory compliance, enforces unjustified mandates, and kills jobs.

We must crack down on illegal, unfair, and deceptive activity, eliminate regulatory gaps, and strengthen the effectiveness of enforcement agencies. We should create a culture of transparency and accountability on Wall Street that will discourage, not promote, risky behavior, and never ever, ever again leave taxpayers holding the bag when those deemed ''too big to fail'' cannot meet their obligations.

□ 2145

That's what our Republican alternative aims to do.

My Republican colleagues on the Financial Services Committee and I have offered, at every step of the way, solutions for smarter, stronger financial regulations, and yet Mr. FRANK's bill steamrolls ahead, threatening to weaken the economic competitiveness of our markets, tie up capital, tie the hands of businesses, limit consumer choice, and place taxpayers on the hook for Wall Street's mistakes.

This bill is an overreach and an overreaction, and it should be thrown overboard. It will cause irreparable harm. We need bipartisan reform to get our financial system and our country back on track. Americans, consumers, taxpayers, job seekers, the homeless, the hungry, and Main Street businesses deserve financial reform. This bill is not it.

I urge my colleagues to oppose the bill and support the Republican alternative.

Mr. PETERSON. Mr. Chairman, I would like to engage Chairman FRANK in a short colloquy, and then give the rest of our time on our side to Mr. MURPHY, who is our last speaker. So if Mr. FRANK would be willing, I would yield myself as much time as I may consume and would like to enter into a colloquy with my good friend, the chairman of the Financial Services Committee.

Title I of this legislation creates a systemic risk oversight and regulatory structure that enables regulators to raise capital requirements and impose heightened prudential standards on large, interconnected firms that could pose a threat to financial stability. The legislation also empowers the Federal Reserve Board to impose a host of additional requirements on institutions and activities deemed systemically important.

It appears that this new structure is not intended to replace or duplicate regulation of securities or derivative exchanges that are already subject to regulations by the SEC or the CFTC. In looking at the statutory criteria for determining whether a financial company should be subjected to stricter prudential standards, it is hard to visualize the application of these criteria to derivatives and securities exchanges. Exchanges are not the players who perform the trading, but the administrators of the marketplace where such trading occurs.

Do you agree that while derivatives and security exchanges would certainly qualify for the definition of a financial company in Title I, the intent of the legislation is targeted more at the players in the marketplace as opposed to the administration of the marketplace?

Mr. FRANK of Massachusetts. If the gentleman would yield, the answer is yes, I agree completely, as they have operated, as they are almost certainly going to operate, as they are intended to function as marketplaces rather than themselves, it is inconceivable to me that they could be designated in that way.

Mr. PETERSON. I thank the chairman for the clarification of the intent.

I recognize the gentleman from New York (Mr. MURPHY) for the balance of our time, a new member of our committee who has actually got some real world experience in this area and has been a great member in helping us put this together.

Mr. MURPHY of New York. Thank you, Chairman PETERSON, and also thank you to Ranking Member LUCAS.

The work we did on the Ag Committee I think is the kind of commonsense solution that Americans are looking for. We worked together to come up with regulatory reform in the Ag Committee with respect to the derivatives legislation. And we saw overwhelming support from not just Democrats, but Republicans, because people in that committee know what the American public knows: For the last 10 years, Washington has failed to regulate our financial markets. As a result, some of those on Wall Street and at the big financial firms have taken that opportunity to gamble with our money. They have put our future at risk, and they have put the very American dream that so many Americans spend their time hoping and praying for at risk. It is time for us to respond to that.

The failures in Washington and the failures on Wall Street precipitated the worst financial crisis since the Great Depression, and it is our job here and now to come up with solutions to that. Wall Street melted down, and Main Street paid the price. This cannot happen again.

So what do we need to do? We need to regulate what wasn't regulated. So many people now recognize that no one was looking at systemic risk, no one was looking at the AIGs of the world and seeing what they were up to. There were whole sections of the derivatives marketplace that no one was regulating; in fact, by a law that was passed here in Washington, no one was responsible for looking at it. That cannot continue.

There were whole parts of the consumer world that were not regulated—mortgage brokers, payday lenders. This cannot continue. We must regulate what was unregulated to bring everything into the system.

We need to protect our consumers. We talked about payday loans and mortgage brokers and the kind of liar loans that were put out there and passed. No one was responsible strictly for looking at protecting our consumers. This legislation will do that.

With the Consumer Financial Protection Agency, there will be a focus on protecting our consumers. That's something that is common sense. That's something that all Americans want us to do here in Washington.

The last thing that everybody in my district wants—and I think Americans all over this country want—is they want protection from taxpayers having to fund any future bailouts. Nobody thinks that Main Street should be bailing out Wall Street; it shouldn't have happened in the past, and it sure should not happen again in the future. It is critically important that we fix that. The bill that we have in front of us does set up dissolution authority. It is funded by the large financial institutions to help shut down those that fail. That is what needed to happen in the past; that is what needs to happen in the future. That is the kind of commonsense reform that we all need to come behind.

We need to regulate what wasn't regulated, we need to protect our consumers, and we need to make sure that taxpayers never again have to fund a bailout. That's what we are working on here. That's what this legislation would do. And I think it's very important that we come together to pass this and protect America's taxpayers, protect our financial system, and get our economy moving again.

Mr. LUCAS. Mr. Chairman, I yield 2½ minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Oklahoma for yielding, and I appreciate the debate that we have here tonight.

I am going to stand with the gentleman from Oklahoma and thank the gentlemen from Minnesota for the work that they've done on the credit default swaps and the regulation that is there. I do think it is an improvement, and I am certainly going to support that amendment.

But I think it is important for us, as Members of this Congress, to bring a perspective to this. And the words of Mr. BACHUS from Alabama echo in my ears, Mr. Chairman, and that is, it isn't so much about this stack of the bill that Mr. FRANK says might be too heavy for us all to carry; it's about the culture of the bill that may be too heavy for the American people to carry. It's about the difference between believing the Federal Government can regulate more aspects of our society, more aspects of our economy, and the difference in believing whether people can become and entities can become too big to be allowed to fail, or whether small businesses might be too small to be allowed to succeed. And it's about the difference between a free enterprise economy and a managed and controlled economy. It's about the difference between liberty and the difference between a socialized economy.

I have watched as this economy has spiraled downward over the last 15 or more months. And we've been involved in this, we've been engaged in it intensively. And it comes down to two divergent philosophies; one of those philosophies is echoed in some advice we got from one of our top economic advisers—who will remain nameless—who said to us 2½ years ago at the beginning of the subprime mortgage discussion, what's going on is these large financial institutions are doing what everybody else does. They're doing that because the other people are making money, and they're making money. And their psychology is, if things fall apart and melt down, there is likely to be a bailout; if they do what everybody else does, they will get bailed out like everybody else. That is at the root of this: Whether you can be allowed to fail so that we have a free enterprise system.

There is a stack of immigration cards produced by U.S. Citizenship Immigration Services, glossy flashcards. And you look through those flashcards and it asks, Who is the founder of our country? George Washington. Turn to another one, What is the basis of our economy in the United States? Flip the other side of it, free enterprise capitalism. It is a principal tenet of the American way of life that you must answer that question accurately if you want to become a citizen of the United States, and yet here we are debating whether we're going to have a managed economy or whether we're going to have freedom in free markets. Mr. Chairman, I am going to submit that we have got to be able to take a chance to succeed and fail.

The CHAIR. The time of the gentleman has expired.

Mr. LUCAS. I yield the gentleman an additional 30 seconds.

Mr. KING of Iowa. I thank the gentleman for yielding.

So I will point this out: We had a chance, and we should continue forward, to repeal the Community Reinvestment Act. We should regulate Fannie Mae and Freddie Mac. We ought to require them to meet the same standards of every other financial institution in the United States. We should let people fail, though, so that others can succeed. And AIG should be split up. This is the seventh Federal agency when we have already too many. We need to have free enterprise succeed.

Mr. FRANK of Massachusetts. First, I yield myself 15 seconds to invite Members to show me the part of the bill where there is a bailout that goes to failed institutions and keeps them going. I will read the parts that make it very clear that that's not the case, but maybe there is something I didn't read. So anybody who tells me there is a bailout that goes to continuing business institutions——

Mr. GARRETT of New Jersey. Will the gentleman yield?

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield myself 2 more minutes and yield to the gentleman.

Mr. GARRETT of New Jersey. I appreciate the gentleman yielding.

The language of the bill says that——

Mr. FRANK of Massachusetts. What page? Give me the page or we can't have a serious discussion, obviously.

Mr. GARRETT of New Jersey. The language of the bill gives the authority to set up a bailout——

Mr. FRANK of Massachusetts. I take back my time. If the gentleman will point to the page. I'm not interested in their misconceptions; I'm interested in actual language. The gentleman rose voluntarily, I would assume he would have the language.

Mr. GARRETT of New Jersey. Page 3 of the Judiciary Committee's self-executing amendment.

Mr. FRANK of Massachusetts. And it says what?

Mr. GARRETT of New Jersey. It says, on page 291, after line 4, Insert the following new subsections: Conversion to Bankruptcy (1) Conversion: The corporation may at any time, with the approval of the Secretary—meaning the Treasury Secretary—and after consulting with the council, convert the receivership of a covered financial company to a proceeding under chapter 7 or chapter 11 of title 11, United States Code, by filing a petition against the covered financial company under section 303(m) of such title. The corporation may serve as the trustee for the covered financial company.

Basically, what you have established here is a political decision by the Treasury Secretary to take an institution that they decide they are going to put into receivership—which you said before would be the end game—and allow them to convert back into 7 or 11 bankruptcy.

So your statement before—and this goes to my opening comment, which you responded to, why are we so concerned with such a large bill? The reason we are so concerned with such a large bill is because obviously the Chair and Members of your side of the

aisle have not read the entire bill. The reason we presented a much smaller bill was because obviously you have not read our bill either. I know our opening comment——

Mr. FRANK of Massachusetts. I will take back my time.

Mr. GARRETT of New Jersey. You yielded it to me, so I am responding.

Mr. FRANK of Massachusetts. I yielded to you—and I want to respond to the response.

Mr. GARRETT of New Jersey. You yielded me 2 minutes, I believe.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I took 2 minutes for myself, and then yielded to the gentleman.

Mr. GARRETT of New Jersey. I'm sorry, I thought you wanted a response.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds just to explain to the gentleman from New Jersey, who misunderstands the rules, I yielded myself 2 minutes so we could have a conversation. He then used up the 2 minutes. So it was not within my power to continue it.

Mr. GARRETT of New Jersey. Hopefully I answered the gentleman's question.

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. AL GREEN of Texas) having assumed the chair, Mr. TEAGUE, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–369) on the resolution (H. Res. 962) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 956 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4173.

□ 2200

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Mr. TEAGUE in the chair.

The Clerk read the title of the bill.

The CHAIR. When the Committee of the Whole rose earlier today, 108¼ minutes remained in general debate.

The gentleman from Massachusetts (Mr. FRANK) has 46¾ minutes remaining, the gentleman from Alabama (Mr. BACHUS) has 56½ minutes remaining, and the gentleman from Oklahoma (Mr. LUCAS) has 5 minutes remaining.

Who yields time?

Mr. FRANK of Massachusetts. I will yield 4 minutes to the gentleman from Illinois (Mr. GUTIERREZ), the chairman of the Subcommittee on Financial Institutions, who's done a great deal to help small banks in this bill.

Mr. GUTIERREZ. Mr. Chairman, in spite of the words of the other side of the aisle, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. This is legislation that is vital to making our financial institutions better capitalized, our consumers safe from predatory practices, and our economy stronger so that we can emerge from the recession that was caused by the very financial institutions that we are now fighting tooth and nail to defeat this legislation.

I was proud to work with the chairman to include my amendment. And I understand that my parents came to this country and they didn't speak English, and so the first 5 years before they sent me to school I spoke another language other than English. But I've had the bill thoroughly examined by those who do speak the English language and have only spoken the English language all of their lives, and they cannot find the bailout fund in the bill.

Now, I've worked with the chairman, I wrote the dissolution fund, I wrote the fund and I put it in the bill. It's my amendment. Now, the ex-ante fund means that firms that could ultimately be dissolved by this fund would have to pay at least.

But what my friends on the other side said, they said, and they finally used it, Mr. Chairman, in all of the committee hearings, they didn't call us socialists. They waited to get to the House floor before they used the dreaded word of socialism. And what did they say? They said, the socialists, that means us, the Democrats, created a bill in which, and this is Mr. BACHUS, and he can go and check his words, he said, they created a bill and they made all the institutions pay into it. And he said, that's socialism. And then when one of them fails and doesn't do something right, all of those people that paid into the funds have to pay for the wrongs of that person.

Well, I guess Geico is socialist. State Farm is socialist. Allstate is socialist. Indeed, any insurance fund is socialist, because when I drive my car and never have an accident, I pay into the insurance fund so that maybe when some Member on the other side of the aisle gets into an accident, I pay with my funds for his mistakes. That's insurance. Now, what they won't tell you is that, unlike everybody in this room who has to go out and take out an insurance policy to drive a car, they want Wall Street and Goldman Sachs to be able to drive our economy into the ground without paying a cent of insurance in case they act recklessly.

And all we're saying, as Democrats, is it's simple: if you want to do business in America, and you threaten the economic stability of our country, then you've got to pay into an insurance fund. But let me tell you, it's not the kind of insurance fund that you get into an accident and you take your car and they fix and they give it kind of back to you new. No, no. In our insurance fund, you know what happens? We chop up your car into pieces and sell it, and then we pay back the fund with the pieces. That's our fund. Read the bill. It's a funeral fund.

You guys loved to talk about the death and death and death when it came to health care insurance. Why don't you talk about our death panels now? Oh, you don't want to talk about our death panels now, because you want to know why? Because yesterday they had 100 lobbyists out here in Washington, DC meeting with them. One hundred.

How many of those lobbyists do you think met with the other side of the aisle and said, we're here to make sure that our small farm is protected against Goldman Sachs? How many of those lobbyists do you think came here and said to my friends on the other side of the aisle, tomorrow can you make sure that that bill protects my 401(k)? How many of those lobbyists do you think they met with yesterday said, make sure it protects my home, make sure it protects my small business. I don't think any of those lobbyists came to ask my friends on the other side——

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman another minute.

Mr. GUTIERREZ. So let's be clear. This side of the aisle wants to make sure there are no longer situations of ''too big to fail.'' Now, if you believe that the men and women at Goldman Sachs tonight and tomorrow and into the future, when they make an economic decision, they say to themselves, well, this might harm homeowners and put them on the street, we shouldn't do that—I'm sure Goldman Sachs they're really worried about

that. Let me see, these kids not be able to go to college if we make this economic decision. Oh, Goldman Sachs is really worried about whether our kids can go to college in America. Let me see. You mean, small businesses may suffer. Banks may go under if we make those decisions? I'm sure the men and women at Goldman Sachs, they think every day about the poor American public and the risk they put us to.

If you believe that, then you can follow my friends on the other side of the aisle and do nothing. But if you believe, as I do, and many of us, that we should protect the American worker each and every day, make sure the kids go to college, make sure there's a pension for him, make sure his home is there for him, then I say support this bill.

Mr. LUCAS. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I get such a big kick out of that hollering and yelling over there. Maybe I should get my voice up here real quick. You know, Shakespeare said, a rose by any other name would smell as sweet. And when we talk about socialism, I just suggest you go look in the dictionary and read what it says as far as the definition is concerned.

My Democrat colleagues have moved to take over the auto industry, the health industry, the energy industry, and now they're trying do it through the bureaucracy, and now they're doing it with the banking industry and the financial institutions of this country. Now, when the government takes over the private sector, that's socialism. And if you don't believe it, look it up in the dictionary.

You know, this was tried back in the 1930s when Roosevelt was President. He passed what was called the National Recovery Act, and he tried to do it in one fell swoop. You guys are doing it incrementally, but you're doing the same thing they tried to do back then. There were two guys that came over from Europe who sold chickens, and they had these chickens in a crate. And they let people pick out the chickens they wanted to buy because the people could pick the fat ones or whatever ones they wanted. And the National Recovery Act officials came in and said, you can't do that; you have to take the first chicken you grab because you might leave some of the skinny ones for the people that come later. That case went all the way to the United States Supreme Court, and Justice Brandeis, who was not a conservative, he was a liberal judge, he wrote the opinion. And the vote was 9–0 saying that it was unconstitutional to have the National Recovery Act because it was socialism. And that's what you're doing right now to this economy.

And I think everybody in America that's paying attention really understands it. You're running us in the ground financially, and you're putting all the control you can under the government. And the future generations are going to suffer because of that.

And so I'd just like to say to my colleagues tonight on the other side of the aisle, we believe we should solve these problems—and there are problems. But we believe we should do it the way Ronald Reagan did, instead of taxing the people to death, putting more control in government and putting us in a debt that we'll never get out of, and saddle our kids and posterity with something that they'll curse us for down the road.

So what I say to my colleagues, and I hope my colleague who just spoke is still around here, he probably left, go to the dictionary, and if you need one, I'll get it for you, and look up ''socialism,'' and you'll see what you're doing is socialism.

□ 2210

Mr. FRANK of Massachusetts. Mr. Chairman, I would yield myself 15 seconds to say I wish we had the Consumer Financial Protection Agency already in place, because then the gentleman could get a refund on his dictionary because someone sold him a bum dictionary.

I now yield 4 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Thank you very much, Mr. Chairman.

I rise in strong support of this legislation, very much needed. When you talk of socialism, these are the same arguments that were held when Franklin Delano Roosevelt and members on the same body on the Democratic side of the aisle came forward to respond to the crisis in that generation. And there is no difference here today.

Oftentimes, when we've had great debates and when people get heated up in the call of the debate, when there's nothing else to argue, when there is no other point, you can always rely on ''it's socialism'' or ''it's communism.'' No. What this is is good ol' Americanism.

This is the most severe financial crisis since the Depression, and it requires this Congress to step forward with the intelligence and the sober mindedness to respond. This isn't socialism. This is good old-fashioned, good ol' free enterprise Americanism.

Let us talk for one second about one of the major issues that's been debated here, that this is not an end to bailout. This is an end of taxpayer bailouts to protect the American economy and American taxpayers from ever, ever again having to pay for a bailout. We don't know what the future holds in terms of ups and downs. This is not a socialist system. This is a free enterprise system. And that means we're going to be governed by the rigors of the markets, by supply and demand, by all of those things that are unforeseen.

But one thing we do know, that never again will the taxpayers have to foot the bill. That is what this does. It has worked well for us with FDIC.

There is nothing more we're doing with the system here for these large firms that are above $50 billion in assets or hedge funds that are above $10 billion then assessing them a simple insurance fee. If situations arise in which they become a systemic risk in which they have to be dismantled, then the taxpayers shouldn't have to pay for that. Let the financial services do it in that industry that is causing that problem. That is the American way.

Let us go to the issue of executive compensation. We know that one of the major reasons why we're in the situation we're in is because of incentives that require risk and encourage executives to take awesome risks as a feature for their bonuses or their compensation packages.

Are we saying the government now would determine these salaries and bonuses? No. We're incorporating the plan of resolution for this problem within the free private enterprise concepts, by telling the shareholders, allowing them to have a say in that pay. They own the company. Why shouldn't they be able to have a say-so in that pay so they will know what these risky behaviors are? And that is what we're doing in the executive pay and the compensation package.

And in the derivatives, we know what happened with Lehman Brothers. We know that was a derivative problem. That's a new, unregulated area, and so we move to govern and regulate over-the-counter derivatives by making them clear and standardized and putting them in exchanges for electronic platforms.

And finally, I want to add one other point. There has been a disproportionate impact on this crisis, and in this bill are some very important things for those people who have lost their jobs and are on the verge of losing their homes. And we put $3 billion in here for that and to help with economic stabilization and to address their concern.

What a fantastic bill. I urge my colleagues to support it.

Mr. LUCAS. Can I inquire of the Chair how much time I have remaining, please?

The Acting CHAIR (Ms. TITUS). The gentleman has 3½ minutes remaining.

Mr. LUCAS. Madam Chairman, I yield myself as much time as I might consume.

In my concluding remarks, I'd like to observe to my colleagues you can pass a 1,200-page bill, you can set up the process to generate tens of thousands of pages of rules and regulations, you can hire an army of faceless bureaucrats to enforce all of that stuff, to make decisions for the economy, to make decisions for business, to make decisions for people, but you can't repeal the laws of supply and demand.

If you add enough fees and enough rules and regulations to the process of delivering credit, you will drive away the sources of credit, reduce the supply of credit. At the same time, we hope to

reinvigorate this economy, to start it growing again. Demand for credit will go up. What happens when you lower the supply of credit and you raise the demand for credit? Through pieces of legislation like this, ultimately you drive up the cost of credit for everyone. The laws of supply and demand.

I know my friends believe they're sincerely doing the right thing, but the right thing in this scenario will drive down the availability of credit while at the same time demand goes up; and costs will go up, too, and that will affect every business, every person, every entity that needs credit.

I come from a capital-starved district in Oklahoma. Credit's important to every farmer, rancher, businessperson, every person engaged in the industry of energy production, every individual with a family trying to send their kids to school. Let's not make everything they do cost more.

I would now yield the balance of my time to the gentleman from the Financial Services Committee, Mr. BACHUS of Alabama.

Mr. BACHUS. I thank the gentleman.

Mr. GUTIERREZ came to the floor, and he made a point that we want to avoid what happened in AIG, but, in fact, I think he reminded the body of a very important thing, and that is what did happen in AIG. Large counterparties and creditors were bailed out. And whether you call it a permanent bailout authority—as we do—of $150 billion, or as the gentleman of Illinois says, a funeral fund of $150 billion, and it is used to bail out creditors and counterparties, now, isn't that what happened in AIG? Isn't that what the gentleman from Illinois and the chairman of the committee say they want to avoid? Yet they create a fund to bail out large counterparties and creditors. And in AIG, they bailed out 12 large counterparties, 10 of them foreign banks, 2 of them Wall Street firms.

□ 2220

They didn't bail out any cities. They didn't bail out any counties. They didn't bail out any community banks. And over 1,000 were owed money. And they are creating another fund to do exactly that.

I see my time has expired.

Madam Chair, I yield 5 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Chair, I thank the gentleman from Alabama, the ranking member of the Financial Services Committee, for yielding me time.

Madam Chair, Congress today faces a once-in-a-generation decision. To respond to the financial meltdown of 2008, Congress can enact reforms that respond to the true causes of the calamity. Or Congress can pass legislation that flies in the face of the facts.

The first course will protect America from the same fate we suffered last fall. The second will only pave the way for our next potentially worse crisis. That's what the Wall Street Reform and Consumer Protection Act does. Why? Because as we have investigated the causes of the financial crisis, one conclusion has become clear. What caused the financial crisis of 2008 was government intervention in the economy. That intervention swept from the Community Reinvestment Act to Fannie Mae and Freddie Mac, to the Bear Stearns and AIG bailouts and beyond. It destroyed financial incentives, promoted dangerous risk-taking, and ultimately provoked full-blown market panic.

Yet what does this legislation do? It provides super-sized tools for ever more invasive government control of the economy. It further entrenches the Community Reinvestment Act. It fails to reform Fannie Mae and Freddie Mac. And it institutionalizes billion-dollar bailouts. For example, take the act's provisions that allow the Federal Government to take over and wind down the liabilities of financial institutions. This empowers the Federal Government to determine which of our biggest financial institutions live and die. It is backed by a $200 billion bailout fund. It has never before existed. And it should not be created now.

For over 100 years, the bankruptcy code has been America's trusted means for dissolving or reorganizing failed or failing firms. The administration and this bill's sponsors send the Bankruptcy Code's remedies to the trash heap. They do so on the theory that Lehman Brothers' bankruptcy triggered the financial panic of September 2008. If bankruptcy triggered the panic, goes the argument, we have to look beyond the bankruptcy code to reform the financial system. The problem is that the so-called Lehman Brothers theory is a myth. The market took Lehman Brothers' bankruptcy more or less in stride.

What triggered systemic financial panic was subsequent action by the Treasury and the Federal Reserve. These agencies' actions signaled to investors that the government anticipated a market collapse, but did not have an adequate plan of action. In a self-fulfilling prophecy, it was only after the Treasury and the Fed ratcheted everyone up into a panic that the market itself collapsed and not after their earlier decision to let Lehman Brothers go into bankruptcy.

Other government actions also contributed to the panic. These included the government's inconsistent treatment of Bear Stearns and AIG, which it bailed out, and Lehman Brothers, which it did not.

Yet what does today's bill do? It expands and then cements into place the government's authority to engage in wave after wave of ad-hoc bailouts. It sews the Community Reinvestment Act into the very fabric of the new consumer financial protection agency. It fails to reform Fannie Mae and Freddie Mac, and it throws out the one tool that has worked to resolve a giant, failing financial company. That tool is the bankruptcy code, which was used successfully to wind down Lehman Brothers.

Madam Chair, we have no reason to avoid the bankruptcy code and other sound measures that can avert future financial distress. What America should renounce is the super-charged government control of our economy that the bill represents.

We do not need government control that lets Federal agencies and government employees distort who gets credit, displace private enterprise, and determine behind closed doors what companies live and die. We have tried that before. It brought us the meltdown of 2008.

Mr. FRANK of Massachusetts. I believe there is an imbalance of time, so I will reserve.

Mr. GARRETT of New Jersey. I yield 3 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE of New York. Madam Chairman, with unemployment currently in the double digits and a Federal deficit of over $12 trillion, Congress should be focused on creating jobs and keeping taxes low. Instead, before us today is another staggering bill, 1,300 pages in all, which will add to the deficit and shift thousands of jobs overseas.

This bill creates yet another new government agency which will be headed up by yet another new czar, in this case a new credit czar, who will limit consumer choices, ration credit and increase the cost of doing business.

It's outrageous that we want to give this new credit czar virtually unchecked authority to restrict financial product choices for businesses and consumers at a time when this economy is in dire straits. Studies suggest that this agency will reduce new job creation by at least 4.3 percent and worsen the credit crunch that businesses of all sizes are currently facing.

This bill also establishes a permanent bailout fund for financial institutions. Washington should finally abandon this notion of ''too big too fail.'' I can tell you my constituents are surely sick and tired of the bailouts of Wall Street firms.

One thing I know: There is no such thing as a free lunch. And unfortunately, the $150 billion cost of this new permanent bailout fund will rest on the shoulders of consumers and investors in the form of higher interest rates and increased fees.

The financial crisis showed us that reforms are needed. But this bill will do far more harm than good. This bill is simply the wrong approach at absolutely the wrong time, and I urge all of my colleagues to oppose it.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Madam Chair, let me thank the chairman and ranking member, but also let me remind our colleagues that we are not here by accident. We are here because over the course of several years, lax regulation

and failure, and inadequacy of law landed us at a point where we have seen over 2 million homes in foreclosure in this year alone. By September 2008, the average housing price had declined by over 20 percent since 2006. That's real wealth from families. More than 60 percent of subprime loans went to people who could have qualified for lower cost. And nearly one in four U.S. borrowers currently owes more on their mortgage than their home is worth.

This, in large measure, happened, Madam Chair, because mortgage brokers, unregulated, lured families with low teaser-rate interest rates that later skyrocketed to unaffordable levels, hidden fees, and charges in incomprehensible terms and conditions that brought on the housing crisis and undermined the financial system.

I want to rise in favor of the Wall Street Reform and Consumer Protection Act, which includes a strong consumer financial protection regulation. One of the most important causes of the financial crisis, as I mentioned, is the utter failure of consumer protection. The most abusive and predatory lenders were not federally regulated, were not regulated at all in some cases, while regulation was overly lax for banks and other institutions that were covered.

To address this problem, I believe we need a new agency dedicated to consumer financial protection, a consumer financial protection agency, one agency, not a bunch, one, one that takes the interests of the consumer and puts them first. Not, let's work in the consumer. Not let's see what we can do for the consumer when we get to it, but the interests of the consumer up front.

Such an agency, as contemplated in this legislation, would have the power to stop unfair, deceptive, and abusive financial products and services. It would also require financial institutions to provide concise, clear and easy-to-understand disclosures on the terms and conditions of consumer credit products.

Of course, there are some who would like to keep the same regulators on the job and thereby piece together shards of a broken system. But what we need is real reform to protect not only the individual consumer but our economy as a whole.

Right now, many people are fighting tooth-and-nail to weaken and eliminate the consumer financial protection proposal, spending millions of dollars on a scare campaign that spreads false claims about the agency. But how can they do this in light of the over 2 million foreclosures we have seen? Consumers all across America can't afford what these lobbyists are selling to certain Members of our body.

The sale of risky and irresponsible credit products has cost over 10 million jobs and 2 million homes. We can't afford to lose any more, and that is why we need a consumer financial protection agency that is the cornerstone of any real regulatory reform.

Now this bill, Madam Chair, is comprehensive. It talks about derivatives, credit rating agencies, and executive compensation, and it ends bailouts.

□ 2230

Make no mistake about it: it is protection of the consumer, the average person purchasing a financial product that is the cornerstone of this financial legislation; and it is why I urge my colleagues to support it.

Mr. GARRETT of New Jersey. Madam Chair, can you advise the time remaining on both sides.

The Acting CHAIR. The gentleman from New Jersey has 50¼ minutes remaining, and the gentleman from Massachusetts has 33½ minutes remaining.

Mr. GARRETT of New Jersey. I now yield 2 minutes to a gentleman who is leading the fight against this bill, which perpetuates taxpayer-funded bailouts and the loss of millions of jobs, the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Chair, I have great concerns about this bill, especially title IV of the so-called Consumer Financial Protection Agency. It creates yet another czar, and look at the groups that will be impacted by this bill:

Financial advisers, anybody providing financial advice, educational courses or instructional materials to customers, credit counselors, debt management services, anybody acting as a custodian of money, trust accounts, tax planning services, private pools of capital, municipalities who issue bills on utilities, water, sewer, electricity, waste collection, et cetera, courts dealing with fees, fines, taxes paid on an installment basis for counties and municipalities, schools, tuition installment, room and board, third-party agencies handling fee processing, banks, credits, unions, thrifts merchants, layaway plans, any installment plan, financing option, real estate activities, brokers, appraisers, title companies, title insurers, auctioneers, inspectors, surveyors of real estate settlement, cockroach inspectors for homes are covered under this bill.

What's financial about that unless you are counting cockroaches? Doctors, issuance of credit, rarely do people pay a bill at the ''point of sale'' in a doctor's office, lawyers, disbursing money through a trust account, the closing of a real estate transaction.

Madam Chair, this bill is so pervasive that the term ''anybody involved in a financial action'' literally covers somebody writing checks on behalf of his mother who is in a nursing home. That's why this bill is dangerous.

We can't proceed on a bill like this and have all these different groups that are impacted. Most of these groups will have no idea that they will be governed by the so-called financial czar. We don't need another czar. We need a lot more freedom in this country.

Mr. FRANK of Massachusetts. I reserve the balance of my time.

Mr. GARRETT of New Jersey. Madam Chair, I now yield 3 minutes to another leader in the fight against this bill which perpetuates the idea of continued taxpayer-funded bailouts, the gentleman from Florida (Mr. POSEY).

Mr. POSEY. Madam Chair, unfortunately this well-intentioned legislation misses the mark when it comes to taking steps to prevent future financial sector meltdowns. The well-intentioned authors of this bill have failed to fully acknowledge the reasons behind the current meltdown. They point primarily to Wall Street as the cause of the meltdown and direct most of their efforts in this bill at further regulating the private marketplace.

Certainly, the actions taken by some on Wall Street were responsible, at least in large part, for the financial meltdown. Efforts to address some of these excesses are warranted and should be part of the reform. However, there are many factors that contributed to the meltdown; and by assigning a disproportionate share of the blame to any one party, they leave in place many of the practices that contributed to the meltdown.

If we base our actions upon the mistaken notion that the financial meltdown was principally caused by the private sector and that the regulators lacked the necessary tools to oversee the private sector, then we are bound to repeat the mistakes of the past.

The crafters of this legislation have failed to objectively assign blame. History will bear out that a major culprit of the financial meltdown was the government itself, and the government's policies, including many such policies that were advocated by Members of the Congress.

The government-sponsored enterprises, Fannie Mae and Freddie Mac, were key players in the mortgage marketplace, and they were largely responsible for proliferating subprime loans. Freddie and Fannie were heavily regulated by the Federal Government. They carried an implied government guarantee.

Yet, what did they do? They purchased over $1.9 trillion in subprime loans between 2002 and 2007. That, according to a report by the Government Oversight and Reform Committee, represented 54 percent of all such mortgages purchased in those years. In purchasing these subprime loans, they were encouraging lenders to make more of them.

Had Fannie and Freddie not been such ready buyers of subprime loans, many of the loans likely would not have been made. That is not to say that some of the private sector would not have made such loans; but had they done it, it certainly would not have been of the grand magnitude, since Fannie and Freddie would not have been standing there ready to buy the loans from the lenders.

We must also consider the actions of the Federal Reserve. The Fed and other central banks around the world kept

interest rates at very low levels between 2002 and 2006, making credit easy and cheap. Making access to money so easy and so cheap intensified and inflated the boom in the early to mid-2000s as well as the resulting burst in 2008.

Common sense would suggest that we would learn from these mistakes. Unfortunately, H.R. 4173 significantly expands the power of the Federal Reserve, the very entity that was responsible for, but failed to identify, systemic risk in what have become some of the recipients of taxpayer bailouts.

The Acting CHAIR. The time of the gentleman has expired.

Mr. GARRETT of New Jersey. I yield the gentleman 1 additional minute.

Mr. POSEY. Even worse is that H.R. 4173 creates a permanent TARP-like bailout authority. This is likely to promote systemic risk and undermine systemic financial stability.

Another blatant failure of the Federal regulators is the Securities and Exchange Commission's failure to pursue the investigation of Bernie Madoff's Ponzi scheme. In 1999 Charles Markopolos presented the SEC with an extensive report alleging fraud by Bernie Madoff. In 2001 Barrons ran an article outlining the alleged fraud.

While they had the necessary tools to investigate Madoff, the SEC's failure to use these tools at their disposal and launch a full investigation enabled Madoff to perpetuate his $50 billion-plus Ponzi scheme. As further evidence it is wrong to further empower bureaucrats, note that today not one SEC employee has been terminated, disciplined, furloughed or even had their wrist slapped for their colossal failures with regard to the Madoff scandal.

We have also heard concerns of small businesses that this bill will further restrict their access to credit.

Not only is this particular development troubling, but when you consider the cumulative effects of legislation under consideration in the Congress that would adversely affect them, it is very disconcerting.

The taxes that would be imposed by the health care bill, the proposed national energy tax, the resulting carbon regulations coming forward from the Environmental Protection Agency, and the higher taxes that will be imposed by expiring tax reductions point to a perfect storm for killing America's economic engine—our small businesses.

There is plenty of blame to go around for the financial meltdown. The failure of the H.R. 4173 to acknowledge this, will only put us on the path to repeating such costly mistakes in the future.

I urge my colleagues to vote against H.R. 4173. Let's send this bill back to committee and get it right.

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Ohio (Ms. KILROY), who I understand wants to engage in a colloquy.

Ms. KILROY. Thank you, Mr. Chairman. I would like to address the provisions of section 1103, which specifies the criteria to be considered in determining whether a financial company might be subject to stricter standards. It is my understanding that nondepository captive finance companies do not pose the types of risks that warrant such treatment.

Nondepository captive finance companies typically provide financing on a nonrevolving basis only to customers and to dealers who sell and lease the products of their parent or affiliate. As such, they are involved in only a narrow scope of financial activity.

Equally important, their loans are made on a depreciating asset, a fact taken into account when the loans are entered into. If they are not a depository institution, they therefore have no access to the Federal deposit insurance safety net. It is my understanding that it is the intent of the committee that nondepository captive finance companies are not the types of finance companies that should be subjected to stricter standards under section 1103 of this legislation; is that correct?

Mr. FRANK of Massachusetts. The gentlewoman is correct. She has been very diligent in trying to protect this very important type of financing. Financing companies are not depository institutions. They provide financing for the sale of that particular product in that company.

It is again inconceivable to me that somehow they would rise to the level of risk that would justify the Systemic Risk Council stepping in.

Ms. KILROY. Thank you, Mr. Chairman.

□ 2240

Mr. GARRETT of New Jersey. Madam Chair, I yield 3 minutes to the gentlewoman from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. Madam Chair, last July an economist from Arizona State University had determined that since the inception of ''Bailout Nation'' in September of 2008, the Federal Government has taken ownership or control of 18 percent of our economy, and if President Obama gets his way and takes over the health care industry, that's another 18 percent of our economy, or 48 percent. Then, if President Obama and former Vice President Al Gore have their way and cause electricity rates to necessarily skyrocket by taking over the energy industry and imposing a national energy tax, that would mean the government takeover of another 8 percent of the economy for a total of 54 percent.

As harmful to freedom as these bills are, they don't hold a candle to the government takeover and control of every financial transaction of the financial industry. And why? Because when government controls credit, when government rations credit and bails out its politically well-connected friends, that's gangster government at its worst, and that throws a net of government control over every financial transaction entered into in this country. Some experts say that is government control of another 15 percent of the economy for a total of 69 percent. This is stunning, nothing less than stunning.

Could it be that not in our lifetime but in less than 18 months' time the Federal Government will take over or control nearly 70 percent of the American economy? And the majority has the audacity to berate this side of the aisle for suggesting the word ''socialism''?

Heaven help the American taxpayer. Heaven help the American entrepreneur. Heaven help the maintenance of freedom for the sake not only of our people but for the sake of the continuance of the Constitution of these great United States.

Mr. GARRETT of New Jersey. Madam Chair, I yield 2 minutes to the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. I thank my colleague for yielding.

Madam Chair, unfortunately this bill only continues the culture of bailouts and encourages firms to engage in risky behavior. As far I'm concerned, all it will do is remove the element of surprise that we saw last fall with the first amount of selected bailouts we had, and this is not the right way to go.

Just look at what this bill would do to the availability of credit. The bill before us, this 1,300-page bill, has provisions that actually take away capital needed by firms to help expand businesses, increase investments, and ultimately create jobs. Estimates show that the size of the fund could be more than $200 billion as a part of this fund. Now, this money has to come from somewhere, and this will place a significant burden not only on these firms but also on credit that will get dried up.

During these tough economic times with record unemployment, 10 percent unemployment, why do we make it more difficult for getting credit for small businesses and job creation? Why should a company who is not deemed to be systemically risky have to pay for those companies that have been engaging in excessively risky behavior?

Madam Chair, it's also worth mentioning the danger that's posed when we create institutions that are ''too big to fail.'' That's been a problem with Washington, the ''too big to fail'' doctrine. In doing so, we will also define those businesses, unfortunately, that are too small to save, and we're not helping those too-small-to-save businesses.

It's unacceptable, unacceptable to have an economy, a two-tiered economy, economic system where the government is going to be picking winners and losers and it's codified into law. This bill does nothing to shelter companies from being swayed by the political winds like we saw in the previous round of bailouts. We've heard in testimony in committee that this bill will harm consumers from access to credit. It's going to make services even harder

to get. In a time when businesses can't access credit, why would we further stunt jobs and hurt economic growth? But as studies have shown, that's exactly what this bill will do.

The bottom line is, between the restrictions on capital, the jobs that would be lost, and the continued bailouts, this legislation is unacceptable.

Mr. FRANK of Massachusetts. Madam Chair, I yield 3 minutes to the gentlewoman from California (Ms. SPEIER).

Ms. SPEIER. Madam Chair, there are a couple of things I have asked Santa for Christmas. One of them is that our colleagues on the other side might tell the truth once in a while.

The words we have heard tonight, ''overregulation,'' ''government control,'' ''job loss,'' ''government takeover,'' ''bailout funds,'' couldn't be further from the truth. Let's go back in history.

For over 60 years, the Glass-Steagall Act worked in this country. It worked because the banks, the investment banks, the commercial banks, the insurance companies had to be separate. And then the financial institutions came in 1999 and we offered them, on a silver platter, what is called the Gramm-Leach-Bliley Act which allowed them all to merge, which allowed them to become too big to fail.

So what this particular bill is going to do is reverse that in many respects. It is going to create accountability. That fund that we're talking about is not going to be paid for by the taxpayers; it's going to be paid for by the companies themselves. It means that we are not going to see the kind of job loss we've had over the last few years because that all came under a period of time where there was no regulation, where the SEC was allowed to reduce the number of enforcement actions by 80 percent and disgorgement actions were reduced by some 60 percent.

So, Madam Chair, there's only one other thing I ask Santa for Christmas, and I think we're going to get it, and that is that the Wall Street firms are going to find something new in their Christmas stockings, and it's called accountability.

Mr. GARRETT of New Jersey. Madam Chair, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM) who recognizes that Glass-Steagall had absolutely nothing to do with the bailout of Bear Sterns and Lehman and the S and L crisis, and the gentleman who also recognizes that the American public is tired of the bailout mentality which would be sustained by this bill.

Mr. PUTNAM. I thank my friend for yielding.

Tonight my Democratic colleagues have brought forth for taxpayers' consideration legislation that will not only cost America more jobs but will make recovery more illusive, particularly for small businesses.

The bill creates a permanent bailout fund totaling $200 billion for Washington to prop up failing institutions, assuming, that is, that the $150 billion tax proves insufficient. That tax will contract lending and cause the loss of hundreds of thousands of jobs. The legislation would create a new burden on end users of derivatives in every sector of our economy: commercial real estate, energy production, manufacturing, agriculture, utilities, even health care. These types of businesses depend on hedging to protect themselves from price volatility.

What's more, businesses that had nothing to do with the financial collapse will now be saddled by a complex new regime of regulations. This will force businesses all across America to use their working capital against a risk they never posed instead of creating new jobs, replacing equipment, or expanding their business.

The legislation also welcomes a new bureaucrat, the credit czar, to our Nation's Capital in the form of a Washington-knows-best agency. The credit czar's mission is to dictate which financial products can and cannot be made available to consumers. The credit czar is required to assess fees on entities so the new government bureaucracy can meet its expenses. Such attacks mean less money for small businesses to create jobs, more fees passed on to consumers, and less access to credit for small business. What this assessment does guarantee is a bigger Washington bureaucracy.

If you're serious about lowering the deficit and creating jobs, oppose this big government expansion and support the Republican substitute.

Mr. FRANK of Massachusetts. Madam Chair, I yield 3 minutes to the gentleman from Ohio (Mr. WILSON).

Mr. WILSON of Ohio. Madam Chair, I come to the floor tonight to support H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009.

I have often said it's hard to play a fair game without a referee, and I believe that this bill will help us put the appropriate referees in place in our financial markets. It's a big step forward for more oversight, transparency, and consumer protection.

Before coming to Congress, I served for many years on a small bank board back home in Ohio. I know that small banks like the one in our community were not the problem that we're having today and they were not a part of the problem that led our financial markets to the edge of collapse this last fall.

□ 2250

I am proud that this legislation acknowledges that by not putting unfair burdens on banking institutions that have shown themselves to be good corporate citizens.

While the bill is not perfect, I support commonsense regulation of our financial markets. We must put an end to the ''too big to fail'' phenomenon. We must finally give consumers the long-overdue protection that will be provided by consumer protection. And we have to continue making significant improvements on mortgage lending standards so that we never again suffer from predatory lending and practices that we have in the past.

I urge my colleagues to support this important legislation.

Mr. GARRETT of New Jersey. May I inquire of the Chair the amount of time remaining on both sides?

The Acting CHAIR. The gentleman from New Jersey has 38 minutes remaining; the gentleman from Massachusetts has 30¼ minutes remaining.

Mr. GARRETT of New Jersey. Madam Chairman, I yield 4 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. I thank the gentleman.

Sometimes we think that government's role is to save the world. When I was in small business, there was a joke: People would say, I'm from the government, I'm here to help you. And you know, what I hear from small business men and women all across the country right now is, Please don't help us anymore. Why are they saying that? Because over the years, Congress has amassed a huge amount of regulations, and those regulations have been put on the backs of businesses all across our country.

Today, we are here to put another huge mountain on top of the financial markets, the capital markets, the very markets that our small businesses depend on for capital, in the name of trying to help them. And I will tell you tonight we're going to hurt them. We are going to cause people to lose their jobs because of this bill. In fact, a recent study at the University of Chicago and George Mason University estimated that passing this piece of legislation would reduce job growth by 4.3 percent. And you say, well, how can a consumer protection, how can a regulatory bill hurt small businesses, how can it cause job losses? Well, let's look at some of the predictions in here.

We are going to have this new regulator that is going to determine what kind of financial products banks and people that provide loans can hand out. So if I need a specialized loan that maybe has a little bit different terms than normal, my lender is concerned that the regulator is going to look at that loan and say, you know what, you shouldn't be making those kinds of loans.

At a time when the President of the United States is even trying to look and wait to find some jobs—and we are all looking for all of those jobs that supposedly the stimulus package created, but the truth of the matter is this will kill jobs. It will also hurt small businesses' ability to get capital.

Right now, we already hear that banks across the country are a little reluctant to loan money. Why are they reluctant to loan money? Because the regulators are clamping down on them. And now we're going to say to the regulators, you know what? You didn't clamp down hard enough, you didn't

regulate enough, so we're going to give you some new marching orders and put this new massive legislation in place. And everybody thinks that that is going to free up credit for small businesses to create jobs in America? It's not going to do that.

The concern I have is that if we continue down this road of regulation in the financial markets, we are going to begin to limit the choices for these banks to provide financial products.

The other thing that this bill does is it picks winners and losers again. Now, the distinguished chairman of the committee, who I have great respect for, says the taxpayers' money isn't involved in here. Maybe it's not tax money, but the consumers are going to pay for these bailouts. If you have an assessment, and you assess an entity for bailing out its competitor—and how that makes sense, I don't know—who do you think is going to pay the additional cost that that company is going to have to pay the assessment? The consumer is.

So what is this going to do to small businesses? It's going to raise the cost of capital. In fact, there is an estimate out there that the U.S. Chamber of Commerce, and others, say this will raise borrowing costs almost 1.5 percent for people and small businesses and consumers. Now, how does that help the economy? It doesn't help the economy; in fact, it puts a weight on the economy and, again, is going to cause jobs to be lost in this country.

So the question is, why are we here tonight? Why are we debating this bill? It's got a fancy title that says it's going to protect consumers, and it's going to punish Wall Street. Well, really, the issue is it doesn't punish Wall Street, because if you're a big company, this bill says we've got a way to prop you up because we're going to get the Federal Reserve to imply that you are too big to fail, picking winners and losers. And then that gives an unfair competitive advantage to these banks and other entities that aren't on the ''too big to fail'' list.

So I encourage my colleagues to vote ''no'' on this piece of legislation.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Madam Chair, it is said that a politician will always rise to the occasion; many have tonight, and many will. But it is also said that it takes a statesman to make the occasion. And I can say to you without reservation, hesitation, or equivocation, there is one great statesman among us tonight, and that is the honorable Chair of the Financial Services Committee who has made this occasion. And it should be intuitively obvious to the most casual observer that he has made this occasion because of a mandate from the American public, but also in spite of the efforts of many.

I would have us note that this newfound theory of ''less is best,'' this newfound theory of 170 pages is better than 1,279 pages, that this newfound theory can be improved upon. Rather than have 170 pages, why not have just one page, one page with nothing on it, or because we are all educated, let's just have one page with laissez faire, because that's what got us here, laissez faire, invidious laissez faire. This is what produced 327s; mortgages with 3 years of a fixed rate and 27 years of a variable rate; 228s, 2 years of a fixed rate—many people are very much aware of what I speak because they have suffered from these insidious products—2 years of a fixed rate and 28 years of a variable rate.

And then we had these teaser rates that coincided with prepayment penalties, such that if you wanted to get out of the teaser rate before it's set to an adjusted rate you had to pay an enormous prepayment penalty that locked people into these teaser rates. And of course we had the naked shorts. People were actually betting that the market would go down without money to cover the bets. And of course we had what we called the credit default swaps, the whole notion that you can bet that something won't fail and not have the money to cover your bet. Even in Vegas you have to have the money to cover your bet. AIG was engaging in a gambling racket that at any other time and place could have been declared unlawful and people could have gone to jail.

And of course this laissez faire, hands-off attitude gave us the so-called ''too big to fail''; too big to fail, which is just the right size to regulate, just the right size to separate into smaller pieces, and just the right size to eliminate, which is what this bill, H.R. 4173, does. It puts ''too big to fail'' in a position such that it will not only be regulated, but it will be eliminated. And it will be done in an orderly process, very much akin to the way we move in when banks are failing, and on one Friday it closes, and on Monday a new bank opens, perhaps not as fast, but the concept is the same.

□ 2300

''Too big to fail'' will no longer exist.

So, Mr. Chairman, I want to commend you, and I want to thank you for allowing me to be a part of this process and a part of this legislation. I want to thank you because I want you to know that there would be no H.R. 4173 without your leadership. Your leadership has clearly made a difference in the lives of people in this country.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman an additional minute.

Mr. AL GREEN of Texas. And it is my absolute belief that when historians look back through the vista of time, they will say that the chairperson of this committee left big tracks in the sands of time, and that he made a difference in our lives for all time.

Mr. GARRETT of New Jersey. Madam Chairman, I now yield 6 minutes to the gentleman from Texas (Mr. HENSARLING), who has been probably one of the most outspoken leaders in our committee to try to end the continuation of taxpayer-funded bailouts.

Mr. HENSARLING. Madam Chairman, I rise tonight to oppose the Permanent Wall Street Bailout and Increase Job Losses Through Credit Rationing Act of 2009. If Congress had to abide by the truth-in-advertising laws that they impose on the rest of the Nation, surely this would be the official title of, indeed, this 1,279-page piece of legislation.

Madam Chairman, it is section 1609(n), for those who may have written the legislation and forgotten it, that creates a permanent $200 billion bailout fund. To paraphrase a line from the famous Kevin Costner movie ''Field of Dreams,'' if you build it, they will come. The only reason to create a Wall Street bailout fund is to bail out Wall Street permanently.

Now, the Democrats claim, Madam Chairman, that the bailout fund will not be paid for by taxpayers; but, Madam Chairman, these are the very same people who told us that the GSEs, the government sponsored enterprises, would never, never receive a dime of taxpayer money. And I guess, in a sense, they were literally correct. Instead, it's $1 trillion, $1 trillion of taxpayer money now committed to the failed government-sponsored enterprises.

These are the very same people who told us that, hey, don't worry about the Social Security trust fund; it'll get paid back. Medicare is financially sound. The National Federal Flood Insurance Program will never need a taxpayer infusion.

Madam Chairman, they were wrong then and they are wrong now. Besides creating a permanent Wall Street bailout fund, Madam Chairman, this bill represents the fourth piece of the Democrats' failing economic agenda. First was the $1 trillion stimulus, next the $600 billion national energy tax. After that, the $1 trillion government takeover of our health care plan.

Now, we all remember the stimulus plan. The President told us if it was enacted that unemployment would never rise above 8 percent. Yet our unemployment rate is at double digits, the worst in a generation; and the legislation before us will cause even more job losses. In sections 4301, 4304, 4308, it will do this by empowering an unelected czar to unilaterally—give the power to unilaterally ban and ration consumer credit products, and then finance itself through hidden taxes on consumer credit and successful American companies.

You heard the study alluded to earlier: interest rates paid by consumers would rise 1½ percent; new jobs would be reduced by almost 5 percent in our economy. More jobs would be lost, Madam Chairman, under the bailout authority which assesses $150 billion of taxes on large financial firms.

Now, maybe those on the other side of the aisle wish to engage in the myth that somehow that won't be passed on to consumers, that somehow this won't impact credit lines at small businesses; but they are wrong. Increased interest rates. Increased fees, fewer loans to small businesses. Madam Chairman, once again, more jobs will be lost under the Permanent Wall Street Bailout and Increase Job Losses Through Credit Rationing Act of 2009. The United States Chamber of Commerce has said that if this act is passed, it would have a significant adverse effect on small businesses by restricting their access to credit. Some would lose credit altogether.

Madam Chairman, I talk to a lot of good community bankers in my part of Texas. I have heard the chairman allude to the ICBA, and I certainly respect those who have Washington ZIP codes. Frankly, I respect those who have Texas ZIP codes a little bit more. I talked to a man who helps build Palestine, Texas, Kev Williams, East Texas National Bank. And he said, Congressman, if I have more compliance costs and the Federal Government in going to limit the types of customized credit products I can offer, we will lose jobs in Anderson County, Texas, that I have the privilege of representing in Congress.

I heard from a small businessman in my district, from Jacksonville, Texas, ''As a small businessman the restriction on credit may very well mean the end of my company.'' Madam Chairman, why should we pass any legislation that will harm the ability of small businesses to access credit in the midst of a credit contraction? After 3.6 million of our fellow countrymen have lost their jobs since President Obama took office, I ask my Democratic colleagues, how many more jobs have to be lost? How many more?

And, Madam Chairman, next the government takeover. Again, after proposing the $600 billion tax on our energy sector, a $1 trillion takeover of our health care system, the Democrats now bring us the next chapter in the narrative, and that is the takeover of huge portions of our consumer credit and finance markets. They will create a huge new, complex government bureaucracy and grant it sweeping draconian powers.

Section 1104 will allow it to break up successful companies like Dell Computer or American Airlines. Section 204 and 4306 will allow it to dictate the pay structure, all the way down to a bank teller in east Texas making $25,000 a year.

The Acting CHAIR. The time of the gentleman has expired.

Mr. GARRETT of New Jersey. I will yield the gentleman another 2 minutes.

Mr. HENSARLING. Madam Chairman, section 4301 will allow it to decide, again, which credit cards, which home mortgages, and which car loans we are allowed to receive, and the list goes on and on and on. Madam Chairman, what this really leads us to is a bailout and job loss bill where the big get bigger, the small get smaller, the taxpayer gets poorer and the economy gets more political.

Madam Chairman, what does a political economy look like? Well, we've seen it. We've seen it in the government-sponsored enterprises of Fannie Mae and Freddie Mac, where we give them these monopoly powers. They're allowed to grow these profits, but then they do a deal with Congress, oh, but you have to have an affordable housing mission. You have to have this political mission. And $1 trillion of taxpayer liability exposure later, we know how that turned out. That's what a political economy is about.

How about GM and Chrysler? When they went bankrupt, all of a sudden, allies of the administration, the United Auto Workers, they end up with a sweetheart deal. And Chrysler, senior secured creditors received 29 cents on the dollars; but the United Auto Workers received 43 cents on the dollar, and they ended up owning the company. How convenient. That's what a political economy looks like.

And look at individual Members of Congress, including the distinguished chairman of this committee. From The Wall Street Journal, dated June 5, 2009, quote, ''The latest self-appointed car czar is Massachusetts' own BARNEY FRANK, who intervened this week to save a GM distribution center in Norton, Massachusetts. The warehouse, which employs some 90 people, was slated for closure by the end of the year under GM's restructuring plan. But Mr. FRANK put in a call to GM's CEO, Fritz Henderson, and secured a new lease on life for the facility.'' Now, I respect our chairman. I'm not here to suggest——

The Acting CHAIR. The time of the gentleman has again expired.

Mr. GARRETT of New Jersey. I yield the gentleman an additional 1 minute.

Mr. FRANK of Massachusetts. I will give him a minute because they're listening in Norton.

Mr. HENSARLING. I know that the distinguished chairman relishes this. And, again, I'm not here to suggest that the activity is illegal, was immoral, was even fattening. I'm here to suggest it is what a political economy is all about. I would suggest anyone else besides the chairman of the Financial Services Committee making that telephone call, that facility wouldn't be open today. Under this bill, Madam Chairman, Americans' job security will depend less on how well you perform your job at home and more upon who you know in Washington.

□ 2310

That is what the political economy is all about.

This bill represents an assault on the fundamental economic liberties of the American citizen. You want a home mortgage, you now have to get the approval of the Federal Government. You want to offer a credit product? The Federal Government. If you build a successful business, it can be torn down unless you go to the Federal Government on bended knee.

Fewer jobs, more bailouts, more government control, less personal freedom. It is time to reject this bill.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from Illinois (Mr. FOSTER).

Mr. FOSTER. I want to thank the chairman for yielding.

I rise in strong support of H.R. 4173, The Wall Street Reform and Consumer Protection Act of 2009. As a member of the House Financial Services Committee that drafted this landmark bill, I'm proud of our chairman's work, and I want to especially thank the chairman for his diligent efforts over the last many months in shepherding this complex piece of legislation to the floor this week.

This historic comprehensive legislation has dozens of moving parts designed to prevent future bailouts and restore financial stability to the marketplace. I make no apologies for its complexity. It is the simplistic view of financial markets that has brought us to this place.

I want, however, to take a moment to highlight a few of the possibly underappreciated aspects of this bill which may ultimately prove to be among the most beneficial.

First, this bill has language authorizing requirements for the inclusion of something called contingent capital into the capital structure of large financial holding companies. Contingent capital is a special form of debt which, when a company gets into trouble, will immediately convert into equity on previously negotiated terms, thus causing the firm to be recapitalized without requiring a penny from the taxpayer. In this sense, a requirement for large firms to carry contingent capital amounts to a requirement that they carry privately funded bailout insurance. The elegance of this solution is that it is market based and privately funded.

For large financial firms that are poorly run, the market-imposed terms on which they could receive contingent capital could be more onerous than their better-run competitors. And while not eliminating the need for a systemic dissolution fund, I firmly believe that contingent capital will become the first best line of defense against financial contagion and will serve to mitigate the effects of future crises.

Secondly, this bill significantly reforms the credit rating agencies which played a central role in the crisis last fall by giving inflated ratings to mortgage-backed securities and other financial instruments. In the wake of the Enron accounting scandal, Congress established an independent Public Company Accounting Oversight Board, PCAOB. This board, dominated by

users of accounting reports, was designed and effectively regulates the accounting industry. And this bill, in addition to mandating that the rating agencies establish internal controls to resolve conflicts of interest and institute better corporate governance, also has language which creates a prototype independent committee to oversee the SEC regulation and enforcement of the rating agencies. Like the PCAOB, this oversight committee will be dominated by end users of credit ratings and will serve as a template for future, stronger oversight if the SEC enforcement proves inadequate.

Finally, the last issue that I'd like to highlight is the greater investor protection this bill provides. In particular, this bill contains a provision that makes investment adviser fraud—like that perpetrated by Bernie Madoff—virtually impossible. Specifically, the bill contains language which requires those who advise and manage large amounts of money on behalf of others either to employ an independent custodian to hold those assets or to have an independent set of eyes verifying the accuracy of statements to investors. This simple requirement should give investors peace of mind that what is on their statements each month actually exists.

I have touched on only a few of the historic and beneficial changes in this bill designed to restore market confidence, ensure the end of taxpayer-funded bailouts, and modernize the rules governing our 21st century economy. I hope my colleagues can support this important bill.

Mr. HENSARLING. Madam Chair, at this time I would like to yield 5 minutes to the distinguished ranking member of the Capital Markets Subcommittee and one of the true champions of economic liberty in Congress, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the gentleman from Texas.

You know, the American public has spoken. They are opposed to more taxpayer-funded bailouts, they are opposed to more loss of jobs in this country, and they are opposed to bigger and larger and more expensive government. The American public has spoken. Obviously, the majority has failed to listen to them, because we've come to the floor tonight with a major 1,300-page piece of legislation which goes in the exact opposite direction that the American public has asked for.

The bill before us has in it taxpayer-funded bailouts. The bill before us has in it the loss of additional millions of jobs, and of course, with the 1,300 pages that we see here before us, the bill before us has in it an expansive growth of the Federal Government and cost that we have never seen the likes of which during our 200-plus history.

You know, at the beginning of this 2- or 3-hour debate that we've had here on the floor, the chairman of the committee began his remarks by saying that we will have—we will be hearing fantasy tonight, and then he proceeded to give us some of that fantasy, for much of what we've heard from the other side of the aisle is fantasy, whether it's describing their legislation that we're about to vote on later tomorrow or whether describing legislation that we have offered as an alternative to it.

You know, I've heard the chairman say there is nothing in this bill, in the Republican's alternative, dealing with 13(3) and the Federal Reserve powers. I guess the chairman has never taken a look at the Republican substitute.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. GARRETT of New Jersey. I will.

Mr. FRANK of Massachusetts. The gentleman stated the exact opposite of what I said. He's quoting another Member.

I said, in fact, that on 13(3) our bills are very similar. So the gentleman has just put words in my mouth that was the exact opposite of what I said. It was another Member who talked about 13(3). I talked about the similarity of our approach as you had offered it in committee and ours on 13(3).

Mr. GARRETT of New Jersey. I remember in committee that we had similarity, but I remember, because I wrote it down, that there was nothing in our bill with regard to this.

Mr. FRANK of Massachusetts. Another Member said that, yes.

Mr. GARRETT of New Jersey. I thought I heard it from you, just as I thought I heard it from you saying that there was nothing in our bill with regard to executive compensation, and I know that we do have language in our bill which also was discussed in committee with regard to executive compensation. So at least in that area I know I heard this from the chairman, and it is in our bill. I thought I heard the chairman say that there's nothing in here with regard to Federal powers.

Regardless, if it's just one issue or two, I would just ask the chairman to refer back to my earlier comments, the reason we're concerned with the extensive nature of the largeness of the bill is because when it gets so large, 1,300 pages, your side of the aisle is not familiar with what's in your bill, and even our bill, which pales in comparison by size, you fail to know exactly what's in ours as well.

The American public has spoken out and says they're opposed to more taxpayer-funded bailouts. This was one point where we were in discussion just a moment ago, an hour ago, where I did have to point out to the chairman that in your bill, in the Judiciary Committee self-executing amendment, there is language in there which basically perpetuates what has occurred already in this year that the American people are opposed to is taxpayer-funded bailouts.

Let me explain it very quickly.

What happens is the Federal Government is able to set up a taxing mechanism on businesses in this country to the tune of $150 or $200 billion, and until we establish that, you can—the Treasury Secretary can draw on the taxpayer dollar to help fund this mechanism. And even after that is set up, under this provision on page 3, the corporation may, as I said before, convert what is called a receivership—which basically would be putting the business out of business, which is something that the chairman says would occur—but then would allow it to proceed to a chapter 7 or a chapter 11 bankruptcy, and, of course, that basically means that the business is reorganized.

So what's occurring here is we are allowing the Treasury Secretary, a political appointee, to make the decision, the life-and-death decisions of businesses of this country.

□ 2320

And they will say that this company is going to survive, and this company is not going to survive, and this company over here is going to survive on the backs of American taxpayers. This company is going to survive even though it made bad decisions, risky decisions, but for whatever political purposes or otherwise, the Treasury Secretary can sign off and say, take taxpayer dollars, funnel it into that company for a while under the corporations act, under the bridge loans and bridge proposals and what have you, and then under section B on page 3 convert it back into a reorganization and allow it to flourish once again with the blessing of the Treasury Secretary and of this administration and of the American taxpayer as well.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HENSARLING. I yield the gentleman an additional 2 minutes.

Mr. GARRETT of New Jersey. So the bill does have what the American taxpayer does not want to have, which is a continuation of bailouts at their expense.

What else does the bill have that the American public is asking not to have? And that is the loss of jobs. I remember being on this floor, and I do remember this conversation very well standing right over there when the majority leader was standing over here at the beginning of the year, and he was predicting, he was promising that if we only passed the $700 billion or $800 billion stimulus package, as the gentleman from Texas said earlier, that we would see the results immediately, not by the summer, not by the end of the year, not by next year, but we would see immediate job growth in this country. We would never see 8 or 8½ percent unemployment, and we would see the results immediately.

Well, that tune changed when unemployment went up to 8, then 8½ percent, then 9, then 9½, then 10, then 10.2 percent. Then, all of a sudden, their tune changed to say, well, you won't see it immediately. We will see it some time next year. And now, of course,

we're coming to the floor with the majority leader saying that we will see job growth some time next year, but we just need another stimulus package. However many dollars from the American taxpayer pockets that's going to cost, I'm not sure.

Mr. HENSARLING. If the gentleman would just yield on that one point, I would say the results were seen immediately, and that is an additional 3.6 million of our countrymen lost their jobs under this program.

I yield back to the gentleman.

Mr. GARRETT of New Jersey. Thank you. Actually, you're right. We saw two things immediately. We saw the loss of 3½ million jobs during that period of time, and, of course, we saw more borrowing from the American taxpayer and also actually from overseas, China and elsewhere, to the tune of $700 billion or $800 billion. So those are the predictions, those are the promises there.

What do we see in this bill? What we see in the bill is the creation of a number of entities, a number of pieces in this bill that will result in losses of even greater numbers of jobs. Just like we saw the studies showing that if we ever passed cap-and-trade we will be seeing millions of jobs lost there, just as we saw the documentation coming out with the health care bill saying we would lose millions of jobs because of that. Here too studies have looked at the CFPA and said that provision alone would raise the interest rates for businesses.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. HENSARLING. I yield the gentleman 2 additional minutes.

Mr. GARRETT of New Jersey. That provision alone will raise interest rates between 1.4 or 1.6, but say 1.5 percentage points, that means that businesses and individuals trying to get loans will see their loans go from 6 percent up to 7½ percent. That will mean less jobs today and in the future. How many jobs? Well, one study points out roughly over 1 million jobs under that provision alone.

Where else will we be losing jobs? We will be losing jobs due to this whole bailout proposal in this bill. If you put a tax on anything, you're meaning that those businesses can't spend the money here when they have to send it over to the government to be stored over here for some other purposes. So if we are going to ask businesses to spend $150 billion, $200 billion on this new bailout tax, well, some studies have looked at that and said that will result in higher costs for those businesses naturally, less ability for them to invest. If they can't invest it in new plants, materials, and employees, they will be putting it over here. The numbers there we are seeing is around some 450,000 less jobs because of that provision.

You're talking between those two provisions alone in the over millions range of jobs not being created or lost because of this legislation.

So I will leave to later on my last point, which is that this bill obviously also creates bigger government, more expansive growth of government, more expansive takeover of the private sector and private individuals' lives as well, their decisionmaking lives, as Ranking Member BACHUS said at the very beginning comments, all things the American taxpayer has spoken out against.

The American taxpayer has spoken out against taxpayer-funded bailouts. They said we want less job destruction. We want less big government. This bill gives us taxpayer-funded bailouts. This bill gives us destruction of more jobs. And this bill gives us a bigger government. All things the American public is opposed to. And that's why I come to the floor tonight and oppose this piece of legislation.

Mr. FRANK of Massachusetts. I yield 5 minutes to the gentleman from North Carolina (Mr. WATT), a leading member of the committee who has done a great deal on this bill.

Mr. WATT. Madam Chair, I have endured the entire debate this evening, which is now approaching 3 hours, and I've been absolutely fascinated by it. Before I came to the body, I practiced law for 22 years. I've now been in this body 17 years. When I was practicing law, quite often, I had cases in which the facts and the law were on my side, and I would go to court, and I would argue the facts and the law and deal with what was before us.

Sometimes I would have some cases where neither the facts nor the law were on my side. And I would show up in court, and I would argue everything other than what the case was about. Now, that's what my friends on the opposite side of the aisle have been doing tonight, because neither the facts nor the law is on their side this time.

So we've heard about health care. I've been making notes. I was here the whole time. We've heard about socialism. We've heard about supply and demand. We've heard about energy and electricity rates. We've heard that the government intervention caused the economic meltdown, that the Fed ratcheted up the panic and that other government agencies contributed to the panic, and that's how we got into this economic mess.

We've heard almost every speaker talk about the size of the bill. We've heard something about cockroaches. I have no idea what that has to do with this bill. We've heard a lot about czars. We've heard about the 2003 and 2007 Fannie and Freddie purchase of subprime loans, and made it sound like somehow that was our fault rather than your President who was out there pushing home ownership when we were trying to get him to push to provide decent housing for people.

We've heard about credit czars, and we've had our colleagues just pull figures out of the sky. I have no idea where they came from. This bill is going to increase interest rates by a point and a half. I don't know how anybody would ever be able to know that. It's going to decrease jobs by 5 percent. I don't know where that figure came from. It's going to break up Dell. My goodness. I didn't know Dell was a financial entity at all. It's in the computer business, it's not in the financial services business. And we've heard our friends say that they don't want taxpayer bailouts, but they also don't want us to set up a fund that's paid for by the industry to take care of the dissolution of these failing companies.

So what's the solution here? I don't know what their solution is, to be honest with you. The truth of the matter is the private market failed, and we had an economic meltdown. And I think we need some reasonable regulation, which is what this bill does.

We need somebody who is going to show up at work every single morning saying, my primary obligation is to at least think about what is in the interests of consumers. And that's what the consumer financial protection agency's charge and responsibility will be.

And that is what this bill does.

□ 2330

We need to do something about all these predatory loans that were made that are now being foreclosed and have gotten us into the financial mess that we are in, and that's what this bill does. We need to make the derivatives market more transparent and put them on a platform so that the whole world can see what's going on back there in the derivative room, and that's what this bill does.

Now, what do you all want to talk about? You can talk about health care or energy or electricity or cockroaches or whatever you want to talk about. We want to fix this economic system in our financial services industry. That's what this bill does. It is long, it is complex, it is a complex undertaking. Our Chair has done it admirably; he has led this.

What is your proposal? That we just do nothing and let the market take care of itself?

That is not an option, my friend. That is not an option, my friends. That time has passed for a while.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Members are reminded to direct their remarks to the Chair.

Mr. HENSARLING. Before yielding to the other gentleman from Texas, I will yield myself 1 minute.

I heard the gentleman from North Carolina in a spate of candor say he didn't know what the solution was. I do know what the solution is. It's the Republican substitute. I would commend the gentleman to read it. It ends bailouts. Your bill will increase bailouts. It reforms the Federal Reserve.

Your bill increases the powers of the Federal Reserve. This bill protects consumer rights. Your bill constricts consumer rights.

Your bill was stone-cold silent with respect to the government-sponsored

enterprises, but now you protect them. Clearly the GSEs are too big to fail.

Our bill goes to the source of the problem. If the gentleman needs to know what the solution is, I would be happy to provide him with a copy of the Republican substitute.

It is now my privilege, Madam Chair, to yield 5 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. I thank the gentleman.

I think I want to go back to what really is at stake here and that's choices for the people that borrow money in this country. Back in the fall of last year and in the spring of this year, we were working on legislation that the other side brought forward for credit cards, and everybody has got a credit card story that they have had a bad experience. We passed this big credit card bill.

When we were talking and debating that bill on this very floor, we told the American people be careful here, because what they are saying is they don't trust you to make your own choices, and they are going to tinker with the credit card industry. We said, you know what's going to happen? Interest rates are going to go up. Credit limits are going to go down, payments are going to go up. And what happened?

Rates went up, credit limits went down, and payments went up. Who did that affect? Well, it affected families. More importantly, we said it's going to hurt small businesses because a number of small businesses across this country use credit cards to help with their cash-flow needs of their company.

Now we are here tonight talking about the rest of the credit market. What's going to happen here, one of the gentlemen, several gentlemen have brought up predatory lending.

Well, let me talk about a predatory loan. How about this young businessman that needs to buy another truck and some tools for his plumbing company, and he goes to his banker and he says, you know what, I need an interest-only loan for 12 months until I get my business up and going and I get my new employee generating the revenue, and then I want to convert over to another payment plan at the end of 12 months.

The banker says, well, I would love to do that; I have done that for you in the past. But you know what, we have got this new czar, or czarina, who is in charge of determining what kinds of financial products I can offer, so I can't do that.

So what happens? That plumber can't expand, can't buy another truck, can't hire another employee. Those are the consequences of this.

Where we are headed in this is that we are going to let the Federal Government tell you, because you are not smart enough, according to my colleagues on the other side, to determine what kind of mortgage is appropriate for your family; that you are not smart enough to determine what kind of car loan is appropriate; what kind of student loan is appropriate for you and your family as you are trying to send your daughter or your son to school; that the overdraft privileges that your bank has been extending to you in the past, but because of these new regulations and the interference of government, you may not be extended those, or those charges may go up.

How about that person that wants to experience the American Dream and wants to go start their own business and needs a specialized financing package to be able to get that business off the ground and so initially has a small amount of capital.

The banker is going to take a larger risk, and so he is going to have to price the cost of that loan higher, and he is reluctant to do that because he might be making a predatory loan according to this new czar, this new agency that's going to determine what kind of financial products the American people get to have access to in the future.

You know what, Madam Chairman, I still have faith in the American people because this Nation wasn't built because of its government. This Nation was built because of its people, people that took risks and chances and worked hard and went out and did different things in different ways and made things happen, and they didn't conform to what was the standard.

You see, when we start standardizing everything, we begin to limit the potential for success, and we limit failure, and there is no reward for those who do the extra and do special. That's not what this Nation was built on.

I just recently over the weekend came back from Afghanistan, where our young men and women are doing remarkable things in the name of security, peace, and liberty for our country. You would have thought they would want to talk about, you know, thank you for the President's commitment to additional troops; but this sergeant came up to me as I was about to walk out and go get on a plane. He said, Congressman, you know what really scares me? It's not these Afghani Taliban people. What really scares me is what you all are doing to our country. Every time I turn around you are spending money we don't have. The government is getting into the car business. The government is buying banks. The government is limiting my choices.

You are leaving a legacy, and I am over here fighting for a country. Quite honestly, I look back home and I am not sure the Congress is not destroying our country by taking away the liberties and the freedoms that I am fighting for.

That's the reason tonight and tomorrow, whenever we vote on this, we need to defeat this so that we can preserve liberty and freedom for this country and trust the American people because the American people are smart enough to make their own decisions.

Mr. FRANK of Massachusetts. I have only one speaker left.

I reserve the balance of my time.

Mr. HENSARLING. Madam Chair, might I inquire how much time remains on both sides.

The Acting CHAIR. The gentleman from Texas has 10 minutes remaining, and the gentleman from Massachusetts has 14½ minutes remaining.

Mr. HENSARLING. At this time, Madam Chair, I would like to yield 5 minutes to the distinguished ranking member of the Capital Markets Subcommittee, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. I thank the Chair, and I thank the gentleman from Texas. Just to go back to a comment—the gentleman from North Carolina made two comments—what is the solution?

Well, the gentleman from Texas said here is our solution, and I leave a copy here in case he has not had an opportunity to read it. It is by size a lot less than what you have before you.

The gentleman from North Carolina also asked about our studies; and where we say this will hurt jobs because you will be raising credit interest rates by 1.4 or 1.6, I average it out to about 1.5 percent. It translates into X number of jobs, millions of jobs lost. The questions are studies before we implement this.

My question to the gentleman is before we pass this legislation today and implement it and impose this burden onto the American business sector and the American public in general, can you tell me which study you are referring to that will not cause a loss of jobs?

Mr. WATT. The gentleman is yielding to me for the purpose of responding to that?

Mr. GARRETT of New Jersey. Yes.

Mr. WATT. I haven't referred to any study because I haven't said that it wasn't going to cost jobs or increase or decrease jobs.

Mr. GARRETT of New Jersey. Reclaiming my time, and there is the point. We have this 1,300-page bill that I would hazard the great guess that the vast majority of this body here tonight has not ever had the opportunity to, nor the inclination to, nor, in fact, did read.

□ 2340

And now we seem to hear that when it comes to what the impact, the vast impact that this will have on our economy, where is there information as to what they inquired that it would do? It is absent.

I spoke before about the point that this bill goes contrary to the American public's claim that they do not want any more bailouts, and I raised reference to one section of the bill which in perpetuity it allows for the creation of switching from receivership into bankruptcy and makes it basically a political decision. Another provision of the bill on page 408 basically says that the Treasury Secretary has unlimited authority to borrow an unlimited

amount of money from the Federal Treasury, which means from the American taxpayer.

How do we see this? Page 408 of the bill, section 3, ''Borrowing authority when fund assets are less than $150 billion.'' Section (B), ''The corporation may borrow, and the Secretary may lend, any amount of funds that, when added to the amount available in the fund on the date the corporation makes a request to borrow funds, would not exceed $150 billion.''

What does that mean? That means today, as we start this program out, there are zero dollars in the fund. The Treasury Secretary can go to the Treasury, meaning the American taxpayer, and ask for $150 billion from the American public, and they could bail out some company, maybe AIG again, as this past administration helped facilitate. And then after that, there's no money in the fund again, so they go back to Treasury and say, We need another $150 billion, because, under the terms of the bill as written right now, there's no money in the fund and they can borrow up to $150 billion. They ask for another $150 billion. And then a company akin to Lehman or something goes under, or another company over here or the auto companies go under, and they pay it all out the next day. How much is in the fund then? Zero. At which point the Treasury Secretary can go back to the American taxpayer a third time and ask for an additional $150 billion.

When does it end? This bill puts absolutely no limit on it whatsoever. It could be $150 billion. It can be $1 trillion. It could be $10 trillion. It's all in the hands of the political appointee, Secretary Geithner, for him to decide where this money goes and how much it goes to, and it can be a political decision because, as we have seen before, he can prop up favorite companies and allow them then to go into receivership and then allow them to come back out of it after he has asked the American public to spend $10 billion, $100 billion, $1 trillion in order to do so. Where is the limitation in this bill? There is absolutely none.

So when the other side of the aisle looks chagrined when we say the American taxpayer is on the hook for bailouts, they need only to look at their own bill, page 408 or page 3 over here in the Judiciary Committee, to see that is an unlimited drain on the American taxpayer, that this will allow perpetual bailouts that are never ending and will be made by political appointees for their favorite companies that they want to prop up to the end of the Earth. That, I think, is reason one why we should be opposed to this bill.

If there's nothing else in this bill besides those few pages, we should all be voting ''no.'' If there's nothing else in this bill, every American listening to this floor debate tonight should be calling up their Member of Congress and saying, Why are you putting us on the hook to bail out bad businesses and bad business decisions? Why are you putting us on the hook to bail out your political favorite companies that you want to bail out, and why do you want to do so without limitation?

Mr. FRANK of Massachusetts. Madam Chair, I reserve the balance of my time.

Mr. HENSARLING. Madam Chair, I yield myself the balance of my time.

Madam Chair, again, what we have before us is the ''Perpetual Wall Street Bailout and Increased Job Losses Through Credit Rationing Act of 2009.''

No matter how much our friends on the other side of the aisle wish to deny it, the only reason to create a bailout fund is to bail someone out. The American people are sick and tired of paying for the bailouts.

Now, my friends on the other side of the aisle say we're not really going to use this bailout fund, which kind of begs the question: Why are you creating it in the first place? Well, it's just going to be used for wind-down cost. Well, in bankruptcy, typically you use the assets of the bankrupt company to do that. So this $150 billion plus the $50 billion line of credit from the Treasury, what's the $200 billion being used for? Well, ultimately it's going to be used to bail out other Wall Street parties, the creditors, the shareholders, the counterparties, just like what was done in AIG.

Now, again the distinguished chairman of the Financial Services Committee says, Well, our bailout fund is like a death penalty. Well, it may be a death penalty, but the death sentence has been commuted for up to 3 years. And, by the way, as it's commuted, just like in the AIG bailout, Societe Generale could walk away with $16.5 billion, a French concern, like they did in AIG. Goldman Sachs could walk away with $14 billion in the bailout like they did in AIG. Merrill Lynch could walk away with $6.2 billion. Deutsche Bank, a German concern, could walk away with $8.5 billion. UBS, a Swiss concern, could walk away with $3.8 billion. These are the counterparties on credit default swaps to AIG, and their legislation would replicate it, Madam Chair.

There's nothing in their legislation that would prevent the entire AIG fiasco from repeating itself, and, if anything, they would triple it, up to 3 years, up to 3 years of bailout authority there.

So not only is the death sentence commuted in their so-called bailout fund, but not unlike the GM and Chrysler cases, we could have a Lazarus-like resurrection. Not unlike old GM and old Chrysler, well, you flip a switch and all of a sudden you take care of your political allies, the United Auto Workers, and you've got new GM and you've got new Chrysler, and all of a sudden they just keep on trucking along. So it's an interesting metaphor to call this a death penalty. What it is is it is a bailout.

Here we all are, Madam Chair, at a very tough time in our Nation's economy and 3.6 million of our fellow citizens have lost their jobs since the President told us if we passed his plan, his government stimulus plan, we'd only have 8 percent unemployment. Still, we know we have 10 percent unemployment. And yet here we have a piece of legislation that's ultimate impact is to make credit more expensive, less available when small businesses are losing jobs by the tens of thousands and thousands. Why, in the middle of one of the great credit contractions in our Nation's economy, would you want to make credit more expensive and less available? It's beyond me, Madam Chair. It is beyond me.

Again, my fear is that under this type of legislation the big will get bigger. This is again Fannie Mae and Freddie Mac, politically favorite firms given a political mission and that blows up. Now, again maybe the Merrill Lynches and the UBSs are taken care of. The school teachers in Mesquite, Texas, they're not taken care of under this legislation. They end up paying for the bailout in this political economy. The big will get bigger and they will be given a political mission. Again, your job will depend not so much on what you do at home but who you know in Washington.

One of the great free market economists of our time, Nobel Laureate Milton Friedman said, ''Sooner or later, and perhaps sooner than many of us expect, an ever bigger government would destroy prosperity that we owe to the free market and the human freedom proclaimed so eloquently in the Declaration of Independence.''

□ 2350

That moment is here, and we must vote for freedom and against this bill.

Mr. FRANK of Massachusetts. May I inquire as to the time remaining?

The Acting CHAIR. The gentleman has 14½ minutes remaining.

Mr. FRANK of Massachusetts. I yield myself such time as I may consume.

First, I have to deal with some of the misstatements that we've heard. There is nothing in here that rations credit. There isn't even anything to refute because there is nothing here they could even misinterpret, Madam Chair, about the rationing of credit. Now, some are particularly upset because we establish a Consumer Protection Agency. In the first place, as far as the banks are concerned, that entity gets no new powers; it takes powers that are already there in the bank's regulators that haven't been used very well.

If my friends on the other side want to go to the American people and say, oh, great, here's one of the differences between the parties, we think you consumers have been very adequately protected, and you don't need to improve that manner of administration, then I will take that debate to the American public.

They tell us that this is bad for small business. The Independent Community Bankers Association supports this bill.

They will be unhappy if bankruptcy is added, I understand that, but as far as the bill now stands, before we get to the bankruptcy clause of the Judiciary Committee amendment—which I'm going to vote for, but insofar as the accusation that it restricts credit, the Independent Community Bankers don't think so, just as when we did the credit card bill and the Republicans said—some of them, some of them voted for it—this is bad for small business and the National Federation of Independent Business said no.

What we say here is—and this is a big difference—we do say that we want to prevent the granting of those kinds of mortgages that get people in trouble because it's not just the individual who gets in trouble; the whole economy suffers. And we do want to ban the kind of practices in the mortgage area—so it's true, it's an expansion of government power. I will say, by the way, that was a constant debate. For much of the past, oh, 15 years, until recently, many Democrats tried to get restrictions on irresponsible subprime mortgages. The Republicans resisted them.

From 1995 to 2007, my Republican friends controlled this House; not a piece of legislation passed to stop mortgages, not a piece of legislation passed to deal with Fannie Mae and Freddie Mac. We did, in 2007, pass such legislation, but the damage had been done.

So, yeah, there is a difference. We want to expand the regulatory power to stop the kind of mortgages from being granted that were a major problem in the crisis. One Member said, Well, we would do nothing to stop the AIG crisis. No, we do many things to stop the AIG crisis. First of all, we do not allow, under the legislation we are putting forward, an entity like AIG to get so overextended by issuing credit default swaps that they can't pay off. They would be restricted because derivatives would be better regulated. They would be restricted because they would not be allowed to be so leveraged because we would give regulators the power to hold them in.

The notion that it's socialism when you have bank regulation is quite odd. We heard Members say this is socialism. There is nothing in here about the ownership of the means of production. There is nothing in here about the government taking over any ongoing institution. Yes, we have bank regulation, and that's the deal. These are people who think that regulation is socialism. We are for regulation. We do believe that the absence of regulation over the last 20 years contributed greatly to this problem.

Now, I know there are people who say, when you start regulating the innovation aspects of the economy, you get into trouble. They said it about Franklin Roosevelt and the Securities Exchange Commission, they said it about Theodore Roosevelt and antitrust. I urge people to go back and read the same old arguments.

Now, the gentleman from Texas (Mr. NEUGEBAUER) said the Federal Reserve will decide that you are too big to fail and you will be advantaged; wrong, wrong, wrong. In the first place, the designation that an entity, a financial entity—by the way, we heard some comments about Dell and American Airlines, which are not covered under this bill. They are not financial holding companies and could not be made financial holding companies. So Dell and American Airlines are total red herrings.

What we have here is the ability of a group of the existing regulators—not the Federal Reserve—to decide that a particular institution is so big and so overleveraged that it's a danger. But they don't get designated and then carried around; coordinated with that is a restriction on what they do. They are not told you're too big to fail, go out and make more money. They are told, you are so big that if you fail because of problems, raise your capital, cut back on your activity, and if you're AIG, stop selling the credit default swaps.

There is this very real difference between the bills. Their bill is very small because it does nothing to retard the kind of activity that got us in trouble. It does not stop over-leveraging, it does not stop unregulated derivative trading, it does not stop credit default swaps without anything to back them up, it does not stop any subprime lending abuses. So yes, that's their view, and they're very clear: Leave it to the private market. We say the private market always does better with sensible regulation.

When Roosevelt and Wilson put antitrust into place, I think they did a good thing. When Franklin Roosevelt did the SEC and the Investment Company Act, those were good things. So, yes, a lack of regulation we believe did cause this great problem.

Now, we get into the bailout issue because the Judiciary Committee, frankly, copied the Republican bill by saying you should use chapter 11. The Republican bill talks about chapter 14—the equivalent of chapter 11 here. Here's what, however, the Judiciary language is subject to. It is subject to—we are talking about now the fund. Yes, somebody could be put into chapter 11, but none of the money could be spent that's in the fund. It's raised not by taxpayers, but by an assessment.

On page 399, ''The Fund shall be available to the corporation for use with respect to the dissolution of a covered financial company to cover the costs incurred by the corporation. The Fund shall not be used in any manner to benefit any officer or director of such company.''

It also then says, on page 397, here is the fund, this is the purpose of the fund, ''to facilitate and provide for the orderly and complete dissolution of any failed financial company or companies that pose a systemic threat to the financial markets or economy as determined under 1603(b).'' The language about Judiciary does not alter that in any respect. It says that the Fund can only be used for dissolution.

Now, it is true, they said, well, what about AIG when they paid off all these people? This is precisely to prevent the repetition. That was done, by the way, as Members will know, under section 13(3). It can no longer be done. We have changed section 13(3), so that should not happen again.

What they did was to say—and this was in the Bush administration—they said, look, we don't have the discretion to pick and choose, so we are doing exactly the opposite of AIG. With AIG, it was the ruling of the Bush administration's top officials, concurred in by President Bush without any congressional input, that they had to pay off every creditor of AIG because they got the legal authority to pick and choose. They said, we can put them all into bankruptcy, we have Lehman Brothers, and the markets will end—Secretary Paulsen said—or we can pay everybody.

We give them the authority precisely to avoid that dilemma. And by the way, AIG was not being put out of business. It is not AIG. AIG was not put under dissolution; they are being kept going. That could not happen. What we say is, in the future, if you think an entity like AIG has gotten too big and owes too many people too much money, you take it over and you spend money only to wind it down and to dissolve it. If there was some notion that it could be kept going, then none of these monies could be used for it.

Let me read it again: ''To facilitate and provide for the orderly and complete dissolution of any failed financial company.'' That is a restriction on the use of the fund—it's not a taxpayer fund, but even of the other funds.

And then on page 288 it says, ''The Corporation is authorized to take the stabilization actions''—including the bankruptcy—''only if the Secretary and the Corporation determine that it is necessary for the purpose of financial stability and not for the purpose of preserving the covered financial company.'' And it then says, ''The Corporation ensures that any funds from taxpayers shall be repaid as part of the resolution process before payments are made to creditors.'' Funds will be repaid if there is a borrowing. Funds go to the taxpayer before a nickel goes to the creditors.

These are the inaccuracies that we have heard. There is no Dell or American Airlines in here. Oh, by the way, there is no permanent bailout fund either because that fund and the borrowing authority the gentleman from New Jersey talks about sunsets in 2013. The borrowing authority is sunsetted at 2013. So permanent is true if you believe that the world is ending on January 1, 2014. Now, I know the Republicans believe the world began on January 21, 2009, and all the bad things that happened never happened under Bush—they didn't fail to vote for them. They all happened in 2009.

□ 0000

Again, as my partner said to me, that was also the day of a terrible, terrible disease outbreak, mass Republican amnesia on January 21, 2009, when they forgot what all these—We've heard talk about job losses. Isn't it interesting that the gentleman from Texas cannot remember that a single job was lost before January 20. He talks about the job losses since the stimulus bill was passed. In fact, this recession, the worst since the Depression, began in 2007, in December; and there was enormous job loss under President Bush. Job loss has diminished recently.

So, yes, I will acknowledge that the Obama recovery from the Bush recession has been slower than we would have liked. But every sensible economist understands that the question is not whether there were any job losses at all, or whether you have affected the rate. And clearly the economic recovery plan has affected the rate. And further things will affect it further.

I yield to my friend from North Carolina.

Mr. WATT. I just wanted to inquire of the chairman whether he saw anything in the bill about cockroaches.

Mr. FRANK of Massachusetts. No, I did not, and I did read the whole bill. And by the way, I also would object, there was some reference to steamroll, or not having the opportunity to read it. We have had complaints from the minority about too many markups and too many hearings and people on the staffs of both sides, and there was a magnificent group of staffers on both sides who have given the American people the best bargain they've ever gotten with the amount of work both sides have done on this. So, yeah, this has been very thoroughly vetted and discussed and debated and all the deadlines have been met.

But here's the fundamental difference: we do not have a bailout fund. We have a fund that will come from the financial institutions that can only be used, as I said, for dissolution, that will sunset in terms of borrowing authority in 2013, in terms of borrowing authority. It is used so you don't just say, okay, you're out of business; we end you tomorrow. It is to avoid what Secretary Paulsen and Ben Bernanke and George Bush told us was the dilemma of a year and half ago, all or nothing. We've got to use these funds to wind it down in an orderly way.

But here's the bigger difference: the Republican bill doesn't even try to stop the situation from arising. That's the difference. We analyzed the various things, too much leverage, unregulated derivatives, subprime loans, executive bonuses that encourage people to take too many risks. Their bill says, no, they're none of the government's business. It is true, every time you try to prevent a bad practice by regulation, you're expanding government power. That's true. An unregulated derivative market versus a regulated derivative market, that's more government power.

Restrictions on irresponsible subprime loans, that's government power. Telling an institution they can't be overleveraged, that's government power. In terms of breaking up companies, no one's breaking up Dell or American Airlines. That is fantasy. What we say is we first try to stop an institution from being so overleveraged and so big that it causes a problem. So, yes, we do say that the regulators should be able to step in if the Systemic Risk Council says so and restrain them from doing things. And, yes, the Federal Reserve is the agent, so the Federal Reserve gets more powers under the Systemic Risk Council.

We, by the way, take away more power in our bill with the Consumer Protection Agency from the Federal Reserve than any other agency. We limit section 13(3) of the Federal Reserve very severely. We do empower them as the agent of the Systemic Risk Council to do what the Republicans say you should never do: tell a company you've gotten too big and owe too much money and need to slow down. Break them up because their parts have begun to pull apart.

AIG should not have been allowed to be an insurance company and a credit default swap handler. And, yes, under the amendments we've adopted someone could have come in and said, okay guys, stay in the insurance business, but don't put us all at risk by doing all of these other things.

So that's the fundamental difference. The Republican position is, business knows best. Do not have any rules, do not prevent—and literally, nothing in their bill would retard any of the irresponsible, reckless, overleveraging that happened and led to the crisis.

And then they said, if there is a crisis, just let them go bankrupt. We say, first of all, let's try to prevent the crisis. Let's try to step in and slow it down.

And if that's socialism, I guess the antitrust laws are socialism by that definition, and the Republican equivalents of today's Republicans called Theodore Roosevelt a socialist. They turned against him. They called Franklin Roosevelt a socialist because he created the Securities and Exchange Commission. They call people socialists when they want to do regulation. The Independent Community Bankers don't think so. And the consumers of America do not believe that being protected from abuses is socialism. I look forward to tomorrow when we debate the amendments.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, December 2, 2009.

Hon. BARNEY FRANK,
Chairman, Financial Services Committee, 2129 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding H.R. 2609, the ''Federal Insurance Office Act of 2009.'' As you know, the Committee on Ways and Means had jurisdictional and other concerns with provisions of this bill. I note that in 2008, we exchanged letters on similar legislation (H.R. 5840) introduced in the 110th Congress.

Earlier today, the bill was amended during markup by your Committee to address the concerns my staff and I have raised. For example, the bill was amended: to preserve USTR's authorities, including over development and coordination of U.S. international trade policy and the administration of the U.S. trade agreements program; to modify the types of agreements that are covered by the bill and to provide for their joint negotiation by USTR and the U.S. Department of the Treasury; to require that annual reports by the Federal Insurance Office be provided to the Committee on Ways and Means; and to modify the standards and process for preempting State law. I appreciate your willingness, and the willingness of your staff, to work with me and my staff on this important legislation.

To expedite this legislation for Floor consideration, the Committee on Ways and Means will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2609, and would ask that a copy of our exchange of letters on this matter be included in the committee report on the bill and in the CONGRESSIONAL RECORD during House Floor consideration of this bill.

Once again, thank you for your work and cooperation on this legislation.

Sincerely,

CHARLES B. RANGEL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, December 3, 2009.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: Thank you for your letter regarding your committee's interest in H.R. 2609, the ''Federal Insurance Office Act of 2009.''

I appreciate your willingness to support expediting floor consideration of this important legislation today. I understand and agree that this is without prejudice to your Committee's jurisdictional interests in this legislation as amended or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support your request for an appropriate number of conferees.

I will include a copy of your letter and this response in the committee report on the bill and in the Congressional Record during House floor consideration of this bill. Thank you for your cooperation as we work towards enactment of this legislation.

BARNEY FRANK,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, December 3, 2009.

Hon. BARNEY FRANK,
Chairman, House Committee on Financial Services, 2129 Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CHAIRMAN FRANK: I am writing to you concerning the jurisdictional interest of the Committee on Oversight and Government Reform in H.R. 4173, ''The Wall Street Reform and Consumer Protection Act of 2009''.

I appreciate your effort to work with the Oversight Committee regarding those provisions of H.R. 4173 that fall within the Committee's jurisdiction. This includes provisions relating to the audit authorities of the Comptroller General, federal personnel matters, the applicability of the Federal Advisory Committee Act and the Freedom of Information Act, amendments to the Inspectors General Act, and governmentwide reporting requirements for federal agencies.

As you know, the Oversight Committee was one of the committees receiving an additional referral of this bill. Because of the cooperation between our two committees, further consideration in the Oversight Committee is unnecessary. However, this letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 4173 that fall within the jurisdiction of the Committee. I request your support for the appointment of conferees from the Oversight Committee should H.R. 4173 or a similar bill be considered in conference with the Senate.

Please include a copy of this letter and your response in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

EDOLPHUS TOWNS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, December 3, 2009.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform, 2157 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN TOWNS: I am writing in response to your letter regarding H.R. 4173, ''The Wall Street Reform and Consumer Protection Act of 2009''.

I wish to confirm our mutual understanding on this bill. I recognize that certain provisions of the bill fall within the jurisdiction of the Committee on Oversight and Government Reform. However, I appreciate your willingness to forego committee action on H.R. 4173 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill should not be construed as a waiver of the Oversight Committee's legislative jurisdiction. I would support your request for conferees on those provisions within your jurisdiction should this or a similar bill be the subject of a House-Senate conference.

I will include this exchange of letters in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

BARNEY FRANK,
Chairman.

Mr. POMEROY. Madam Chair, I rise today in support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. I would like to thank Chairman PETERSON of the Agriculture Committee for his leadership and work to produce legislation that regulates the futures markets and brings transparency to the dark corners of the financial markets. I would also like to thank Chairman FRANK of the Financial Services Committee for his leadership and efforts in crafting the greater overall regulatory package.

Madam Chair, the unchecked greed and excesses of Wall Street have brought our economy to its knees, placed hardship on millions of American families and dimmed the prospect of leaving behind a better life for our children. The volatility in the oil prices and the crash of the financial markets were fueled by outrageous short term profits at the expense of our shared long term prosperity. These markets resemble the Wild West, and are void of transparency or effective regulation.

Today, Congress has before it a commonsense reform package that will assure the American people that what happened to create the financial meltdown will not happen again. H.R. 4173 would place limits on speculators, preventing them from dominating the markets, and also bring transparency to the markets. The bill will also give regulators the information they need to properly police the markets and the authority to identify and protect against systemic risk. H.R. 4173 protects the economy from irresponsible too-big-to-fail companies like AIG, by creating a responsible mechanism to dissolve them without putting the American tax payer on the hook. It is essential that consumers, farmers, and businesses have access to a reliable source of credit and financing that does not dry up because Wall Street tries to gamble away our future.

Madam Chair, the landmark Wall Street Reform and Consumer Protection Act of 2009 puts the interests of consumers, small business and the millions of Americans dependent on their 401Ks for retirement, first. I urge my colleagues to support H.R. 4173.

Ms. JACKSON-LEE of Texas. Madam Chair, today I rise in support of H.R. 4173—''The Wall Street Reform and Consumer Protection Act.'' I support this legislation because I believe that it is an important step in preventing the conditions that created last year's financial crisis from occurring again.

Last year's financial crisis put hundreds of thousands of Americans out of work and our economy into turmoil. The White House estimates that 5 trillion dollars worth of American household wealth disappeared in approximately three months. Credit markets froze as bank after bank after bank failed or require government assistance to stay afloat. This weak financial system and credit market impacted businesses large and small throughout the Nation. Furthermore, the weak credit market affected student loans, credit cards, and purchases of automobiles and homes.

In response, Congress, in collaboration with President Obama passed sweeping legislation to help hardworking Americans soften the blow from the worst economy in years.

Although I still believe that our response was necessary to help bring America out of the recession, we must ensure that actors in the financial industry are never again able to behave recklessly as to threaten the economy of not only our Nation, but also the world. I do not believe that the financial industry acts with malice toward people or our economy; however, some firms in the financial industry are prone to taking risks in a manner that threatens our economic structure. As President Obama said in New York on September 15, ''We will not go back to the days of reckless behavior and unchecked excess at the heart of the crisis, where too many were motivated only by the appetite for quick bills and bloated bonuses. Those on Wall Street cannot resume taking risks without regard for consequences, and expect that next time, American taxpayers will be there to break the fall.''

This legislation is a response to the dangers and loopholes that persist, and it will serve to protect the American investors, students, home and auto buyers, and business owners. A new Consumer Financial Protection Agency will protect families and small businesses by ensuring that bank loans, mortgages, and credit cards are fair, affordable, understandable, and transparent.

We have tough rules that keep companies from selling us faulty toasters that burn down our houses, but there is currently no agency that has as its sole mission oversight of potentially harmful financial products sold to consumers. This critical enforcement is necessary to ensure that consumers get information that is clear and concise from banks, mortgage servicers, and credit card companies. It is critical to prevent the financial industry from offering predatory mortgage loans to people who can't afford repayment that marked the subprime lending era. Finally, it will put in place common sense regulations to stop abuses by the financial industry, such as payday lending and exorbitant overdraft fees.

Secondly, this legislation will put an end to ''too big to fail'' financial firms, providing the government with the tools—funded by big banks and financial firms and NOT taxpayers—it needs to manage financial crises so we are not forced to choose between bailouts and financial collapse.

This includes the ability to preemptively dismantle big banks whose risky and irresponsible behavior could bring down the entire economy, as well as an orderly process to wind down failing firms.

This legislation will end taxpayer-funded bailouts and Help ensure American taxpayers are never again on the hook for bailing them out by requiring big banks and other financial institutions (with $50 billion in assets) to foot the bill for any bailouts in the future. These institutions would pay assessments based on a company's potential risk to the whole financial system if they were to fail.

These new consumer safeguards will require that all financial firms that pose risk to the financial system—not just banks—are subject to strong supervision and regulation, including stronger capital standards and leverage rules.

They will increase transparency at the Federal Reserve, which has played an enormous role in shoring up big banks and other financial institutions in this crisis, subjecting it to scrutiny by Congress's Government Accountability Office with audits of the Fed's lending programs.

This legislation will also stop predatory and irresponsible mortgage loan practices including prepayment penalties, deceptive mortgage documentation, and making extra profits for steering borrowers to higher cost loans that played a major role in the current financial meltdown. Help ensure that the mortgage industry follows basic principles of sound lending and consumer protection.

The legislation also imposes tough new rules on the riskiest financial practices by strengthening enforcement by the Securities and Exchange Commission to better protect investors and prevent future Bernie Madoff Ponzi schemes.

It creates rules to curtail excess speculation in derivatives and growing use of unregulated credit default swaps that devastated AIG and Bear Stearns.

It provides more transparency and tougher regulation of hedge funds, private equity firms

and credit rating agencies, whose seal of approval gave way to excessively risky practices that led to a financial collapse.

Finally, it requires investment advisors to act for the sole benefit of their client under the law, exercising the highest standard of care.

Finally, this legislation addresses egregious executive pay compensations by putting an end to compensation practices that encourage executives to take excessive risk at the expense of their companies, shareholders, employees, and ultimately the American taxpayer.

It also provides shareholders of public companies with an annual, non-binding vote on executive compensation and golden parachutes for the top five executives, requires independent directors on the compensation committees of public companies, and authorizes the SEC to restrict or prohibit ''inappropriate or imprudently risky compensation practices'' at large financial firms (with at least $1 billion in assets).

In conclusion, this legislation will modernize America's financial regulations as we seek to prevent last year's financial conditions from ever happening again. America is on the road to recovery, and we need this legislation to ensure that the recovery is permanent.

Mr. MARKEY of Massachusetts. Madam Speaker, one of the most critical elements of the legislation now before us is the establishment of tough new regulation of the over-the-counter derivatives market. This reform is long overdue and I strongly support the legislation now before us.

I am pleased to say that I can wholeheartedly support this bill because—thanks to language agreed upon by Chairman PETERSON, Chairman WAXMAN and myself—it ensures that the expansion of Commodity Futures Trading Commission's authority over derivatives will not in any way limit the Federal Energy Regulatory Commission's authority to regulate energy markets. FERC plays a critical role in ensuring that those markets deliver energy reliably and at just and reasonable rates.

The bill preserves FERC's role in three ways:

First, the bill amends the Commodity Exchange Act to fully preserve FERC's authority over agreements, contracts, and transactions entered into pursuant to a FERC-approved tariff or rate schedule. An exception is made for instruments that are executed, traded, or cleared on a CFTC-registered entity. However, it is the drafters' understanding and intention that CFTC cannot construe this exception to limit FERC's underlying authority. For example, FERC-regulated entities, such as Regional Transmission Organizations and Independent System Operators, would not be required to register with CFTC based on their utilization of Financial Transmission Rights or other instruments to facilitate the physical operation of the electric grid. Nor will CFTC require instruments of that nature to be executed, traded, or cleared on some other CFTC-registered entity.

Second, in any area where FERC and CFTC have overlapping authority, the bill requires the two agencies to conclude a memorandum of understanding delineating their respective areas so as to avoid conflicting or duplicative regulation. Where FERC has regulatory authority, CFTC is permitted to step back and let FERC do its job. It is the drafters' understanding and expectation that CFTC will recognize FERC's primacy with regard to energy markets that it comprehensively regulates.

Finally, the bill states that it does not in any way limit or affect FERC's existing authority, under Section 222 of the Federal Power Act and Section 4A of the Natural Gas Act, to protect against manipulation of the electricity and natural gas markets. As one of the principal authors of these anti-manipulation provisions, which were included in the Energy Policy Act of 2005, I see the preservation of this authority as critical to ensuring fair and transparent energy markets. These provisions were drafted broadly to allow FERC to protect against the use of any manipulative or deceptive device or contrivance ''in connection with'' FERC-regulated electricity and natural gas markets, regardless of where such manipulation occurs.

With these elements now included in the legislation, I strongly urge my colleagues to vote ''yes'' on this legislation.

Mr. FRANK of Massachusetts. I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WATT) having assumed the chair, Ms. TITUS, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, had come to no resolution thereon.

IMMIGRATION CREATES JOBS

(Mr. POLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POLIS. Mr. Speaker, I rise today to highlight a report just released by the Fiscal Policy Institute, a nonpartisan research group, regarding the contributions of immigrants in the 25 largest U.S. metropolitan areas. The report makes official what we have known all along: Immigration and economic growth go hand-in-hand. That's right. Immigrants boost economic productivity and create jobs.

This has been true throughout our Nation's history. It's been true during boom times and during tough times. It's true yesterday, today, and tomorrow. Immigrants help our economy. Cities with a growing proportion of foreign-born workers have ''well above average economic growth.'' Immigrants expand the labor and consumer markets and fuel growth.

In my home State of Colorado, immigrant workers and business owners have added billions of dollars and tens of thousands of jobs. The usual suspects will cry we lie with these facts. But their prejudices will no longer prey on our uncertainties. Thanks to this report, we can all say we know better. Together we can embrace comprehensive immigration reform, help our Nation recover, and create jobs for Americans.

IMMIGRANTS AND THE ECONOMY

[From the Fiscal Policy Institute]

EXECUTIVE SUMMARY

This report examines the economic role of immigrants in the 25 largest metropolitan areas in the United States. The results are clear: immigrants contribute to the economy in direct relation to their share of the population. The economy of metro areas grows in tandem with immigrant share of the labor force. And, immigrants work across the occupational spectrum, from high-paying professional jobs to low-wage service employment.

Immigrants contribute significantly to the U.S. economy. In the 25 largest metropolitan areas combined, immigrants make up 20 percent of the population and are responsible for 20 percent of economic output. Together, these metro areas comprise 42 percent of the total population of the country, 66 percent of all immigrants, and half of the country's total Gross Domestic Product. This report looks at all U.S. residents who were born in another country, regardless of immigration status or year of arrival in the United States.

1. IMMIGRATION AND ECONOMIC GROWTH OF METRO AREAS GO HAND IN HAND

An analysis of data from the past decade and a half show that in the 25 largest metropolitan areas, immigration and economic growth go hand in hand. That's easily understandable: Economic growth and labor force growth are closely connected, and immigrants are likely to move to areas where there are jobs, and not to areas where there are not.

Between 1990 and 2006, the metropolitan areas with the fastest economic growth were also the areas with the greatest increase in immigrant share of the labor force. The economies of Phoenix, Dallas, and Houston saw the fastest growth in immigrant share of labor force, while all showed well above average economic growth in these years and Phoenix experienced the fastest growth of all metro areas. By contrast, Cleveland, Pittsburgh and Detroit metro areas experienced the slowest economic growth and among the smallest increases in immigrant share of labor force.

Economic growth does not guarantee, however, that pay and other conditions of employment improve significantly for all workers. The challenge is to make sure that immigrants and U.S.-born workers struggling in low-wage jobs share in the benefits of economic growth.

2. IMMIGRANTS CONTRIBUTE TO THE ECONOMY IN PROPORTION TO THEIR SHARE OF THE POPULATION

The most striking finding in the analysis of 25 metro areas is how closely immigrant share of economic output matches immigrant share of the population. From the Pittsburgh metro area, where immigrants make up 3 percent of the population and 4 percent of economic output, to the Miami metro area, where immigrants represent 37 percent of all residents and 38 percent of economic output, immigrants are playing a consistently proportionate role in local economies.

The Immigrant Economic Contribution Ratio (IECR) captures this relationship, measuring the ratio of immigrant share of economic output to immigrant share of population. An IECR of 1.00 would show that immigrants contribute to the economy in exact proportion to their share of the population; above 1.00 indicates a higher contribution than share of population and below indicates lower.

In over half of the largest 25 metro areas, the IECR hovers very close to parity, measuring between 0.90 and 1.10. In only three metro areas—Phoenix, Minneapolis, and Denver—does the IECR go below 0.90; in eight metro areas it is above 1.10.

Two main factors explain this close relationship. First, immigrants are more likely than their U.S.-born counterparts to be of working age. A higher share of the population in the labor force offsets cases where immigrants have lower wages.

Second, immigrants work in jobs across the economic spectrum, and are business owners as well. Although immigrants are more likely than U.S.-born workers to be in lower-wage service or blue-collar occupations, 24 percent of immigrants in the 25 metro areas work in managerial and professional occupations. Another 25 percent work in technical, sales, and administrative support occupations. In fact, in 15 of the 25 metro areas, there are more immigrants in these two higher-pay job categories taken together than there are in service and blue-collar jobs combined. And, immigrants are also entrepreneurs. Immigrants account for 22 percent of all proprietors' earnings in the 25 largest metro areas—slightly higher than their share of the population.

3. FAVORABLE EARNINGS AT THE TOP OF THE LABOR MARKET; DIFFICULTIES AT THE BOTTOM

At the high end of the economic ladder, immigrants earn wages that are broadly comparable to their U.S.-born counterparts in the same occupations. Immigrants working in the professions—doctors, engineers, lawyers, and others—earn about the same as U.S.-born professionals in almost all metro areas. The same is true for registered nurses, pharmacists, and health therapists, and for technicians.

At the low-end of the labor market, wages can also be roughly similar for foreign- and U.S.-born workers. However, in service occupations, most workers have a hard time making ends meet. Both U.S.- and foreign-born workers earn well below the median in almost every service occupation examined in this report—including guards, cleaning, and building services; food preparation; and dental, health, and nursing aides.

The clear challenge for service jobs is to raise pay for all workers, U.S.- and foreign-born alike.

Some blue-collar workers are in a similar position, with both immigrants and U.S-born workers showing low annual earnings. In certain blue-collar occupations, however, immigrant workers earn considerably less than their U.S.-born counterparts. In the 25 metro areas combined, for example, the median earnings for U.S.-born workers in construction trades is $45,000, while the median for immigrants is just $27,000. Although wages in blue-collar jobs have eroded in recent decades, in the early years of the post-World War II period several blue-collar occupations paid workers, primarily men without college degrees, family-sustaining wages. The discrepancy today between U.S.- and foreign-born earnings in these occupations thus presents a challenge: to raise all workers to the standard that has been set by some, as a means to improve pay for low-wage workers in the occupation and to protect higher-wage earners.

Unions have played an important role in raising pay in many areas, including some blue-collar jobs. By contrast, the relatively low unionization rate in service jobs helps explain the consistently low pay. Unions continue to play an important role in raising wages and equalizing differences in pay for all workers, documented or otherwise. Although undocumented immigrants are legally permitted to join unions, in practice unscrupulous employers have frequently found ways to take advantage of the status of undocumented workers to thwart their efforts.

In the 25 largest metro areas, the average unionization rate is lower for immigrants than for U.S.-born workers—10 percent compared to 14 percent. With immigrants playing a major role in the labor force, they are also playing a significant role in unions, making up 20 percent of all union members in the 25 largest metro areas.

A closer look at the five largest metro areas in the East—New York, Philadelphia, Washington, Atlanta, and Miami—reveals that the same experience applies to them. Economic growth and immigration generally go hand in hand; immigrants work in all occupations; those in managerial, professional, and technical occupations fare relatively well, those in service and blue-collar jobs less so. Atlanta experienced the biggest growth in immigrant share of the labor force and the fastest growth in its overall economy.

THE POLICY CONTEXT

The current recession has pushed up unemployment, prompting some to feel that sharp restrictions on immigration would help the economy. But, creating a climate that is hostile to immigrants would risk damaging a significant part of the country's economic fabric. Immigrants are an important part of the economies of the 25 largest metro areas, working in jobs up and down the economic ladder. Immigration is highly responsive to demand—the immigrant share of the labor force increases with economic growth. Immigrants are part of the same economy as other workers, getting paid well in jobs at the top of the ladder and struggling in jobs in the economy's lower rungs.

While the immigrant labor force brings many benefits to the U.S. economy, it also presents political, economic and social challenges. This is especially true in the context of an extremely polarized economy, relatively low unionization rates, weak enforcement of labor standards, and a broken immigration system. Immigration has always been an important part of America's history, and it will continue to be a part of our future. Addressing these complex problems would be a better path for policymakers than wishing away immigration. This report presents an empirical look at the role of immigrants in the U.S. economy, in the hopes of informing a constructive public debate that will result in much-needed policy reform.

REVISION TO BUDGET ALLOCATIONS AND AGGREGATES FOR CERTAIN HOUSE COMMITTEES FOR FISCAL YEAR 2010 AND THE PERIOD OF FISCAL YEARS 2010 THROUGH 2014

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Madam Speaker, under section 325 of S. Con. Res. 13, the concurrent resolution on the budget for fiscal year 2010, I hereby submit for printing a revision to the budget allocations and aggregates for certain House committees for fiscal year 2010 and the period of fiscal years 2010 through 2014. This adjustment responds to House consideration of the bill H.R. 4213, the Tax Extenders Act of 2009. A corresponding table is attached.

This revision represents an adjustment for the purposes of sections 302 and 311 of the Congressional Budget Act of 1974, as amended. For the purposes of the Congressional Budget Act of 1974, as amended, this revised allocation is to be considered as an allocation included in the budget resolution, pursuant to section 427(b) of S. Con. Res. 13.

BUDGET AGGREGATES

[On-budget amounts, in millions of dollars]

	Fiscal years—		
	2009	2010	2010–2014
Current Aggregates: [1]			
Budget Authority	3,668,601	2,882,149	(2)
Outlays	3,357,164	3,002,606	(2)
Revenues	1,532,579	1,653,728	10,500,149
Change for Tax Extenders Reform Act (H.R. 4213):			
Budget Authority	0	4,548	(2)
Outlays	0	4,548	(2)
Revenues	0	−6,049	4,688
Revised Aggregates:			
Budget Authority	3,668,601	2,886,697	(2)
Outlays	3,357,164	3,007,154	(2)
Revenues	1,532,579	1,647,679	10,504,837

[1] Current aggregates do not include the disaster allowance assumed in the budget resolution, which if needed will be excluded from current level with an emergency designation (section 423(b)).
[2] Not applicable because annual appropriations Acts for fiscal years 2011 through 2014 will not be considered until future sessions of Congress.

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES

[Fiscal Years, in millions of dollars]

House Committee	2009		2010		2010–2014 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current allocation:						
Ways and Means [1]	0	0	6,840	6,840	37,000	37,000

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES—Continued

[Fiscal Years, in millions of dollars]

House Committee	2009		2010		2010–2014 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Change for Tax Extenders Reform Act (H.R. 4213):						
Ways and Means	0	0	4,548	4,548	4,574	4,574
Revised allocation:						
Ways and Means	0	0	11,388	11,388	41,574	41,574

[1] Does not include allowable adjustments for SGR.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BUYER (at the request of Mr. BOEHNER) for today after 8 p.m. and for the balance of the week on account of family medical reasons.

Ms. BALDWIN (at the request of Mr. HOYER) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCOTT of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Tennessee, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. GRAYSON, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Mr. GARRETT of New Jersey) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 5 minutes, December 10.

Mr. POE of Texas, for 5 minutes, December 16.

Mr. JONES, for 5 minutes, December 16.

Mr. DEAL of Georgia, for 5 minutes, December 16.

Mr. PITTS, for 5 minutes, December 10.

Ms. FOXX, for 5 minutes, December 10.

ADJOURNMENT

Mr. SCOTT of Georgia. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 8 minutes a.m.), the House adjourned until today, Thursday, December 10, 2009, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4948. A letter from the Acting Farm Bill Coordinator, Department of Agriculture, transmitting the Department's final rule — Wildlife Habitat Incentive Program (RIN: 0578-AA49) received November 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4949. A letter from the Acting Farm Bill Coordinator, Department of Agriculture, transmitting the Department's final rule — Farm and Ranch Lands Protection Program (RIN: 0578-AA46) received November 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4950. A letter from the Vice Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Recommendation 2009-2, Los Alamos National Laboratory Plutonium Facility Seismic Safety; to the Committee on Armed Services.

4951. A letter from the Assistant Secretary, Department of the Navy, Department of Defense, transmitting notice of the completion of a public-private competition for identification card and administrative functions; to the Committee on Armed Services.

4952. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations — Administrative Ruling System (RIN: 1506-AB03) received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4953. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Regulation S-AM: Limitations on Affiliate Marketing; Extension of Compliance Date [Release Nos. 34-60946; IA-2946; IC-28990; File No. S7-29-04] (RIN: 3235-AJ24) November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4954. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Final Model Privacy Form under the Gramm-Leach-Bliley Act [Release Nos.: 34-61003, IA-2950, IC-28997; File No. S7-09-07] (RIN: 3235-AJ06) received November 18, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4955. A letter from the Director, OSHA Directorate of Standards and Guidance, Department of Labor, transmitting the Department's final rule — Revising Standards Referenced in the Acetylene Standard [Docket No.: OSHA-2008-0034] (RIN: 1218-AC08) received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

4956. A letter from the Department Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Device; Clinical Chemistry and Clinical Toxicology Devices; Classification of the Cardiac Allograft Gene Expression Profiling Test Systems [Docket No.: FDA-2009-N-0472] received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4957. A letter from the Administrator, Environmental Protection Agency, transmitting a report entitled: ''Mercury Compounds: Potential for Conversion to Elemental Mercury for Export''; to the Committee on Energy and Commerce.

4958. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Wheatland, Wyoming) [MD Docket No.: 08-3] received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4959. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dubois, Wyoming) [MB Docket No.: 09-83] received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4960. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2009-26: Eligibility of Economic Community of Central African States (CEEAC) to be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act, pursuant to 22 U.S.C. 2753(a); to the Committee on Foreign Affairs.

4961. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting weekly Iraq Status Reports for the August 15 to October 15, 2009 period; to the Committee on Foreign Affairs.

4962. A letter from the Chairman, Consumer Product Safety Commission, transmitting Fiscal Year 2009 Annual Performance Accountability Report; to the Committee on Oversight and Government Reform.

4963. A letter from the Chairman and President, John F. Kennedy Center for the Performing Arts, transmitting the Center's audited financial statements for the period ending September 28, 2008 and September 30, 2007, pursuant to 20 U.S.C. 76l(c); to the Committee on Oversight and Government Reform.

4964. A letter from the Acting Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's Annual Management Report for Fiscal Year 2009, as required under OMB Circular No. A-136, Section I.6, pursuant to 31 U.S.C. 9106; to the Committee on Oversight and Government Reform.

4965. A letter from the Acting Assistant Administrator, NMFS, Department of Commerce, transmitting the Department's final rule — Sea Turtle Conservation; Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic [Docket No.: 0910141365-91366-01] (RIN: 0648-AY21) received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

4966. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Gray Wolf in the Western Great Lakes in Compliance with Settlement Agreement and Court Order [Docket No.: FWS-R3-ES-2009-0063] received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

4967. A letter from the Chief, Division of Scientific Authority, USFWS, Department of

the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Listing the Chatham Petrel, Fiji Petrel, and Magenta Petrel as Endangered Throughout Their Ranges [FWS-R8-IA-2007-0021; 96100-1671-0000-B6] (RIN: 1018-AV21) received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

4968. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA [Docket No. USCG-2009-0814] (RIN: 1625-AA09) received November 12, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4969. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace and Modification of Class E Airspace; State College, PA [Docket No.: FAA-2009-0750; Airspace Docket No. 09-AEA-16] received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4970. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Tioga, ND [Docket No.: FAA-2009-0504; Airspace Docket No. 09-AGL-7] received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4971. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of VOR Federal Airway V-626; UT [Docket No.: FAA-2009-0311; Airspace Docket No. 09-ANM-3] (RIN: 2120-AA66) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4972. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Anniston, AL [Docket No.: FAA-2009-0653; Airspace Docket 09-ASO-22] received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4973. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Nantucket, MA [Docket No. FAA-2008-1253; Airspace Docket No. 08-ANE-103] received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4974. A letter from the Chief, Publications and Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Margins and Other Unsubstantiated Additions to Insurance Company Reserves for Unpaid Losses and Claims received November 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4975. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2009-38) received November 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4976. A letter from the Administrator, FEMA, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1860-DR for the State of Kansas; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Homeland Security.

4977. A letter from the Administrator, FEMA, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1859-DR for the Territory of American Samoa; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Homeland Security.

4978. A letter from the Administrator, FEMA, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1858-DR for the State of Georgia; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Homeland Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WAXMAN: Committee on Energy and Commerce. H.R. 3126. A bill to establish the Consumer Financial Protection Agency, and for other purposes; with an amendment (Rept. 111–367, Pt. 1). Order to be printed.

Ms. SLAUGHTER: Committee on Rules. House Resolution 961. Resolution providing for consideration of the conference report to accompany the bill (H.R. 3288) making appropriations for the Departments of Transportation and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes (Rept. 111–368). Referred to the House Calendar.

Mr. HASTINGS of Florida: Committee on Rules. House Resolution 962. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 111–369). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. GEORGE MILLER of California (for himself and Mrs. MCMORRIS RODGERS):

H.R. 4247. A bill to prevent and reduce the use of physical restraint and seclusion in schools, and for other purposes; to the Committee on Education and Labor.

By Mr. PAUL:

H.R. 4248. A bill to repeal the legal tender laws, to prohibit taxation on certain coins and bullion, and to repeal superfluous sections related to coinage; to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCHENRY:

H.R. 4249. A bill to establish a commission to develop legislation designed to reform entitlement benefit programs and ensure a sound fiscal future for the United States, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MELANCON (for himself, Mr. ALEXANDER, Mr. CAO, Mr. CASSIDY, Mr. BOUSTANY, and Mr. FLEMING):

H.R. 4250. A bill to direct the Secretary of Health and Human Services to revise regulations implementing the statutory reporting and auditing requirements for the Medicaid disproportionate share hospital (''DSH'') payment program to be consistent with the scope of the statutory provisions and avoid substantive changes to preexisting DSH policy; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 4251. A bill to amend title 31, United States Code, to provide for payments in lieu of taxes for certain Department of Homeland Security land; to the Committee on Natural Resources.

By Mr. BACA (for himself and Mrs. NAPOLITANO):

H.R. 4252. A bill to direct the Secretary of the Interior to conduct a study of water resources in the Rialto-Colton Basin in the State of California, and for other purposes; to the Committee on Natural Resources.

By Mr. BUTTERFIELD:

H.R. 4253. A bill to amend the Small Business Act to change the net worth amount under the small business program for socially and economically disadvantaged individuals from $750,000 to $978,722, and for other purposes; to the Committee on Small Business.

By Ms. KAPTUR:

H.R. 4254. A bill to direct amounts derived from the repayment of TARP assistance to the Deposit Insurance Fund of the Federal Deposit Insurance Corporation to reduce the amount of any increase in premiums that would otherwise be required of smaller insured depository institutions and community banks whose prudent activities did not contribute to the financial crisis, and for other purposes; to the Committee on Financial Services.

By Mr. MITCHELL (for himself and Mr. PAUL):

H.R. 4255. A bill to prevent Members of Congress from receiving any automatic pay adjustment in 2011; to the Committee on House Administration, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. HELLER, Ms. BERKLEY, and Mr. NUNES):

H.R. 4256. A bill to amend the American Recovery and Reinvestment Tax Act of 2009 to allow specified energy property grants to real estate investment trusts without regard to the ratable share income limitations; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. TITUS (for herself, Ms. GIFFORDS, and Mr. HEINRICH):

H.R. 4257. A bill to amend the Energy Policy Act of 2005 relating to contracts for Federal purchases of renewable energy; to the Committee on Oversight and Government Reform.

By Mr. YOUNG of Alaska:

H.R. 4258. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for donations for vocational educational purposes; to the Committee on Ways and Means.

By Mr. POE of Texas:

H. Res. 959. A resolution amending the Rules of the House of Representatives to prohibit the consideration of a regulation of individual activity disguised as a tax; to the Committee on Rules.

By Mr. POE of Texas:

H. Res. 960. A resolution expressing support for designation of January 2010 as ''National Stalking Awareness Month'' to raise awareness and encourage prevention of stalking; to the Committee on the Judiciary.

By Mr. KILDEE (for himself, Mr. CAMP, Mr. CONYERS, Mr. DINGELL, Mr. EHLERS, Mr. HOEKSTRA, Ms. KILPATRICK of Michigan, Mr. LEVIN, Mr. MCCOTTER, Mrs. MILLER of Michigan, Mr. PETERS, Mr. ROGERS of Michigan, Mr. SCHAUER, Mr. STUPAK, and Mr. UPTON):

H. Res. 963. A resolution congratulating the Great Lakes Bay Regional Convention and Visitors Bureaus for securing the 2012 Region II United States Youth Soccer Association (USYSA) tournament; to the Committee on Oversight and Government Reform.

MEMORIALS

Under clause 4 of Rule XXII,

223. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 153 urging the U.S. Congress to exclude all youth all-terrain vehicles, off-highway motorcycles and snowmobiles from the provisions of the Consumer Product Safety Improvement Act of 2008; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. SOUDER.

H.R. 272: Mr. LUETKEMEYER and Mr. WILSON of South Carolina.

H.R. 391: Mr. BOOZMAN, Mr. SOUDER, Mr. SESSIONS, Ms. JENKINS, and Mr. FLAKE.

H.R. 406: Ms. SLAUGHTER.

H.R. 571: Mr. PAULSEN.

H.R. 646: Mr. PETERSON.

H.R. 690: Ms. VELÁZQUEZ.

H.R. 775: Ms. ESHOO, Mr. UPTON, Mr. CARDOZA, and Mr. NEAL of Massachusetts.

H.R. 847: Mr. WALZ.

H.R. 930: Mrs. DAHLKEMPER.

H.R. 938: Mr. FRANK of Massachusetts.

H.R. 997: Mr. TIM MURPHY of Pennsylvania and Mr. BISHOP of Utah.

H.R. 1126: Mr. JACKSON of Illinois.

H.R. 1135: Mrs. DAHLKEMPER.

H.R. 1177: Mr. DAVIS of Kentucky and Ms. SHEA-PORTER.

H.R. 1193: Mr. GERLACH.

H.R. 1326: Mr. KILDEE, Mr. CROWLEY, Mr. HODES, Mr. OLVER, Mr. CUMMINGS, and Mr. LATOURETTE.

H.R. 1409: Mr. OWENS.

H.R. 1428: Ms. ZOE LOFGREN of California.

H.R. 1458: Mr. SMITH of New Jersey.

H.R. 1523: Mr. KENNEDY.

H.R. 1551: Mrs. DAHLKEMPER.

H.R. 1821: Mr. STUPAK.

H.R. 2085: Mr. FRANK of Massachusetts.

H.R. 2106: Mr. PLATTS.

H.R. 2194: Mr. HOLT.

H.R. 2254: Mr. KING of New York, Mr. NADLER of New York, Mr. OBERSTAR, Mr. PERRIELLO, Ms. MOORE of Wisconsin, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CLARKE, Mr. BOOZMAN, and Mr. BISHOP of Utah.

H.R. 2262: Mr. YOUNG of Alaska.

H.R. 2308: Mr. MORAN of Virginia.

H.R. 2378: Mr. SCHAUER.

H.R. 2450: Mr. CARNEY.

H.R. 2480: Ms. SLAUGHTER.

H.R. 2553: Mr. TEAGUE.

H.R. 2608: Mr. MORAN of Kansas and Mr. CRENSHAW.

H.R. 2698: Mr. TAYLOR and Mr. HILL.

H.R. 2699: Mr. TAYLOR.

H.R. 2799: Mr. HINOJOSA, Mr. TAYLOR, Mrs. MALONEY, Mr. HALL of New York, Mrs. KIRKPATRICK of Arizona, and Ms. RICHARDSON.

H.R. 2807: Mr. LIPINSKI and Ms. LEE of California.

H.R. 2829: Mr. JOHNSON of Georgia.

H.R. 2906: Ms. SCHAKOWSKY.

H.R. 2946: Mr. GUTHRIE, Mr. CLEAVER, and Mrs. CAPITO.

H.R. 3010: Mr. DELAHUNT.

H.R. 3044: Mr. BARTON of Texas and Mr. HOEKSTRA.

H.R. 3105: Mr. GARY G. MILLER of California.

H.R. 3129: Mr. OLSON and Mr. BOOZMAN.

H.R. 3212: Mr. CONYERS.

H.R. 3251: Mr. CHAFFETZ.

H.R. 3286: Mr. HODES and Ms. WOOLSEY.

H.R. 3359: Mr. BERMAN.

H.R. 3380: Mr. SCHAUER, Mr. UPTON, Mr. KILDEE, and Mr. MASSA.

H.R. 3393: Mr. MURPHY of New York, Mrs. BLACKBURN, and Mr. JONES.

H.R. 3486: Mr. MICA and Mr. SPACE.

H.R. 3531: Mr. PASTOR of Arizona and Mr. STARK.

H.R. 3554: Ms. HARMAN.

H.R. 3564: Mr. HARE and Mr. GONZALEZ.

H.R. 3586: Mr. FRANK of Massachusetts and Mr. PASCRELL.

H.R. 3589: Mr. PAYNE.

H.R. 3646: Ms. ROYBAL-ALLARD, Ms. CHU, Mr. HONDA, Mr. FARR, and Ms. BALDWIN.

H.R. 3699: Mr. FRANK of Massachusetts and Mr. PAUL.

H.R. 3712: Mr. QUIGLEY and Ms. FUDGE.

H.R. 3721: Mr. MEEK of Florida.

H.R. 3758: Mr. YOUNG of Alaska, Mr. HOEKSTRA, Mr. CONYERS, Mrs. MYRICK, Mr. SIRES, Mr. POE of Texas, and Mr. ROSS.

H.R. 3778: Mr. KING of New York.

H.R. 3810: Mr. CUMMINGS.

H.R. 3828: Mr. POSEY, Mr. GARRETT of New Jersey, and Mr. ROYCE.

H.R. 3838: Mr. MEEKS of New York.

H.R. 3855: Mr. POLIS, Ms. DEGETTE, and Mr. CLEAVER.

H.R. 3942: Mrs. DAHLKEMPER.

H.R. 4000: Mr. FOSTER and Mr. FILNER.

H.R. 4052: Mr. REICHERT.

H.R. 4067: Mr. QUIGLEY and Mr. ALTMIRE.

H.R. 4090: Mr. LEVIN.

H.R. 4100: Mr. GINGREY of Georgia, Mr. ALEXANDER, Mr. BURTON of Indiana, Mr. OLSON, Mr. ROE of Tennessee, Mr. BARTLETT, Mr. THOMPSON of Pennsylvania, and Mr. SOUDER.

H.R. 4104: Mr. CASTLE.

H.R. 4114: Mr. JOHNSON of Georgia.

H.R. 4116: Mr. NADLER of New York, Mr. JACKSON of Illinois, Ms. VELÁZQUEZ, and Mr. RAHALL.

H.R. 4127: Mr. ADERHOLT and Mr. ROGERS of Kentucky.

H.R. 4132: Ms. ROS-LEHTINEN and Mrs. NAPOLITANO.

H.R. 4134: Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Mr. MEEKS of New York, Mr. CLEAVER, Ms. JACKSON-LEE of Texas, Mrs. BLACKBURN, Ms. WATSON, Ms. KILPATRICK of Michigan, Mr. CUMMINGS, Ms. EDWARDS of Maryland, Mr. JOHNSON of Georgia, Mr. SCOTT of Georgia, Mr. KUCINICH, and Mr. FATTAH.

H.R. 4138: Mr. PITTS, Mr. MARCHANT, Mr. SHADEGG, Mr. CONAWAY, Mr. KING of Iowa, Mr. COLE, Mr. BURTON of Indiana, Mr. OLSON, Mr. GOHMERT, Mr. BARTLETT, Mr. JORDAN of Ohio, Mr. BISHOP of Utah, Mr. LAMBORN, Mr. POSEY, Mr. THOMPSON of Pennsylvania, Mr. BILBRAY, Mr. AKIN, and Ms. FALLIN.

H.R. 4157: Mr. WILSON of South Carolina and Mr. DUNCAN.

H.R. 4162: Mr. CULBERSON.

H.R. 4163: Ms. SCHAKOWSKY.

H.R. 4177: Mr. BISHOP of Georgia.

H.R. 4184: Ms. BERKLEY and Mr. CROWLEY.

H.R. 4185: Ms. HERSETH SANDLIN.

H.R. 4190: Ms. SLAUGHTER.

H.R. 4191: Mr. CONYERS and Ms. ZOE LOFGREN of California.

H.R. 4196: Mr. JACKSON of Illinois, Mr. FILNER, Mr. LARSEN of Washington, and Ms. CORRINE BROWN of Florida.

H.R. 4219: Mr. MARIO DIAZ-BALART of Florida, Mr. DUNCAN, Ms. ROS-LEHTINEN, Mr. ROGERS of Alabama, Mr. COFFMAN of Colorado, Mr. ROE of Tennessee, Mr. GUTHRIE, Mr. HARPER, Mr. HUNTER, Mr. MCHENRY, and Mr. CHAFFETZ.

H.R. 4235: Mr. LANGEVIN.

H.J. Res. 47: Mr. BACHUS and Mr. ROSS.

H. Con. Res. 24: Mr. RYAN of Ohio.

H. Res. 111: Mr. CAPUANO and Mr. MCMAHON.

H. Res. 166: Mr. SPRATT.

H. Res. 704: Ms. WASSERMAN SCHULTZ, Mr. CAMPBELL, Mr. DAVIS of Alabama, Mr. HINOJOSA, Mr. OLSON, Mr. MCKEON, Mr. MARCHANT, and Mr. WILSON of South Carolina.

H. Res. 708: Mr. BISHOP of New York, Mrs. BIGGERT, Mrs. BLACKBURN, Ms. GRANGER, Mrs. GINNY BROWN-WAITE of Florida, and Mrs. BONO MACK.

H. Res. 713: Mr. SKELTON, Mr. THOMPSON of Mississippi, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. BACA, Mr. BRALEY of Iowa, Mrs. CHRISTENSEN, Ms. MATSUI, Mr. DOYLE, Ms. SUTTON, Mr. WELCH, Ms. ROYBAL-ALLARD, Ms. WATERS, Mr. DAVIS of Illinois, Mr. CARSON of Indiana, Mr. CONYERS, Mr. CUMMINGS, Ms. LEE of California, Mr. JACKSON of Illinois, Ms. NORTON, Mr. TOWNS, Ms. HIRONO, Mr. WU, Mr. BURGESS, and Mr. GOHMERT.

H. Res. 812: Mr. SPRATT and Mrs. MYRICK.

H. Res. 860: Mr. KAGEN, Mr. GEORGE MILLER of California, and Mr. POLIS of Colorado.

H. Res. 862: Mr. RUSH, Mr. JACKSON of Illinois, Mr. GUTIERREZ, Ms. SCHAKOWSKY, Mr. COSTELLO, and Ms. HERSETH SANDLIN.

H. Res. 864: Mr. PRICE of North Carolina, Mr. MAFFEI, Mr. HOYER, Mr. KISSELL, Mr. KIND, Mr. MEEK of Florida, Mr. OWENS, Mr. HOLDEN, Mr. MICHAUD, Mrs. HALVORSON, Mr. HILL, Mr. BAIRD, Mr. ETHERIDGE, Mr. HODES, Ms. TITUS, Mr. STUPAK, Mr. EDWARDS of Texas, and Mr. SARBANES.

H. Res. 879: Mrs. LOWEY, Ms. HIRONO, and Mr. JOHNSON of Georgia.

H. Res. 901: Mr. JOHNSON of Georgia.

H. Res. 904: Mrs. Kirkpatrick of Arizona, Mr. WALZ, Mr. FALEOMAVAEGA, Mr. SHULER, Mrs. CHRISTENSEN, Ms. MOORE of Wisconsin, and Mr. MCNERNEY.

H. Res. 924: Mr. CONAWAY, Mr. FORBES, and Mr. LAMBORN.

H. Res. 925: Mr. WITTMAN and Mr. TAYLOR.

H. Res. 933: Mr. MCCOTTER.

H. Res. 934: Mr. MCCOTTER.

H. Res. 945: Mr. THOMPSON of Pennsylvania, Mr. AKIN, Mr. WAMP, Mr. HUNTER, Mr. SHADEGG, Mr. BURTON of Indiana, Mr. ROE of Tennessee, Mr. HENSARLING, Mr. RYAN of Wisconsin, Mr. MARCHANT, Mr. CONAWAY, Mr. GOHMERT, Mr. HALL of Texas, Mr. ALEXANDER, Mr. JORDAN of Ohio, Mr. BILIRAKIS, and Mr. SCALISE.

H. Res. 947: Ms. SCHAKOWSKY, Mrs. MALONEY, and Mrs. DAVIS of California.

H. Res. 951: Mr. COBLE, Mr. NEUGEBAUER, Mr. MARCHANT, Mr. PITTS, Mr. GINGREY of Georgia, Mr. HENSARLING, Mr. GOODLATTE, Mrs. BLACKBURN, Ms. FALLIN, Mr. ISSA, Mr. WAMP, Mr. AKIN, Mr. ADERHOLT, Mr. BILBRAY, Mr. THOMPSON of Pennsylvania, Mr. POSEY, Mr. BISHOP of Utah, Mr. JORDAN of Ohio, Mr. BARTLETT, Mr. ROE of Tennessee, Mr. HALL of Texas, Mr. GOHMERT, Mr. ALEXANDER, Mr. SHADEGG, Mr. WESTMORELAND, and Mrs. BACHMANN.

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PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, WEDNESDAY, DECEMBER 9, 2009 No. 184

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable PAUL G. KIRK, Jr., a Senator from the Commonwealth of Massachusetts.

PRAYER

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

Let us pray.

God of justice, bring wholeness to our world. Keep fear, ignorance, and pride from limiting Your work in our Nation.

Give the Members of this body the insight to understand the actions they should take during these challenging times. Quicken their hearts and purify their minds. Broaden their concerns and strengthen their commitments. Lord, lead them through this season of challenge to a deeper experience with You, enabling them to feel You in their midst, as they grapple with the problems of our time.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAUL G. KIRK, Jr., led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 9, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL G. KIRK, Jr., a Senator from the Commonwealth of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

NOTICE

If the 111th Congress, 1st Session, adjourns sine die on or before December 23, 2009, a final issue of the *Congressional Record* for the 111th Congress, 1st Session, will be published on Thursday, December 31, 2009, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 30. The final issue will be dated Thursday, December 31, 2009, and will be delivered on Monday, January 4, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be formatted according to the instructions at http://webster/secretary/cong__record.pdf, and submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–59.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the *Congressional Record* may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

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

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RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader marks, the Senate will resume consideration of the health care reform legislation. Following remarks by the chairman and ranking member of the Finance Committee or their designees, the next 2 hours will be equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first 30 minutes and the majority will control the second 30 minutes. The remaining time will be equally divided and used in alternating fashion. No amendments are in order during the controlled time. Rollcall votes could occur this afternoon, but at this stage we have no knowledge that we have worked anything out and don't know if we will. We will do our best to give Members as much notice as possible.

HEALTH CARE REFORM

Mr. REID. Mr. President, much of this momentous health care debate revolves around numbers, as it should. We read them in reports, see them in charts, and hear about them in speeches. The state of health care in this country is in such a severe crisis that these numbers are often quite overwhelming. Today, I want to talk about 1 number—31. It has a special significance, especially today, along the course of this long, historic pursuit to make it possible for every American to have health insurance and good health.

First, let's discuss the future.

The number 31 is a powerful reminder of both the great opportunity before us and the great cost of inaction, a tangible illustration of what we stand to gain and what we stand to lose. When we pass this bill, 31 million Americans who today have no health insurance will have health insurance at long last. That means they no longer will have to put off the surgery they need and will be able to finally use prescriptions as prescribed—not half a pill every day, a whole pill every day. It means 31 million Americans will have a decent shot at a healthy life.

If we don't act, if we let misinformation confuse us or let distractions divert us or refuse to answer the American people's call to action, many more will suffer. In Nevada, like every other State, health insurance costs continue to climb. If we don't act, in just 6 years, the typical Nevada family will spend more than 31 percent of their income on health care premiums. Almost a third of every Nevadan's paycheck will go right to his or her insurance company. That number is even higher on average throughout the country but only if we do nothing.

Second, let's talk for just a little bit about today, the present.

Right now, every 31 minutes insurance companies terminate insurance for 300 Americans. Sometimes it is because you lost your job, because you lost your health care when you lost your job. Sometimes it is because you change your job but your health care company doesn't come along with your job change. And sometimes, at the very time you need it the most, the insurance company says: Sorry. We are not going to continue the insurance we have given you before. Because they want to make more money, a greedy health insurance company looks at your medical history and says: I am sorry, but we are going to take it away from you. You have no recourse. Maybe you have had high cholesterol your whole life or maybe acne as a child or you had a C-section as an adult. Health insurance companies have used all these reasons to drop someone's coverage. Maybe you had minor surgery 10 years ago or your mother had breast cancer or your father had heart disease. That is all it takes. We all know that, much like our Republican colleagues, insurance companies will use any excuse in the book to say no.

But that statistic, that every 31 minutes in America more than 300 people lose their health insurance coverage, what does that really mean? Imagine if the Senate gallery—600 people can be seated in our galleries—imagine if every single one of these seats was filled by a good American citizen who wanted to look over the Senate and they all had health care when they came in here. Imagine that each of them came this morning to watch their government work, to observe the proceedings here on the floor for an hour or so. Then each of them went on their way when that hour came to a close, but on their way out the door they were told that no longer would they have health care. That is what is happening right now in America, the wealthiest and greatest country in the world. Every 31 minutes, 300 more people lose their health coverage.

Third and finally, let's talk about the past. Let's put the historical moment upon us in the context of history.

It was 31 years ago this day that Senator Ted Kennedy gave one of the most profound and stirring speeches both of his remarkable life and in the history of the Senate and certainly in the history of our Nation's long health care debate. In that talk, he made an observation that rings just as true today as it did more than three decades ago. He said:

> One of the most shameful things about modern America is that in our unbelievably rich land, the quality of the health care available to many of our people is unbelievably poor and the cost is unbelievably high.

Senator Kennedy observed how out of control costs were back in 1978 and warned how quickly they would rise if we did not act.

Well, we didn't act. In the past 31 years, health care costs have skyrocketed, and that is a gross understatement. The number of uninsured Americans has done the same. We have 50 million now uninsured and more bankruptcies than ever. Three out of five are because of medical expenses. Other countries have no bankruptcies because of medical expenses. Germany, France, Great Britain, Japan—they don't have bankruptcies because of health expenses. The cost of prescription drugs has doubled in just the past decade, and far fewer small businesses can afford to cover their workers. One more thing has happened: The resistance of the health insurance industry and congressional Republicans to change the American people's demand has only become more tone deaf and more intense.

If we don't act at this time, those terrible trends will only continue. I can hear Senator Kennedy now. I wasn't here 31 years ago, but I can hear him because I listened to him very closely for more than 31 years. Costs will continue to go up without end. More Americans who have health insurance today will lose it. More patients will die of diseases we know how to treat. As the crisis spirals, insurance company executives will laugh all the way to the bank. One company made $1 billion last year; the chief executive took home $100 million. How is that?

Much of the health care debate revolves around numbers, but at its heart, it is really about people. On December 9, 1978, 31 years ago, Senator Ted Kennedy asked us to recognize that health care is ''a basic right for all, not just an expensive luxury for the few.'' A generation later, good health is still a luxury in this country. We are working day and night to see if we can help the generation that is here now and generations to come. If we don't, they will have the same memories 31 years from now as Senator Kennedy prophesied 31 years ago.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE: IMPACT ON SMALL BUSINESS

Mr. McCONNELL. Mr. President, the American people have now seen what Democrats in Congress plan to do with seniors' health care. They have looked on in total disbelief as the majority voted again and again to slash Medicare by nearly $½ trillion.

Incredibly, these cuts represent just part of the pain caused by this bill. In addition to punishing seniors, it would punish businesses. At a time when 1 out of 10 working Americans is looking for a job, this bill would hit employers

with job-killing new taxes and mandates, and it wouldn't do anything to lower long-term health care costs. This is the very last thing business owners expected from this bill. It is the last thing America needs in the midst of a recession. And it is just one of the reasons more and more business groups are stepping forward and speaking out against this job-killing bill.

Yesterday, I mentioned a letter signed by 10 major trade groups pleading with us not to approve this bill because of the effect it would have on business. Later in the day, the National Federation of Independent Business, one of the leaders in the small business community, released a letter explaining why they opposed the bill. They said any health care reform faces two tests for small businesses: Does it lower insurance costs, and will it increase the overall cost of doing business. According to them, the Senate bill fails both of these tests and therefore fails small business. They have seen the CBO conclude that this bill would lead to higher premiums. They have seen the billions of new taxes that would fall unfairly on small businesses. And they have seen the mandates and the fines that would kill jobs. They have concluded that this bill would actually be worse for small business than the current situation.

It is abundantly clear that the more Americans learn about this bill, the more they oppose it. Now we know the same goes for business. Businesses that can't insure workers face stiff fines resulting in lost wages and jobs, according to the independent Congressional Budget Office.

What is more, studies suggest that this so-called employer mandate would have a disproportionate impact on low-income, entry-level workers. At a time of 10 percent unemployment, we should be doing everything we can to create jobs. This bill would only lead to more lost jobs.

Medicare cuts are bad enough, but this bill doesn't just hurt seniors, it hurts the economy as well. That is why Americans overwhelmingly oppose it.

Speaking of how people feel about this bill, we see signs of opposition everywhere. Public opinion is overwhelming. In all the polls across the country, the American people are saying: Don't pass this bill.

Last month's gubernatorial elections in New Jersey and Virginia were a stinging rebuke to the Democratic approach of more spending, more debt, higher taxes, and endless bureaucracy.

There is a new development. Just yesterday—just yesterday in my home State—there was a special election for the State senate. Why would that be worthy of commentary on the Senate floor? Let me describe the situation. It is a 3-to-1 Democratic district. Because of State issues, the Democratic State administration was intensely interested in winning that seat. They spent $1 million cumulatively—the candidate, the Democratic State party, and an outside interest group—in support of the Democrat—$1 million on one side of a State senate race in a rural area of my State.

On the other side was a Republican candidate, who was outspent 5 to 1—outspent 5 to 1 in a 3-to-1 Democratic district. The Republican candidate for the State senate won by 12 points. How did that happen? He had one message—one message: oppose the Reid bill, oppose what PELOSI is doing, oppose what the Democrats in Washington are doing.

In other words, the candidate who was outspent 5 to 1 in a district where he was outregistered 3 to 1 made the sole issue in the State senate race what is happening here in Washington on this bill that is on this floor.

That ought to tell you on the heels of the Virginia and New Jersey elections what is happening in this country. People have seen enough and heard enough, and they want it to stop.

The message is simple. This health care bill is a losing formula all around. That is the message Americans are sending loudly and clearly. The signs are everywhere. We saw it yesterday in my home State. It is time to stop this bill and start over.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3590, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to modify the first-time home buyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

Pending:

Reid amendment No. 2786, in the nature of a substitute.

Dorgan modified amendment No. 2793 (to amendment No. 2786), to provide for the importation of prescription drugs.

Crapo motion to commit the bill to the Committee on Finance, with instructions.

The ACTING PRESIDENT pro tempore. Under the previous order, following any remarks of the chairman and ranking member of the Finance Committee or their designees, for up to 10 minutes each, the next 2 hours will be for debate only, with the time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first 30 minutes, and the majority controlling the second 30 minutes, and with the remaining time equally divided and used in an alternating fashion.

The Senator from Montana.

Mr. BAUCUS. Mr. President, for the benefit of all Senators, let me lay out today's program.

It has been nearly 3 weeks since the majority leader moved to proceed to the health care reform bill. This is the 10th day of debate on the bill. The Senate has considered 18 amendments or motions. We have conducted 14 rollcall votes.

Today the Senate will debate the amendment by the Senator from North Dakota, Mr. DORGAN, on prescription drug reimportation. At the same time, we will debate the motion by the Senator from Idaho, Mr. CRAPO, on taxes.

Under the previous order, the time until 12:30 p.m. today will be for debate only, with the time equally divided and controlled between the two leaders or their designees. Following the remarks of the ranking member of the Finance Committee or his designee, the Republicans will control the first 30 minutes and the majority will control the second 30 minutes, with the remaining time equally divided and used in an alternating manner.

We are hopeful the Senate will be able to conduct votes on or in relation to a second-degree amendment to the Dorgan amendment, the Dorgan amendment itself, a side by side to the Crapo motion, and the Crapo motion itself. Thereafter, we expect to turn to another Democratic first-degree amendment and another Republican first-degree amendment. We are working on lining those up.

Over the course of the debate, there has been too much misinformation about what health care reform is and what it will do. I wish to set the record straight.

The goal of health care reform is to lower costs and provide quality, affordable coverage to American families, businesses, and workers. According to the nonpartisan Congressional Budget Office, our bill, the Patient Protection and Affordable Care Act, is a success.

According to the CBO, this bill provides health insurance coverage to 31 million more Americans. That is a big success. It lowers health insurance premiums. Despite what some have said, what some have claimed about premiums rising, that is not true. CBO says this legislation lowers health insurance premiums but for 7 percent, and that 7 percent gets much higher quality health care insurance than otherwise they would get. CBO also says this legislation reduces the Federal deficit by $130 billion over the first 10 years—it reduces the Federal deficit by $130 billion over the first 10 years.

In addition, as the President promised, this bill does not raise taxes on the middle class. In fact, this bill is a net tax cut. Over the next 10 years, this bill will provide a total of $441 billion in tax credits to help American families buy quality, affordable health care coverage they can count on. That is a tax cut, a total of $441 billion in tax cuts. The chart behind me indicates

that. Over the next 10 years, this bill will provide a total of, as I said, $441 billion in tax cuts.

The bill provides a net tax cut of $40 billion in the year 2017. You can see that basically on the chart: $40 billion of tax cuts in 2017. That is $440 for every taxpayer affected. These are individual tax cuts. Let me make that clear. American individuals will get tax cuts under this legislation in these amounts.

That same year—2017—low- and middle-income taxpayers who earn between $20,000 and $30,000 a year will see an average Federal tax decrease of nearly 37 percent. That is CBO. Do not take my word for it. That is CBO and the Joint Committee on Taxation—an independent organization. The average taxpayer making less than $75,000 a year will receive a tax credit of more than $1,300, and that tax credit grows to more than $1,500 in 2019. Those are tax cuts. It is very important we all remember this bill is a net tax cut of this amount for American taxpayers. That is individual tax cuts.

I have heard arguments that the responsibility to have health insurance amounts to a tax on the middle class. This is simply not true. In fact, this policy works to repeal the hidden tax of more than $1,000 in extra insurance premiums that American families with health insurance pay each year in order to cover the cost of caring for those without health insurance. It is a tax for uncompensated care. That is $1,000 per American family, on average, that they have to pay under the current system. This bill would virtually eliminate that.

Additionally, this bill provides Americans with the tools they need to meet that responsibility by ensuring that all Americans have access to quality, affordable health insurance.

The bill eliminates barriers that prevent Americans from getting insurance coverage, such as discrimination based on preexisting conditions. This bill eliminates that. We—all of us—either directly or through a family member or through a friend, have heard these horror stories of insurance companies denying coverage because of a preexisting condition. This legislation stops this. And this legislation makes quality insurance affordable to every American through tax cuts and help with copays and other out-of-pocket costs.

If for some reason an individual still cannot afford to buy the health insurance coverage available to them, they are exempt from paying the penalty. Clearly, this penalty is not a tax. So if you cannot afford it, you do not have to pay—no penalty.

I have also heard arguments that the excise tax on private insurance companies offering costly and excessive insurance plans will raise taxes on individuals. This claim is equally untrue. The Congressional Budget Office reaches the conclusion that is not true. In fact, the Congressional Budget Office reaches the conclusion it will lower premiums. I think the amount is 7 to 12 percent, if I remember correctly—the amount stated in their letter to us in the Congress.

This policy, therefore, is not a tax on individuals. Rather, it is a tax on private insurance companies, and not passed on in the nature of higher premiums, according to CBO—in fact, lower premiums according to CBO.

This legislation is designed to encourage private insurance companies to offer, and employers to choose, health insurance plans with lower premiums that are below the taxable threshold. The Congressional Budget Office noted how effective this policy is in a report when it said:

> . . . most people would avoid the cost of the excise tax by enrolling in plans that had lower premiums.

As a result, CBO says premiums will decrease and wages will increase as employers offer more money in workers' pockets instead of inflated health benefits. In fact, the bulk of the revenue raised by this provision—more than 83 percent—comes not from the tax itself but from increased wages, increased wages on account of this provision. MIT economist Jonathan Gruber estimates this provision will cause workers' wages to rise by $55 in 2019. That is $700 in additional income for every household with health insurance.

The truth is, this bill is fully paid for—fully paid for; CBO says so—and it is paid for in a fiscally responsible way. It reduces the Federal deficit. It lowers the growth of health care costs. It provides quality, affordable health insurance to millions more Americans. And it is a net tax cut—net tax cut—for American families, businesses, and workers, which in these tough economic times means more than ever.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I stand confused from the statement of the chairman of the Finance Committee because we have all the reports that the bill he is talking about is not the bill we are going to be voting on because we are totally changing what we are doing. What is out there now is that we are going to expand Medicare to those down to 55 years of age, and we are going to expand Medicaid up to those of 150 percent of poverty. We are going to add billions of dollars of mandates, even at 90 percent copaid by the Federal Government, to the States over the next 10 years. We have a Medicare Program that you have taken $465 billion out of, and you are going to add 34 million new people to under the new plan—the new plan we are talking about. You are talking about the plan we used to have.

It is interesting, though, as you make those points, when you say it is net tax cut. Three-quarters of the net tax cut goes to people in this country who pay no taxes in the first place. The chairman cannot deny that. The fact is, according to the Joint Tax Committee—the chairman conveniently does not look at the other body that gives us information on taxes. According to the Joint Tax Committee, $288 billion of the $394 billion will be refundable. That is a refundable tax credit to people who are paying no taxes now.

Mr. BAUCUS. Mr. President, might I ask the Senator, it is a tax cut, whether or not it is refundable. And even if it is refundable, it is extra dollars in people's pockets.

Mr. COBURN. The fact is, it is taxes to the average American family—40 million of them. According to the Joint Tax Committee, taxes will rise on those who are making under $200,000 a year. The Joint Tax Committee said that.

The point is, what you are talking about does not have any application because we do not have ''the bill,'' again, because we have a new ''the bill'' on the floor, which is going to take a bankrupt program that our children today are responsible for—if you are born today, based on the unfunded liabilities of Medicare, you are responsible for $350,000, if you are a new child born today, for what we have not paid for in Medicare. And now we have the new plan that is going to come out. We have cut $465 billion out of Medicare, or moved it out of Medicare, to create a new program. And we are going to add 34 million new Americans to it, in a plan that has already mortgaged the future of our children.

The other thing the chairman said is that costs in health care will go down and that premiums will go down. Well, there are 11 out of 12 people who have studied ''the plan'' who say premiums will rise. What CBO says is, if you are in the individual market, your premiums are going to go up anywhere from 10 to 13 percent. In fact, they are not sure whether premiums will decline. They say on the other groups it is from a 1-percent increase to a 2-percent decrease over what they would have already increased.

So our problem with health care is costs. That is the thing that stops access to health care in this country. And the plan—whether it is the new plan, which nobody has gotten to see the details of, or the plan we have seen the details of, the 2,074 pages we have seen the details of—raises the cost of health care in this country.

But none of that is important because the most important thing is, it puts government in control of your health care through the task force on preventive health services, through the Medicare Advisory Commission, and through the cost comparative effectiveness panel. So with a wink and a nod we are going to put government in control of your health care; we are going to put 70 new bureaucracies between you and your doctor; we are going to put 20,000 new Federal employees between you and your doctor; and we are not going to lower the costs. The average American is not going to get a tax cut; they are going to see an

increase out of this bill. The average middle-income American is going to see a tax increase out of this bill.

So, consequently, what we have heard sounds good on the surface. But the most important thing to remember is you are no longer going to be in control of your health care because once the government puts its nose under the tent, just as it did on breast cancer screening—and we have the gall to say we are going to recognize every time the agency does something that is harmful to a patient in their relationship with their doctor, that we are going to come to the Senate floor and correct it. The fact is, that isn't going to happen.

So, ultimately, your health care is going to cost more and your premiums are going to rise. Eleven out of the twelve studies say premiums are going to rise under the bill that is before us, and the people who get the tax cuts are the people who aren't paying any taxes now. To pay for those tax cuts, taxes are going to rise on 40 million American families who earn under $200,000 a year.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak, as well as engage in a colloquy with several of my colleagues.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. Reserving the right to object, under the order of the day, what is the amount of time allocated to each side?

The ACTING PRESIDENT pro tempore. The Republicans control the next 30 minutes. Then the majority controls the next 30 minutes after that.

Mr. BAUCUS. I thank the Chair.

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

Mr. CRAPO. Thank you very much, Mr. President. I appreciate the opportunity to discuss the issue of taxes and jobs today as we focus on the critical legislation in front of us.

I have proposed an amendment, actually a motion, to commit this bill back to the Finance Committee to help us honor the President's pledge on taxes. As we have discussed now for more than a week, notwithstanding all of the claims that are being made about this legislation, one of the irrefutable facts is that it grows the government dramatically. If you take the first full 10 years of spending, not counting the first 4 years that are not included in the spending—in other words, they are delayed in order to make the numbers look better—if you count the first full 10 years of implementation of this bill, it will result in $2.5 trillion of new Federal spending. It will grow the Federal Government by that much.

Repeatedly, President Obama has told the American people he will not allow them to be taxed—those whom he describes as the middle class—in order to pay for this huge new increase in Federal spending.

To use President Obama's own words:

> I can make a firm pledge . . . no family making less than $250,000 will see their taxes increase . . . not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes . . . you will not see any of your taxes increase one single dime.

Yet what does this bill do? It includes $493 billion of new taxes in just the first 10 years. If you use that full 10-year timeframe—that timeframe that starts after the 4 years of spending that have been suppressed in order to change the numbers and the calculations on the bill—the total number in that 10-year window is $1.2 trillion of new taxes.

The question is, Do these taxes fall only on the wealthy or do they fall squarely on those in the middle class? The answer is the large majority of them fall on the middle class. In fact, the Joint Tax Committee has indicated that by 2019, individuals earning between $50,000 and $200,000 would, on average, see a tax increase of $595,000. Families earning between $75,000 and $200,000 would, on average, see a tax increase of $670,000.

My colleague from Montana, the chairman of the Finance Committee, has argued that there is actually a net tax cut in the bill. How do we get to those numbers? Based on a Joint Committee on Taxation report, of the $394 billion that the government will spend on what are called tax credits—that is the tax cut that my colleague is talking about—$288 billion of those $394 billion in credits will go to people who pay no taxes today.

If you think about it, how can it be a tax cut if the money is spent from the Federal Treasury and sent to—or to somebody on behalf of—a person who is not paying taxes in the first place? You can call it a subsidy. You can call it a credit if you would like. I know the words used in the bill are a ''refundable tax credit,'' but the reality is it is nothing other than pure Federal spending. In fact, the Congressional Budget Office classifies this kind of benefit as government spending.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. CRAPO. I will yield on the Senator's time.

Mr. BAUCUS. That is fine.

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

Mr. BAUCUS. The Senator says those are people who don't pay taxes. Don't most of those people pay a lot of taxes? Don't they pay payroll taxes, most of them, who work?

Mr. CRAPO. There is a payroll tax. There is.

Mr. BAUCUS. Are there not other taxes that people pay? It could be sales tax. There are all kinds of taxes that people pay. Particularly working people, there are a lot of taxes they pay.

Mr. CRAPO. Reclaiming my time, although people do pay a lot of sales taxes—not Federal sales taxes, by the way—and although people do pay a lot of other types of taxes, they will pay penalties and fees—in fact, under this bill they will be paying a lot more taxes. The reality is I don't think that is what President Obama was talking about. When he made his pledge, I think his words were: ''You will not see any of your taxes go up.'' The bottom line is you can't say, well, if you offset this tax and you don't count the sales tax or if you add in the sales tax to counteract it—that is not what the President was talking about.

Once again, as Joint Tax has said, by 2019 individuals making between $50,000 and $200,000 on average would see a tax increase of $590,000, and families making between $75,000 and $200,000 would see a net increase on average of $670,000.

Let's go to the next chart.

I note my colleague from Tennessee is here. If he would like to step in at any time, please feel free. I just have two other charts to show, and then I will toss the floor to the Senator. I see he has, I think, a question brewing.

In the analysis that was done by the Joint Tax Committee, by 2019, these people whose taxes I have just described who are squarely in the middle class, there will be at least 73 million American households—that is not individuals, that is households—73 million American households earning below the $200,000 that will face a tax increase. Sometimes the proponents of this bill say, well, that doesn't net out the subsidies we are providing to some of them. If you net out the subsidies—and I don't think that is necessarily an argument, but if you do net out the subsidies—it is still at least 42 million American households that will see their taxes increase under this legislation.

How can that comply with the President's promise? All the motion I have brought does is say to commit this bill to the Finance Committee and make the bill fit the President's pledge. The President pledged that people in the middle class, which he defined as families making less than $250,000 or individuals making less than $200,000, would not see their taxes go up.

With that, again, I see my colleague from Tennessee is ready to join in with me, and I would ask if he has any comments or questions to raise.

Mr. ALEXANDER. I thank the Senator from Idaho. The point you are making is, if you are going to add $½ trillion—this bill as proposed is paid for by about half through Medicare cuts and about half through tax increases, and it is paid for some by sending huge new bills to State governments. But I guess the point the Senator is making basically is that we are going to add $½ trillion in taxes over 10 years or much more than that when the bill is fully implemented. Who is going to end up paying those taxes? It is not going to be insurance companies. It is not going to be medical device

companies. It is going to be the people who—it is going to be us. Isn't that true? Don't you expect that most of the companies upon which the new taxes are imposed will pass those taxes along to the American people?

Mr. CRAPO. Yes. As a matter of fact, in my own mind, I distinguish between taxes on the American people and fees that will be charged to companies and businesses in the private sector that are also being passed on to the American people. All of those will occur.

One interesting clarification or explanation with regard to this refundable tax credit that is talked about so often: it isn't actually refunded to the taxpayer, as I understand it, or to the individual who doesn't pay taxes but is receiving the credit. It is paid directly to the insurance company, as I understand it. So even though some people could be claimed to be paying less taxes by this argument, because some of those who receive the subsidy will get a greater subsidy than they will a tax increase, the fact is even they still get a tax increase and even they still pay their taxes at the higher level. It is just that some of them will get a subsidy that will help to offset that.

Mr. ALEXANDER. I wonder if I may take a minute to talk about another form of taxes, which would be State taxes. Now, people might be thinking: Well, you are talking about a Federal health care bill. How do you get State taxes in there? Well, let me try to explain that just a little bit.

I remember as Governor of Tennessee some years ago, nothing used to make me madder than Washington politicians who would come up with a big idea, take credit for it, hold a press conference and announce it; call it, for example, historic, and then send the bill to me, the Governor, to pay it. Then usually those same politicians would come back to Tennessee and they would make a big speech about local control at the Jefferson Day dinner or the Jackson Day dinner. In fact, sometimes Republicans were just as bad as Democrats in doing it.

I also remember that in 1994 there was a political revolution in the country. This body switched dramatically to the Republican side, and one of the main arguments was no more unfunded mandates. In other words, don't be coming up with big ideas in Washington and sending the bill to the Governor or to the State legislature or to the mayor or to the county commission and expect them to raise property taxes or cut services or raise college tuitions to make it up.

So what I wish to say today is this: This legislation already includes a huge new bill for the State governments. As it is now written, Medicaid for low-income Americans is expanded, and there is a big bill to the States. Our Governor, who is a Democrat, by the way, has been very effective in pointing this out; that Senator REID's bill will add $700 million over 5 years to our State. There is no way our State can pay this bill without a tax increase of significant size or seriously damaging higher education or seeing college tuition begin to go through the roof, just as we saw it do in California the other day when it went up 32 percent. Why did it go up? Because the State has had to spend so much of its money on health care bills, many of which are required by the Federal regulations of Medicaid.

There is a rumor going around that there was a big deal cut last night that would pave the way for passage of this bill that says that instead of a new government-run program, we will simply expand two of the government-run programs we already have—Medicare for seniors and Medicaid for low-income Americans.

I would ask these questions: First, with Medicare, how in the world can we take $1 trillion out of Medicare when the program is fully implemented and give 34 million or 35 million more Americans a chance to opt in it at a time when the trustees of Medicare have said it is going broke in 5 years. Insofar as Medicaid goes, if it is true that the idea is to expand Medicaid to 150 percent of the poverty level—and, of course, we are not invited to any of the meetings; they were all written in the back room so we don't know the details—but if it is true we are going to expand Medicaid even more, our Governor has said in our State that doubles the cost of this legislation to our State.

So down the road, in a few years, what we are going to see in Tennessee is a new State income tax, seriously damaging higher education, and I think it is—

Mr. BAUCUS. Will the Senator yield on that point?

Mr. ALEXANDER. On your time, yes.

Mr. BAUCUS. I will quote from a letter basically to refute the allegations that this is a big obligation on the States. That is totally not true. The question is, Is it not true that on page 7 of the letter from the CBO, dated November 18, to Senator REID, CBO says:

> The CBO estimates that State spending on Medicaid would increase $25 billion over 10 years as a result of this legislation.

That is $2.5 billion a year, on average, for all States.

Another figure I know is that the State increase will not be huge but about a 1 percent increase over the State obligation. Why? Because, as the Senator also noted, an expansion of the population in Medicaid—the Feds are paying virtually all of it. But on a net basis, it is a 1-percent only increase in State obligation over 10 years. Does the Senator know that to be true?

Mr. ALEXANDER. My understanding of the proposal by the Finance Committee bill and by the Reid bill is that the Federal Government expands Medicaid and pays for 100 percent of it for a few years, but after that, the State has a significant portion of the bill. Am I not correct in that?

Mr. BAUCUS. We will have to divide this time. The division is correct. We are only talking—

Mr. ALEXANDER. I am not going to divide the time.

Mr. BAUCUS. Does the Senator ask a rhetorical question or an actual question?

Mr. ALEXANDER. Mr. President, I will retain the floor, and then the Senator can make his statement later.

The fact is, after 3, the Federal Government sends a big bill to the States. The fact is, the Governor of Tennessee, who is a Democrat and who has worked with other Governors and is actually leading the National Governors Association's effort to see the impact of this kind of legislation, says it will cost our State $700 billion over 5 years and $1.4 billion if we expand Medicaid up to 150 percent of federal poverty level. The State pays part of that bill. That means a big State tax increase. It means big higher education increases.

As a former Governor, I guarantee that if this happens, a few years from now when the federal government shifts costs onto the states, there will be a revolt in the States and people will be asking who did this. I would seriously say that any Senator who votes to expand Medicaid and sends a significant part of the bill to the States ought to be sentenced to go home and be Governor and try to govern the State under those conditions.

I think this kind of legislation, and especially the rumor I have heard regarding a dramatic increase in the expansion of Medicaid, will be a damaging blow to the American public's higher education from which it will never recover, tuition will go to a level where only the rich can afford to go to school, and the idea of public higher education will be left aside, all because Washington politicians ran up the bill, took the credit, made an announcement, and sent a huge bill to State governments that are struggling with their worst fiscal condition since the Great Depression.

Mr. CRAPO. I thank my colleague. We will see State taxes as well as Federal taxes going up.

Senator JOHANNS has joined us as well. Before I ask him to join in with questions and comments, I want to make one other clarification.

Again, we have the President's pledge up here on the chart. The motion I have offered simply says: Make the bill comply with the President's pledge. If there are no new taxes, the bill doesn't have to be changed if we pass this motion. If there are, it does.

Remember, I don't think that when the President made this pledge, he was saying he will not increase taxes on a net basis. In other words, I didn't hear the President say: I won't raise your taxes higher than I would cut them in some other areas. He specifically didn't say he would count subsidies being paid out to those who do not pay income taxes as an offset to any tax increases he wanted to raise somewhere else. The

President didn't get into all these nuances. He said he was not going to raise taxes on the middle class. The fact is, the middle class will see huge tax increases under this bill.

Before I toss the floor to my colleague, I will say this: CBO estimates that only 7 percent of all Americans will receive any of these subsidies. Yet, specifically, out of the 282 million Americans with some type of health insurance, only 19 million of them will be eligible for the tax credit for their health insurance. The rest of the millions of Americans are going to be the ones paying those taxes. That is how it ends up. At minimum—and we are still going through the bill, and this number is growing—at least 42 million people who make less than $200,000—and, frankly, far less—are going to be paying a lot more taxes. That is the reason for the motion.

I yield to my colleague, Senator JOHANNS.

Mr. JOHANNS. Mr. President, Senator ALEXANDER really has this right. I had the honor of being the Governor of Nebraska for 6 years. The whole idea of balancing a budget is not theoretical to a Governor. You have to do it.

Let me tell you, if I might, about our State. Many years ago—decades and decades ago—when our founders wrote our State constitution, they were worried about the State getting itself embroiled in too much debt. So they said the politicians will be allowed to borrow some money. The limit they put in the State constitution was $50,000.

So you see, in Nebraska, when you are faced with an unfunded mandate, like what is happening in this health care bill, I say you get three choices: You can cut programs like K–12 education, higher education, and much-needed services. No. 2, you can raise taxes, sales and income taxes. That is about what you are down to because that is really where the revenue comes from for States. The third choice is you get to do both. I guarantee you that none of those approaches is very popular.

Just within the last few weeks, our Governor, dealing with the recession, like every Governor in the country, stepped in front of the unicameral, as I did as Governor, and he said: My friends, we have to cut the spending. It was just as clear as can be. He said: We have to cut the spending. People are hurting. They are laid off. If they are hurting, they are not spending as much; therefore, our revenues are down. We have to cut spending.

They worked over a couple-week period of time, and they came up with a plan—I think it was unanimously approved—to cut the spending.

Well, here we are in Washington, and when you pull the gimmicks out of this bill and score it realistically over 10 years, this is a multimillion-dollar hit to every State, including the State of Nebraska. So what are we handing off to the State? Guess what. We are saying: You get a chance to raise taxes—not because of any vote you took on the floor of the unicameral in Nebraska but because of what happened with Washington unfunded Federal mandates. That is what this bill is all about when you look at the expansion of Medicaid. I read the reports about the possibility this might go to 150 percent. Keep doing the math, keep loading the unfunded mandates on our State Governors.

Do you know why we are doing this? We are doing it to try to convince the American people that this is a cheaper bill than it is. When they figure out that the Governor of their State has this problem to deal with and they come to figure out they are going to pay higher taxes or get fewer services and less education, it will become very real to them. I have said many times on this floor that with this bill, reality will set in. Here is another piece of reality.

Then you look at the overall bill. About $½ trillion—in addition to this Medicaid mess we are going to push onto the States, there will be about $½ trillion in new taxes.

Senator CRAPO put up the promise the President has made. Well, gee, when he is done with that board, we can ceremoniously tear it up because, you know what, that promise isn't anywhere near being kept. When he said those things, quite honestly, there was no way he could deliver with this health care bill. Uninsured Americans get taxed. Insured Americans get taxed. Families with high-value plans get taxed. High-health-cost families get taxed. Flexible spending gets reduced. Small businesses get taxed. We can go on and on and on, to the tune of $½ trillion. That is not even counting the unfunded mandate hammer we are sending to every Governor in this Nation.

Mr. CRAPO. Mr. President, I will add some statistics that I was reading while my colleagues were commenting. If you take out that CBO report, which is what actually analyzes this on a nonpartisan basis, the impact of these Medicaid expenditures, not including the proposed increase we heard about overnight, it clearly says:

> CBO estimates that State spending on Medicaid would increase by about $25 billion over the 2010–2019 period as a result of the provisions affecting coverage in table 3. That estimate reflects States' flexibility to make programmatic and other budgetary changes to Medicaid and CHIP.

That is the statistic my colleague from Tennessee was looking for.

Mr. ALEXANDER. I thank the Senator. It is true that in the legislation the estimate is that the Federal Government would pay 100 percent of the increased expansion of Medicaid for 3 years and that it will cover about 90 percent of the cost after that, which sounds like a lot. But we throw so much money around up here, we have completely lost any appreciation of what that amount of money costs at the State level. In our State, our Governor has said that the 133-percent increase is about $700 million over 5 years, and that is a big, new tax or a big increase in college tuition.

If I may, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal of December 4 from the dean and CEO of Johns Hopkins Medicine.

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

[From the Wall Street Journal, Dec. 4, 2009]

HEALTH REFORM COULD HARM MEDICAID PATIENTS: A VAST EXPANSION OF THE PROGRAM WILL IMPOSE UNSUSTAINABLE COSTS ON TREATMENT CENTERS

(By Edward Miller)

BALTIMORE, MD.—Both the House and Senate health-care reform bills call for a large increase in Medicaid—about 18 million more people will begin enrolling in Medicaid under the House bill starting in 2013, Centers for Medicare and Medicaid Services (CMS) Actuary Richard Foster estimates.

We at Johns Hopkins Medicine (JHM) endorse efforts to improve the quality and reduce the cost of health care. But we also understand all too well the impact a dramatic expansion of Medicaid will have on us and our state—and likely the country as a whole.

A flood of new patients will be seeking health services, many of whom have never seen a doctor on more than a sporadic basis. Some will also have multiple and costly chronic conditions. And almost all of them will come from poor or disadvantaged backgrounds.

We know this because we've been caring for Medicaid patients in a managed-care setting for 14 years, as well as providing world-class care to people from all over the country and the world. Our experience provides a glimpse of the acute cost bubble that the health-care system will suffer with the reforms now being proposed.

Like Intermountain Healthcare in Utah, Geisinger Medical Center in Pennsylvania, and the Mayo Clinic, where, as President Barack Obama notes, ''people fly from all over the world to Rochester, Minnesota in order to get outstanding care,'' people also fly from all over the world to obtain care from JHM. But unlike those other institutions, we also serve large numbers of people who can't afford cab fare to the nearest hospital: poor, disadvantaged individuals, 150,000 of whom are in our Medicaid managed-care program, Priority Partners.

Priority Partners operates under a capitated system—that is, it receives a set payment per individual per month from the state. Over time, we've developed the ability to manage the care of these individuals in a way that is both cost effective and that provides them with quality care. We've done it by tapping into our extensive delivery system, which includes four hospitals, a nursing home, the largest community-based primary care group in Maryland, and much more.

We've hit above-national benchmarks on all clinical quality measures for our dialysis patients, reduced monthly costs for patients with substance abuse and highly complex medical needs, and 70% of our patients tell us they're satisfied with our care. But the learning curve has been costly and steep, and provides a cautionary tale for what will happen under the health-care reforms currently in Congress.

Mr. ALEXANDER. The dean, who writes a very sympathetic column which I will not read but a sentence or two of, is describing the current health care bill. He says:

Even if only half those individuals seek Medicaid coverage, such a large expansion would likely have an excruciating impact on the State's budget. And Maryland is not alone. According to a Kaiser Foundation survey conducted earlier this year, three-quarters of the States have expressed concern that expanding Medicaid could add to their fiscal woes. Already, as Kaiser notes, 33 States cut or froze payment rates to those who deliver health care to Medicaid patients. . . .

The proposal—and the Reid bill is maybe exacerbated by this deal we have been hearing about—is to shift millions more low-income Americans into a program called Medicaid, when only 50 percent of doctors will see new patients in that program, and then send a huge bill to the States, which will damage higher education.

I remember, after I was Governor, I heard on the radio that the State of Tennessee had done a wonderful thing. It would double the number of children covered by Medicaid at the same amount of cost. It went through my mind that it would never happen. That program became the TennCare Program, which has nearly bankrupted our State.

Mr. CRAPO. Mr. President, I thank my colleagues for their comments.

How much time remains on our side?

The ACTING PRESIDENT pro tempore. Six minutes.

Mr. CRAPO. I will make a couple of other comments, and I will allow my colleagues to wrap up with their final comments. I want to raise an additional issue.

On this chart, we show what is going to happen with the IRS. Right now, the CBO estimate indicates that because the IRS is in charge of the implementation of so many of the mandates and other requirements in this bill and because of the new taxes that will be forced onto the American people, there will need to be an expansion of the IRS. The CBO says that could mean as high as an additional $10 billion at the IRS.

If there are no new taxes in this bill or no new mandates in the bill, if there is no increased role of the Federal Government in the management of the health care economy in this bill, why do we need to have the size of the IRS, which is a $12 billion institution today—why does it need to grow to almost double, up to $22 billion?

The point is, the motion I have made is very simple and straightforward. We can argue back and forth about what the President said or whether this bill has tax cuts or tax increases in it or whether, in the net result, it does one thing or another.

The bottom line is, with regard to about 157 million Americans who get their health insurance through their employer, by 2019, they are not going to be eligible for these tax credits people are talking about. They are going to be paying increased taxes.

All this motion does is protect those 42 million people we were talking about who are going to see their taxes go up; 42 million households will see their taxes go up.

If the other side is right and what we are talking about does not exist in the bill, then this motion should be harmless because all the motion says is commit the bill to the Finance Committee and tell the Finance Committee to take out the taxes that impact the middle class.

I ask if either of my colleagues from Nebraska or Tennessee would like to make any concluding remarks.

Mr. JOHANNS. Mr. President, let me offer a thought or two. Senator CRAPO has hit the nail on the head. If this is not happening, if, in fact, the argument of the other side is accurate and this is not happening and this is some made-up sort of argument, then the Senator from Idaho is absolutely right, this motion will have no effect. So why would you not support the motion? Why wouldn't you want the health care bill to reflect the promise of the President of the United States? Why would you not stand and say: Look, it is a hard time out there. Unemployment is 10 percent. People are hurting. Unemployment and underemployment are 17.5 percent. This has been as tough a recession as we have seen in a long time, and it has hurt real people. Why wouldn't you want to stand for them and say: Man, we understand. We have heard you at our townhall meetings. We have heard you back home. We have heard you, and we are going to make sure we are not going to add to your burden.

I appreciate Senator ALEXANDER putting in that article. I thought that was a tremendous article. Medicaid is chewing up State budgets. I managed one of those budgets. Keep in mind, this is an entitlement program—no deductibles, no copays, no premiums. If you qualify, you get it. So there is no way you can manage this budget. It is exponentially growing. Forty percent of the docs do not take Medicaid patients. Why? Because they go broke on the reimbursement rate. Hospitals tell me all across the State of Nebraska: We cannot keep our doors open on the Medicaid reimbursement rate.

So what are we doing? We are adding millions of people to that problem. They will have an access problem. State budgets will have a problem. They will be in crisis. Our hospitals are going to face the same crisis. It is the wrong policy. It is the wrong course of action. Let's start listening to the American people.

Mr. ALEXANDER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 1½ minutes remaining.

Mr. ALEXANDER. Mr. President, day in and day out Republicans have come to the floor and said: Instead of a comprehensive, 2,000-page approach to try to fix this massive health care system all at once in a way that raises taxes and premiums and makes Medicare cuts, why don't we, instead, identify the goal of reducing the cost of health care to individuals and to the government and take commonsense steps toward that goal.

We have suggested small business health care plans which have been offered, scored by the CBO to save money and expand coverage. We have offered proposals to limit the number of junk lawsuits against doctors. There may be an argument about how much that saves, but there is no argument that would not drive down the costs. We have suggested allowing purchasing of health insurance across State lines to increase competition, and creating health insurance exchanges. There are efforts in wellness and prevention that we have made specific proposals concerning. In terms of corralling waste, fraud and abuse in Medicare and then spending the savings on Medicare, instead of a new program, that is the Republican agenda.

Pick a goal: reducing health care costs and move step by step toward that goal in a way that reearns the trust of the American people, instead of a comprehensive, 2,000-page bill filled with taxes, mandates, surprises, and a Washington takeover of health care.

There is a real choice. We regret the fact that we seem to be continuing to move on this track without the track we are offering. We want to defeat what is proposed, not in the debate. Change the debate toward reducing costs step by step.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Oklahoma and others on the other side of the aisle make the charge this bill increases government. That is not so. It does not increase government. This bill does not increase government. They made that allegation. It is a pure allegation. Anybody can allege anything, but let me get the facts. It is one thing to make an allegation; it is something else to get the facts.

The best fact I have come up with is a quote from the Congressional Budget Office letter to Senator REID on that point. The Congressional Budget Office says—and I quote from page 16 of the letter. I do not have the date of the letter. There are several letters to several of us in the Senate. I will quote the letter. It says:

CBO expects that, during the decade following the 10-year budget window, the increases and decreases in the federal budgetary commitment to health care stemming from this legislation would roughly balance out, so that there would be no significant change in that commitment.

''Roughly balance out.'' ''No significant change in that commitment.'' That does not sound like an explosive growth in government to me. In fact, it sounds the opposite, listening to the Congressional Budget Office.

Also, add to that this bill, in the first 10 years, decreases the deficit by $130 billion. But CBO says: No, no, no significant change. Things will roughly balance out, according to the Congressional Budget Office.

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

Mr. BAUCUS. This controls the government's role in health care. It does not increase it.

I do not have any time, I say to the Senator from Idaho. We are an hour later—if we have another time agreement, we will take it out of the Senator's time. I will be willing to yield if the Senator from Idaho has a question.

Mr. CRAPO. No, I will ask a question later, then.

Mr. BAUCUS. Fine. Some of my colleagues on the other side of the aisle try to paint health care reform as bad for the economy. Nothing could be further from the truth. Health care reform will be good for the economy. Health care reform is a net tax cut for working Americans—a net tax cut. Health care reform is essential for long-term growth.

Some say it is a tax increase. It is not. The Congressional Budget Office—I have a chart right in front of me—a net tax cut. If you take all the provisions of this bill that affect individuals, the Joint Committee on Tax concludes that the average tax break for affected filers with income under $75,000 is a cut every year. I will take one year, 2019: a $1,500 cut for those people in that category. Net tax break for affected overall is a $441 decrease. It is a long chart. I will not take the time to read it all.

In summarizing the chart, affected taxpayers, as a percent of all taxpayers—it is over a majority—will see a net tax cut.

Some say for some it will be a tax increase. Let me indicate why that is somewhat true. They are getting more wages. Of course, their taxes go up if they get more wages. Why are they getting more wages? Because these tend to be people affected by so-called Cadillac plans. The Joint Committee on Tax and the Congressional Budget Office say in that category, premiums go down and wages go up. Obviously, taxes are going to go up when wages go up. It is not fair to say that taxes are going up for those folks in that category unless you also say it is largely because their income is going up. I think that should be pointed out as well.

Our bill will provide a substantial tax cut. It will cut taxes by $40 billion in 2017 alone and cut taxes by $40 billion in 2019 alone and by substantial net tax cuts year after year. The average affected taxpayer with an income under $75,000 a year would get a tax cut of more than $1,500 in 2019. The bill would affect more than 92 million taxpayers a year by 2019. That is reductions. Our bill would affect most taxpayers by 2017, and the bill would give average taxpayers affected hundreds of dollars of tax relief.

Not only would health care reform cut taxes for working Americans, it would also address the single largest challenge to our long-term fiscal future.

Reforming health care is the single most important thing we can do to address long-term budget deficits. The Congressional Budget Office says we will succeed in doing that. CBO says our bill would reduce the Federal budget deficit by $130 billion in the first 10 years. CBO says our bill would reduce the budget deficit by roughly $650 billion in the second 10 years. That is roughly $780 billion in net deficit reduction. That is $800 billion in net deficit reduction over 20 years. I think that is progress. That is pretty good.

Some of my colleagues say: Gee, Medicaid is pretty expensive, so be careful, Congress, with what you do with respect to imposing obligations on States. I remind my colleagues there currently is a formula each State must subscribe to with respect to Medicaid. The Federal Government pays a certain portion and States pay the other. On average—I could be off—the Federal Government pays 50 to 60 percent and the States pay the rest.

Under this legislation, we are talking about the so-called transitional group, those where the poverty level is raised, in that category—I have forgotten the exact figure. But it is not the old formula, it is the new formula. Under the new formula, the Federal Government is paying virtually all of it—not quite all but virtually all of it. So the States will get a little bit of an increase in obligations. It is small. It is infinitesimal.

The underlying point is, we have to reform health care. Why do Medicaid costs go up? Because health care costs are going up around the country—health care costs for seniors, low-income people, health care costs for everybody.

There are so many parts of this bill which address that problem, which address health care costs, to get health care costs down. I would think all State Governors would want this bill to pass. Why? Because we are going to begin to go down the road of lowering health care costs. Then those Medicaid budgets will be more under control.

We have to lower health care costs, and this legislation does that. Health care reform would very much help the economy, not just in the near term but with substantial net tax cuts but also help the economy long term with substantial deficit reduction—but also all the provisions we are putting in to lower health care costs overall.

It is, clearly, the right thing to do. I, therefore, believe this legislation should definitely pass. To remind my colleagues who say: Gee, for folks making more than $250,000 a year, they will pay more taxes, let me make clear: Those folks are not seeing tax rate increases. Those folks are going to pay more taxes because they are going to get pay raises. That is why they are going to pay more taxes because, in effect, their incomes are going to go up. They are going to get pay increases.

I have more to say, but I see my colleague from Vermont on the floor. How much time is remaining on in this block?

The ACTING PRESIDENT pro tempore. There is 19½ minutes remaining.

Mr. BAUCUS. I yield 15 minutes to my friend from Vermont.

Mr. SANDERS. Mr. President, I thank the chairman for yielding. Before I get into the subject I wish to talk about, which is prescription drug reimportation and the absolute necessity of lowering the cost of prescription drugs in this country, I wish to say a word in general.

I find it interesting that my Republican friends are spending a whole lot of time down here on the floor attacking the health care legislation. I suppose it is at least a positive thing that they are beginning to talk about health care. They ran the government from 2000 to 2006. They had the President, they had the House and the Senate. At that time, health care premiums soared. Millions of Americans lost their health insurance. Where were they? Where were they in the beginning to come up with ideas to control health care costs and provide health care to more Americans? They weren't there.

Now, having said that, let me also say I have problems with the bill that is currently on the Senate floor. Clearly, it does a lot of things that are good, but there are weaknesses in this bill in terms of cost containment that we have to address.

When some of my friends talk about expanding Medicaid and the problems associated with that, they make a good point. We need to significantly expand our primary health care capabilities, which means more community health centers, which means more primary health care physicians. If we are not able to do that while we add 15 million more people to Medicaid, frankly, I am not sure how we are going to deal with the medical needs of those people.

So I think one of the imperatives that has to happen as we proceed on this bill is we have to support the language in the House, which substantially increases funding for community health centers and for the National Health Service Corps, so that we give a primary health care infrastructure—clinics and doctors—to begin to serve the millions more Americans who are going to be coming into the health care system.

That is one issue. The other issue I wanted to focus on today—and I am here because Senator DORGAN, who is the sponsor of this legislation, is unable to be on the floor of the Senate at this time—deals with prescription drug reimportation. This is an issue I have worked on for many years. When I was Vermont's Representative in the U.S. House, I believe I was the first Member of Congress to take American citizens over the Canadian border—in this case to Montreal—in order to purchase affordable prescription drugs.

I will never forget—never forget—the bus trip we took over from St. Albans, VT, to Montreal, Canada. On that bus there were a number of lower income

women who were struggling with breast cancer. Many of them were using the widely used breast cancer drug called Tamoxifen. We got off the bus in Montreal, and we walked into the drugstore—and that had all been prearranged—and in there they purchased Tamoxifen. At that point in time—and I am thinking it was about 10 years ago, a while back—they paid, in American dollars, one-tenth of the price for Tamoxifen in Montreal, Canada, that they were paying in the United States of America—one-tenth of the price for lower income women who were struggling for their lives.

So when you talk about morality, I want some of my friends to explain why it is that the American people are forced to pay by far the highest prices in the world for prescription drugs? Talk to physicians in Vermont. There is a doctor I know in northern Vermont, and when she writes a prescription, one-third of her patients cannot afford to fill the prescription. So what is the sense of an examination, a diagnosis, and writing a script when your patient can't even fill that script?

The high cost of prescription drugs in this country is one of the major health care crises we face. It is an issue we have to deal with, and we simply have to ask ourselves why it is that the same exact medicine in this country costs substantially more than it does in Canada, in Australia, or all over Europe.

There has been a lot of concern in this country about the lack of bipartisanship. Well, I have to say that on this issue there is bipartisanship. That was true when I was in the House, and that is true in the Senate.

Let me just read to you the cosponsors of this legislation—Democrats, Republicans, Independents. The bill is introduced by Senator DORGAN, and the cosponsors are Senator BEGICH, Senator BOXER, Senator CASEY, Senator CONRAD, Senator FEINGOLD, Senator INOUYE, Senator KLOBUCHAR, Senator LEAHY, Senator LINCOLN, Senator MCCASKILL, Senator SANDERS, Senator SNOWE, Senator STABENOW, Senator THUNE, Senator BINGAMAN, Senator BROWN, Senator COLLINS, Senator DURBIN, Senator GRASSLEY, Senator JOHNSON, Senator KERRY, Senator KOHL, Senator LEVIN, Senator MCCAIN, Senator NELSON, Senator SHAHEEN, Senator SPECTER, Senator TESTER.

So there is widespread bipartisan support for legislation which says: Let's end the absurdity of the American people having to pay substantially more for the same exact medicine that is sold in other countries around the world.

Let's take a look at some of these charts. To begin with, we all understand when you deal with the drug companies and the pharmaceutical industry you are dealing with some of the most powerful lobbyists and forces right here in Washington, DC. These people spend huge amounts of money on campaign contributions, huge amounts of money in lobbying. Just recently, in order to make sure they got in under the wire, in case there was some real reform passed in Washington, they substantially raised their prices for particular drugs just in the year 2009, and here is the chart reflecting that: Enbrel, a 12-percent increase; Singulair, 12 percent; Plavix, 8 percent, Nexium, 7 percent; Lipitor, 5 percent; Boniva, 18 percent.

One of the reasons health care costs are soaring in America—and one of the reasons many seniors are having such a difficult time with health care costs—is precisely the rapid rise of prescription drugs.

What I want to talk about now, through this chart, is something that is inexplicable to the average American. This is Lipitor, which is a widely used drug, and here is the cost of Lipitor. The same amount in Canada costs $33; in France, $53; Germany, $48; the Netherlands, $63; in Spain, $32; the United Kingdom, $40; and in the USA, $125, or four times as much as it costs in Canada.

Now, you explain that to me. The same exact medicine made in the same exact factory, the same exact bottle. That is why, by the way, in the State of Vermont, and all across the northern tier, every day people are going over the Canadian border or using the Internet to buy those drugs. So what we are saying in this legislation is let's end this absurdity.

We are living in a global economy. I have a lot of problems with the global economy in many ways, but if, when we go Christmas shopping, the only products we can find are made in China—because we don't do too much manufacturing in America—and if when we eat lunch we get lettuce and tomatoes from all over the world, what people are asking is, why is it we can't bring into this country FDA-safety-approved medicine? We can bring lettuce in from the backwoods of Mexico, and that is OK. But somehow, when we have a handful of major pharmaceutical companies, presumably it is just too difficult to be able to bring them safely into the United States. Nobody believes that for one moment.

Let's take a look at another chart. Plavix, same story: Canada, $85; France, $77; Germany, $85; the Netherlands, $77; Spain, $58; the U.K. $59; and in the USA, $133. Somebody explain this to me. I really would appreciate it.

Nexium: Canada, $65; Germany, $37; Spain, $36; the UK, $41; and the United States of America, $424. That is six times more than in the United Kingdom. People wonder why Americans are running over the Canadian border or they are on the Internet trying to get this medicine.

Why is it that the drug companies charge $424 here and $41 in the UK? Well, the reason they are charging more here is because they can charge more. If you walk into your drugstore tomorrow, you can find the prices that you will pay are double, triple because we are the only country in the world that does not have, in one way or another, some kind of regulation on prices. All these other countries have national health care programs. That is another reason their drug prices are lower. We don't, of course.

But at the very least, what reimportation is all about is, we are saying, in a global economy, when all kinds of products are brought in from all over the world and we let the consumer buy them every day, why not let the pharmacist, let the prescription drug distributor be able to take advantage of the global economy?

I am not, I must confess, a great supporter of unfettered free trade. I think that has, in many ways, been a disaster for American workers. But to the degree that it is here, to the degree businesspeople can run to China and pay workers there 50 cents an hour or so, that is the global economy. Well, here is the global economy: Canada, $65; the UK, $41; and the USA, $424. Why can't prescription drug distributors purchase their products in the UK, bring them back into America, so we can substantially lower the cost of health care and prescription drugs for all Americans?

Some of my friends in the pharmaceutical industry say: It is impossible to bring medicine in from abroad. It can't be done safely. Well, the Washington Post says:

> 40 percent of active ingredients in U.S. prescription drugs currently come from India and China.

I guess that is OK for the pharmaceutical industry, when it adds to their profits, but we can't do that to lower the cost to the consumer.

The Wall Street Journal, February 21, 2008, says:

> More than half the world's Heparin, the main ingredient in the widely used anti-clotting medicine, gets its start in China's poorly regulated supply chain.

Well, I guess that is OK too.

So here is where we are. One of the many health care crises we face in this country is the high cost of prescription drugs. I think there is a lot that we have to do. Whether the Congress is capable of standing up to the drug companies and all their money and all of their lobbyists remains to be seen. But this is, quite frankly, a no-brainer.

For all my colleagues here who believe in unfettered free trade, please do not be total hypocrites. If you believe in unfettered free trade—which I happen not to—if you believe it is OK for American companies to shut down and run to China, if you think it is OK for people to buy any product anywhere in the world, tell me why we can do that for everything except for prescription drugs? There is no rational explanation.

This is legislation which has been around for years. The drug companies have fought it successfully for years. We now have widespread tripartisan

support in the Senate and a lot of support, I know, in the House. Let's finally stand up for the average American. Let's substantially lower the cost of prescription drugs. Let's pass prescription drug reimportation.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. McCAIN. Is there a previous agreement on time?

The ACTING PRESIDENT pro tempore. The next hour is equally divided, with 10-minute limits.

AMENDMENT NO. 2793

Mr. McCAIN. Mr. President, I rise on behalf of the amendment which, according to the Congressional Budget Office, would provide an estimated $100 billion or more in consumer savings over 10 years. That is unique to this bill. It is unique to this legislation. It actually saves the taxpayers money.

I think it is important for us to go back and see how we got here—again, with the administration and the President reversing his previous position in favor of drug reimportation, the President's Chief of Staff, Mr. Rahm Emanuel, reversing his position on drug reimportation.

Again, a lot of it has to do with the deals that have been made. I refer, to start with, to the August 6, 2009, New York Times article.

Pressed by industry lobbyists, White House officials on Wednesday assured drug makers that the administration stood by a behind-the-scenes deal to block any Congressional effort to extract cost savings from them beyond an agreed-upon $80 billion.

Then it goes on to say:

''We were assured: We need somebody to come in first. If you come in first, you will have a rock-solid deal,' Billy Tauzin, the former Republican House member from Louisiana who now leads the pharmaceutical trade group, said Wednesday. ''Who is ever going to go into a deal with the White House again if they don't keep their word? You are just going to duke it out instead.''

The pressure from Mr. Tauzin to affirm the deal offers a window on the secretive and potentially risky game the Obama administration has played as it tries to line up support from industry groups typically hostile to government health care initiatives, even as their lobbyists pushed to influence the health measure for their benefit.

Here is the important part of the article—and I ask unanimous consent the entire article from the New York Times be printed in the RECORD.

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

[From the News York Times, Aug. 6, 2009]

WHITE HOUSE AFFIRMS DEAL ON DRUG COST

(By David D. Kirkpatrick)

WASHINGTON.—Pressed by industry lobbyists, White House officials on Wednesday assured drug makers that the administration stood by a behind-the-scenes deal to block any Congressional effort to extract cost savings from them beyond an agreed-upon $80 billion.

Drug industry lobbyists reacted with alarm this week to a House health care overhaul measure that would allow the government to negotiate drug prices and demand additional rebates from drug manufacturers.

In response, the industry successfully demanded that the White House explicitly acknowledge for the first time that it had committed to protect drug makers from bearing further costs in the overhaul. The Obama administration had never spelled out the details of the agreement.

''We were assured: 'We need somebody to come in first. If you come in first, you will have a rock-solid deal,'" Billy Tauzin, the former Republican House member from Louisiana who now leads the pharmaceutical trade group, said Wednesday. ''Who is ever going to go into a deal with the White House again if they don't keep their word? You are just going to duke it out instead.''

A deputy White House chief of staff, Jim Messina, confirmed Mr. Tauzin's account of the deal in an e-mail message on Wednesday night.

''The president encouraged this approach,'' Mr. Messina wrote. ''He wanted to bring all the parties to the table to discuss health insurance reform.''

The new attention to the agreement could prove embarrassing to the White House, which has sought to keep lobbyists at a distance, including by refusing to hire them to work in the administration.

The White House commitment to the deal with the drug industry may also irk some of the administration's Congressional allies who have an eye on drug companies' profits as they search for ways to pay for the $1 trillion cost of the health legislation.

But failing to publicly confirm Mr. Tauzin's descriptions of the deal risked alienating a powerful industry ally currently helping to bankroll millions in television commercials in favor of Mr. Obama's reforms.

The pressure from Mr. Tauzin to affirm the deal offers a window on the secretive and potentially risky game the Obama administration has played as it tries to line up support from industry groups typically hostile to government health care initiatives, even as their lobbyists pushed to influence the health measure for their benefit.

In an interview on Wednesday, Representative Raul M. Grijalva, the Arizona Democrat who is co-chairman of the House progressive caucus, called Mr. Tauzin's comments ''disturbing.''

''We have all been focused on the debate in Congress, but perhaps the deal has already been cut,'' Mr. Grijalva said. ''That would put us in the untenable position of trying to scuttle it.''

He added: ''It is a pivotal issue not just about health care. Are industry groups going to be the ones at the table who get the first big piece of the pie and we just fight over the crust?''

The Obama administration has hailed its agreements with health care groups as evidence of broad support for the overhaul among industry ''stakeholders,'' including doctors, hospitals and insurers as well as drug companies.

But as the debate has heated up over the last two weeks, Mr. Obama and Congressional Democrats have signaled that they value some of its industry enemies-turned-friends more than others. Drug makers have been elevated to a seat of honor at the negotiating table, while insurers have been pushed away.

''To their credit, the pharmaceutical companies have already agreed to put up $80 billion'' in pledged cost reductions, Mr. Obama reminded his listeners at a recent town-hall-style meeting in Bristol, Va. But the health insurance companies ''need to be held accountable,'' he said.

''We have a system that works well for the insurance industry, but it doesn't always work for its customers,'' he added, repeating a new refrain.

Administration officials and Democratic lawmakers say the growing divergence in tone toward the two groups reflects a combination of policy priorities and political calculus.

With polls showing that public doubts about the overhaul are mounting, Democrats are pointedly reminding voters what they may not like about their existing health coverage to help convince skeptics that they have something to gain.

''You don't need a poll to tell you that people are paying more and more out of pocket and, if they have some serious illness, more than they can afford,'' said David Axelrod, Mr. Obama's senior adviser.

The insurers, however, have also stopped short of the drug makers in their willingness to cut a firm deal. The health insurers shook hands with Mr. Obama at the White House in March over their own package of concessions, including ending the exclusion of coverage for pre-existing ailments.

But unlike the drug companies, the insurers have not pledged specific cost cuts. And insurers have also steadfastly vowed to block Mr. Obama's proposed government-sponsored insurance plan—the biggest sticking point in the Congressional negotiations.

The drug industry trade group, the Pharmaceutical Research and Manufacturers of America, also opposes a public insurance plan. But its lobbyists acknowledge privately that they have no intention of fighting it, in part because their agreement with the White House provides them other safeguards.

Mr. Tauzin said the administration had approached him to negotiate. ''They wanted a big player to come in and set the bar for everybody else,'' he said. He said the White House had directed him to negotiate with Senator Max Baucus, the business-friendly Montana Democrat who leads the Senate Finance Committee.

Mr. Tauzin said the White House had tracked the negotiations throughout, assenting to decisions to move away from ideas like the government negotiation of prices or the importation of cheaper drugs from Canada. The $80 billion in savings would be over a 10-year period. ''80 billion is the max, no more or less,'' he said. ''Adding other stuff changes the deal.''

After reaching an agreement with Mr. Baucus, Mr. Tauzin said, he met twice at the White House with Rahm Emanuel, the White House chief of staff; Mr. Messina, his deputy; and Nancy-Ann DeParle, the aide overseeing the health care overhaul, to confirm the administration's support for the terms.

''They blessed the deal,'' Mr. Tauzin said. Speaker Nancy Pelosi said the House was not bound by any industry deals with the Senate or the White House.

But, Mr. Tauzin said, ''as far we are concerned, that is a done deal.'' He said, ''It's up to the White House and Senator Baucus to follow through.''

As for the administration's recent break with the insurance industry, Mr. Tauzin said, ''The insurers never made any deal.''

Mr. McCAIN. The important quote is:

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House had directed him to negotiate with Senator Max Baucus, the business-friendly Montana Democrat who leads the Senate Finance Committee.

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My goodness.

''They blessed the deal,'' Mr. Tauzin said.

That is how we got here, with the administration coming over with a letter last night basically saying they would oppose or certainly impede the ability of Americans to import drugs from Canada. What have we seen happen in the interim? Here again is a New York Times article entitled ''Drug Makers Raise Prices in Face of Health Care Reform.''

Here is a graphic demonstration of it. This little line right here, I would say to my colleagues, is inflation in this country. If you look at it for the year 2009, inflation is actually minus 1.3 percent.

Now look at the wholesale drug prices. The annual change is 8.7 percent. While inflation has gone down 1.3 percent, actual costs of drugs have gone up 8.7 percent.

The article from the New York Times says:

Even as drug makers promise to support Washington's health care overhaul by shaving $8 billion a year off the nation's drug costs after the legislation takes effect, the industry has been raising its prices at the fastest rate in years. In the last year, the industry has raised the wholesale prices of brand-name prescription drugs by about 9 percent, according to industry analysts. That will add more than $10 billion to the nation's drug bill. . . .

Let's get the math right. The drug companies have offered to save the American consumer $8 billion a year, and guess what. They have increased their prices, where it will add more than $10 billion to the drug bill of America's citizens, including our seniors.

The math is, they agreed to an $8 billion reduction. They actually already this year have seen an increase of more than $10 billion. So they are on track to make a $2 billion profit off their deal. No wonder they made a deal.

That will add more than $10 billion to the nation's drug bill, which is on track to exceed $300 billion this year. By at least one analysis, it is the highest annual rate of inflation for drug prices since 1992. . . .

This is the consumer price index right here, which has fallen by 1.3 percent.

Drug makers say they have valid business reasons for the price increases. Critics say the industry is trying to establish a higher price base before Congress passes legislation that tries to curb drug spending incoming years.

That is what this is all about. They increase the prices so it reaches a certain level, and that is what they will negotiate on. They already are in line to experience $2 billion more in profits than the $8 billion they say they intend to cut. What a Ponzi scheme this is.

''When we have major legislation anticipated, we see a run-up in price increases,'' says Stephen W. Schondelmeyer, a professor of pharmaceutical economics at the University of Minnesota. He has analyzed drug pricing for AARP, the advocacy group for seniors that supports the House health care legislation that the drug industry opposes.

A Harvard health economist, Joseph P. Newhouse, said he found a similar pattern of unusual price increases after Congress added drug benefits to Medicare a few years ago, giving tens of millions of older Americans federally subsidized drug insurance. Just as the program was taking effect in 2006, the drug industry raised prices by the widest margin in a half-dozen years.

We have seen this scam before. What is the administration going to do? The administration sends a letter, I believe last night—not to the sponsor of this legislation, Senator DORGAN, but to another Member basically saying they would have to examine the health and safety.

Since when is a prescription drug imported from Canada a threat to Americans' health, since they obviously have the same standards that we do? The letter is to Senator CARPER. It is signed by Margaret Hamburg, Commissioner of Food and Drugs. It is—I am not making this up. I am not making this up. ''The Dorgan importation amendment seeks to address these risks.'' It talks about our amendment.

We commend the sponsors for their efforts to include numerous protective measures in the bill that address the inherent risks of importing foreign products and other safety concerns relating to the distribution system for drugs within the U.S. However, as currently written, the resulting structure would be logistically challenging to implement and resource intensive.

Let's get this straight. According to the CBO, if we pass this, we would save consumers $10 billion—excuse me—$100 billion. According to CBO, we would provide an estimated $100 billion in consumer savings over 10 years. That is what the CBO says.

But what this obviously heavily overburdened Margaret Hamburg, the Commissioner of Food and Drug, says is:

However, as currently written, the resulting structure would be logistically challenging to implement and resource intensive.

Oh my God. I am going to have to include, for the RECORD, the number of employees over at the Food and Drug Administration. I am sure they are full up with their responsibilities at present.

In addition, there are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues relating to confusion in distribution and labeling of foreign products—

When we see something come in from foreign countries, it is so confusing when you look at the labeling of it. It is remarkably challenging for the American consumer——

relating to the distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

''But''—she goes on to say, to Senator CARPER, who is a fine and great Member of this body but not the sponsor of the amendment——

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MCCAIN. I ask for an additional 30 seconds to finish.

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

Mr. MCCAIN. ''We appreciate your fine leadership on this important issue and would look forward to working with you as we continue to explore policy options to develop an avenue for the importation of safe and effective prescription drugs from other countries.''

Translated: The fix is in. We will be back on the floor on this. I strongly urge the adoption of the amendment.

I yield the floor.

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

Mr. NELSON of Florida. Mr. President, I am back on the floor on this, as I have been over the course of the last decade, because we have been like a yo-yo in my State of Florida on the importation of drugs, since we have quite a few senior citizens in our State. They have been accustomed to either going to Canada and bringing back prescriptions at half the price or phoning Canada to pharmacies and having those drugs shipped in the Postal Service or e-mailing to Canadian pharmacies. What happened over the course of the last 8 or 9 years is that the previous administration cracked down on the reimportation of these drugs. Of course, that was at a great expense to our senior citizens who can buy these drugs at roughly ½ of what they pay by going into the pharmacies in the United States.

Then an interesting thing happened along about 2006. This Senator started getting multiples of calls—I think up to something like 100 complaints in that 1 year from senior citizens who had purchased the drugs, either by e-mail, telephone, or by going personally there and having them shipped. And lo and behold, under the previous administration, they gave the order to the Postal Service to confiscate these drugs. This happened, for example, to a couple from Mt. Dora, FL, Mr. and Mrs. Lee Eads. They had their drugs confiscated. We went after the Postal Service. We went after the Customs Bureau. We found, in fact, that a lot of these complaints we had received, those drugs had been confiscated when, in fact, the policy was supposed to be if it was pharmaceuticals for personal use—and they defined that as less than a 90-day supply—the government, the U.S. Government, was going to let these senior citizens take advantage of getting that cost break of a 50-percent reduction.

It took us till late 2006—getting into this with Mr. and Mrs. Eads as the poster couple who had been getting their prescription drugs and then, all of

a sudden, they were confiscated—to get the Postal Service and Customs to reverse. This has supposedly been the policy, but we can't get it etched into law because people keep bringing up this Trojan horse that it is not safe. The very manufacturers we are buying our prescriptions from here in American pharmacies are the same manufacturers in identical locations with identical labeling of the drugs that are going to Canadian pharmacies. Why can't we give our senior citizens a break?

Of course, what this Senator would like to do is to give them a bigger break. This Senator has an amendment, which is continuously being stated that I may not get to offer, that would cause the pharmaceutical industry to give discounts on the drugs sold under Medicare that are being sold to 6 million people who are eligible because of their low income for Medicaid but get their drugs through Medicare. Those 6 million people, Medicaid, poor people who are eligible to get government assistance, used to have a discount, a substantial discount. Therefore, the U.S. Government was paying less for the drugs it bought for those people. But 6 years ago, when the prescription drug benefit was passed, those 6 million people were suddenly made ineligible to get the drug discount because they were now getting their drugs under Medicare. That is absolutely ridiculous, that the U.S. Government is going to pay full price for the drugs now that they used to pay only a fraction.

How much is that worth? According to CBO and the amendment I offered in the Finance Committee that was defeated 10 to 13, that is worth $106 billion over 10 years that would be savings to the American taxpayer that we would be paying for those dual eligibles, Medicaid recipients who get their drugs in Medicare, $106 billion of savings that the U.S. Government would not have to pay for those drugs, if we followed the same policy we did back there before this prescription drug benefit for Medicare.

That kind of makes common sense, doesn't it, that we would want to save the American taxpayer $106 billion? But we were defeated by a vote of 13 opposed to the amendment and 10 in favor in the Finance Committee.

I know it is a tall order to bring this amendment out here on the floor and have to meet a 60-vote threshold, because 41 Senators can deny the American taxpayer from getting $106 billion of savings. One of the good things about our bill that has come to the floor is, we are going to reduce the deficit by $130 billion. That is over a 10-year period. That is a good thing. But if we would accept my amendment, we could reduce the deficit by $236 billion or we could use part of it—say, half—to fill the rest of the doughnut hole that the AARP would like and so would this Senator. The AARP strongly supports my amendment. They have made it clear to the leadership of this Senate that they want to see that doughnut hole closed. But there is nothing coming out here on the floor that is going to do that.

The amendment Senator DORGAN has offered, which in and of itself is good policy, reimporting drugs at half the cost from Canada, is a step in the right direction, but that doesn't close the doughnut hole.

So here we are at a decision point. Who are we going to serve? Let me say at the outset I understand the political dynamics. I want to give credit where credit is due. The pharmaceutical industry is, in fact, supporting the leadership in trying to pass this bill. That is a good thing. We appreciate that very much. We need their support because we have all these other interest groups that are flaking off. At the end of the day, we have to get 60 votes in order to pass health care reform. That includes health insurance reform. We have the insurance industry totally, flat out trying to kill this legislation. I am grateful to the pharmaceutical industry for trying to help us. Therefore, my plea is, there has to be a balance. There has to be a compromise in the works. There has to be a way of the pharmaceutical industry stepping to the plate to help us totally fill the doughnut hole, that gaping $3,000 hole seniors have to pay for all of the drugs they need when they reach that level. There has to be a sweet spot, a compromise.

I certainly support the Dorgan amendment. I hope the Senate will favorably consider my amendment later on.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS.) The Senator from Texas.

Mrs. HUTCHISON. How much time remains on our side?

The PRESIDING OFFICER. There is 19 minutes on the Republican side and Senators are limited to 10 minutes each.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, we have been talking about the Crapo motion and the new taxes that are in this bill. There are so many new taxes that it is going to increase the cost of health care to every individual who has health insurance. It will also tax the people who don't have health insurance. It will tax the people who have too much health insurance. The taxes in this bill are almost mind-boggling.

Yesterday we talked about the cuts in Medicare. But we are also talking now about the $½ trillion in tax increases, $500 billion of tax increases. What Senator CRAPO's motion will do is to say that we want to go back to the promise made by the President that no one who makes under $200,000 or a couple who makes under $250,000 would have any tax increases. It recommits the bill and takes out everything that would tax individuals at that level because the promise was made to the American people.

Senator CRAPO's motion would certainly benefit those who have high-benefit plans which are going to have a 40-percent excise tax in this bill. If your plan is considered high benefit and you make under $200,000 a year or you are a couple making under $250,000 a year, you should not have to pay, because your benefits are better than the government has said they should be.

We would help the union member, for instance, because the unions do have high-benefit plans. We would help those union members who are making under $200,000 a year, if they are single, to make sure that they are not going to pay a tax for having too much coverage. Then there are the individuals who have no coverage or too little coverage who are going to have to pay an individual tax in this bill of $750. Surely if someone can't afford to have health insurance, we should not be taxing them. The Crapo motion will assure that when this goes back to the committee, someone would not be subject to the individual mandated tax, if they make under $200,000 a year, which they surely probably do, or if they have a high-benefit plan and they make under that amount. It is trying to say that promise that the President made would be kept.

I also wish to talk about another issue in this bill. One would think that the bill takes effect in 2014, so the taxes would take effect in 2014 as well, that everything will come together and start in 2014. That is what one would think, but they would be wrong. That is not the case. In fact, the biggest part of the taxes in this bill will take effect next month, less than 1 month from now. The taxes that are going to increase the cost of health care premiums, prescription drugs, equipment that you would use for medical care—the taxes start next month. The bill imposes taxes for 4 years before any person would be able to sign up for any of the plans that are going to be available, presumably, under this bill.

Let's walk through this: $22 billion in taxes on prescription drug manufacturers would start next month; $19 billion in taxes on medical device manufacturers, next month; $60 billion in taxes on insurance companies across the board, next month. What is going to happen? Of course, the cost of all of those items will go up. Americans will start next month paying more in insurance premiums. Americans will pay more for their prescription drugs and more for their medical devices because those taxes start next month for supposed programs that are going to start in 2014. Well, maybe you would think the benefits would start coming in 2011, 2012, 2013. Not at all. Nothing starts in benefits or programs until 2014.

But there are more taxes that come before 2014. In 2013, taxes on high-benefit plans take effect: $149 billion. This will affect union members, surely people making under $200,000. They will be affected starting in 2013, but any benefits from this bill would take effect a whole year later.

The limit on itemized deductions for medical expenses is also changed. Under this bill, you would have to spend 10 percent of your income on medical expenses before you could take a deduction. This is for people who have a terrible accident or a debilitating high-cost disease, such as a cancer treatment, maybe a clinical trial. So present law is 7.5 percent of your income, and you can start deducting these expenses. But with the new bill, starting in 2013, you have to go to the 10-percent threshold before you can have those deductions. So that would be another $15 billion in taxes to individuals.

Finally, in 2014, after 4 years of taxes and increases in premiums and medical devices and prescription drugs, then you would start seeing the rest of the bill take effect. In 2014, you still have more taxes. Mr. President, $28 billion in employer taxes will start in 2014. These are for employers who cannot afford to meet the threshold of what they will have to cover for their employees. Or individuals who cannot afford health care will have $8 billion in taxes. That starts in 2014.

I am working with Senator THUNE. There will be a Hutchison-Thune motion to commit this bill that will say the taxes start when the implementation of the bill starts. I think that is a matter of fairness. We want to commit the bill and say: Everything should start at once. How can we tax people for 4 years, raise their prices on insurance premiums, raise their prices on drugs, raise their prices on medical devices when they get none of the opportunities that would be in this bill until 2014?

I am going to be working with Senator THUNE, Senator GRASSLEY, and Senator HATCH to try to make the corrections in this bill that will present transparency and fairness to the public about what these taxes are and when they start, then, when the implementation of the program starts.

It is so important we have the ability to say to the American people, if this bill passes: You are not going to be taxed, your prices are not going to go up, your premiums are not going to go up—any more than they already have, caused by the increased taxes in this bill—at least until the bill is implemented. We are going to try to do that in the bill for the American people very soon. I am very much looking forward to talking about this issue.

I talked to someone last night who heard us starting to talk about the taxes in this bill, and they were astounded.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. They were astounded.

We are going to try to give relief to the American people and have a bill that will truly not have the taxes and mandates that are there now that start 4 years before the bill is implemented.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank the Presiding Officer and the chairman of the committee.

Mr. President, I rise today to speak concerning an amendment on which I am proud to join the Senator from North Dakota, Mr. BYRON DORGAN, and other colleagues in an effort to lower the cost of prescription drugs. But I do want to make one comment on Medicare before I do that.

We know our plan, overall, is about saving lives, saving money, and saving Medicare. That is what this is about overall. That is what we are doing in our health care reform proposal for American families. But I do want to mention and stress again this is about saving Medicare. It is about strengthening Medicare and our commitment.

I do have to say, we have been hearing from colleagues, and the distinguished Republican leader has said over and over again that, in fact, cutting Medicare is not what Americans want. Then last night he said here on the floor that expanding Medicare was a plan for financial ruin. So they do not want to cut, they do not want to expand. I am not sure where our colleagues on the other side are in terms of Medicare. But I know where we are. I know we are the party that created Medicare, with President Johnson at the time. We are the party that has continued to promote and to expand and to strengthen Medicare. We are the party that intends to make sure we save Medicare for the future, expanding prescription drug coverage, to be able to close the doughnut hole, to be able to expand the ability of seniors to have preventive care, and to extend the life of the Medicare trust fund, which is critically important.

And to that, I want to speak now to the other two provisions we have as our priorities: saving lives and saving money. The Dorgan-and-others amendment, which I am proud to join Senator DORGAN on, does exactly that. It will save lives and save money. As a Senator from Michigan, I know that very well. We can look across the Detroit River into Windsor and know that the people of Michigan, by going across the bridge, would be able to drop their costs 30, 40, 50 percent.

There is something wrong with the system where Americans are paying so much more than those in other countries for the same drug. The safety provisions are the same. The difference is there have been protections put up at the American border to stop Americans from getting the benefit of having our hospitals, our pharmacies, our schools of medicine, and others who use prescription drugs to be able to bring that back, to do business across the border.

Everybody is always talking about open borders, open trade. Well, this is a trade issue about bringing back FDA-approved prescription drugs across the border to the American side, so Americans have access to lower priced medicines.

It has been about 10 years now since I did my first bus trip to Canada with seniors. I have been doing that for a long time. I have been focused on this issue both in my days in the House of Representatives, where I took the lead on this issue, as well as now working with colleagues in the Senate. It is time to get this right in the context of health care reform because this is about saving lives and saving money.

I want to share one story. I have heard so many over the years from people in Michigan. But here is one recent story of someone who has written to me.

Joe is a 40-year-old father with heart disease. His family says despite his heart condition, he is doing well. He loves to work. His medicines cost over $4,800 a month. Can you imagine that? But his insurance has a family cap of $10,000 a year. In other words, after basically 2 months, he hits the cap, and he has to pay for everything out of pocket.

By going over the bridge to Canada—and we have three bridges: up in the Upper Peninsula, we have a bridge; in Port Huron we have a bridge; and in Detroit we have a bridge, the largest cross-border bridge in terms of volume of goods and services on the northern border—but by simply going across the bridge, Joe would be able to save $2,000 a month.

We should be able to do better for Joe and his family. He could save $2,000—almost half of his cost—by simply buying the same drug, FDA approved, from one side of the bridge instead of the other.

We also know that the cholesterol-lowering drug Lipitor is about 40 percent less, also the ulcer medication Prevacid is about 50 percent less, according to a search on Pharmacy Checker. I have to say that again. This is a trade issue and whether we are going to continue to have trade barriers. Because, for instance, Lipitor is made in Ireland and Pfizer is able to bring that back to America, they can bring it back. But if someone wants to go to Windsor, Canada, right across the bridge, and purchase a lower priced version of the very same drug, Lipitor, and bring it back as an individual or a business or a pharmacy or a hospital, it is illegal. It is illegal. That makes absolutely no sense.

This amendment is about opening the border, allowing our pharmacies, allowing our wholesalers, allowing hospitals—I have gotten calls from medical schools at universities wanting to do business, to lower their cost, with wholesalers in other countries where it is FDA approved, safe to do that. That is what this bill is about.

Right now, we are in a situation where if we do not pass the Pharmaceutical Market Access and Drug Safety Act, which we have introduced on a

bipartisan basis, we are going to continue to have a situation where people such as Joe, a 40-year-old father with heart disease, is going to be paying $4,800 a month out of his own pocket, when we could cut that down. It still would be tremendous, but we could cut that by $2,000 for him, by passing this legislation.

The drug importation bill is supported conceptually. We have been working over time with many different groups such as AARP, the Alliance for Retired Americans, Families USA, and Cato Institute—very different groups philosophically, but they all agree we need more competition, we need to open the border to safe—and I emphasize and underline ''safe''—FDA-approved prescription drugs so we are focused not on what is best for the pharmaceutical industry, the brand-name companies, but what is best for American citizens who are struggling, who see their prices go up 8 percent, 9 percent, 10 percent, 15 percent every year. Families cannot sustain that.

How many of us have stood on this floor and talked about the fact that people are choosing between food and medicine? That is not just rhetoric. It is not rhetoric. It is real. It is real for people right now today. It is getting cold. It is getting very cold. People are deciding: Am I going to keep the heat on or am I going to be able to get my medicine? Am I going to be able to get my food? Am I able to get my medicine? Am I able to pay the rent, the mortgage, or get the medicine I need for my life or for my child's life or for my husband's or wife's ability to continue to live a healthy, successful life?

That is what this is about. We have an easy, straightforward way to increase competition, to bring down prices, with safe, strong safety standards. This is something that makes sense. It will help seniors. It will help people with disabilities who are in the doughnut hole before we get that all closed under Medicare. It will help every family and every individual right now who needs medicine and is paying more and more, higher and higher prices every single year.

I hope we will have a very strong bipartisan vote. This is a very important addition to what we are doing here. This truly will save lives and save money; and that is what we are all about: creating competition to bring prices down so the American people have access to the medicine and to the health care they need and deserve.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I want to speak briefly about keeping President Obama's promise to the American people when it comes to tax increases in this health care bill.

You will recall on September 12, 2008, he said:

> I can make a firm pledge: Under my plan, no family making less than $250,000 will see their taxes increase . . . not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes.

The problem we see, though, is this bill, as proposed, increases taxes for 25 percent of taxpayers earning less than $200,000 a year. That is 42 million individuals and families who will be taxed in a way that violates President Obama's pledge.

According to the Congressional Budget Office, the Internal Revenue Service will need many more agents and workers in order to enforce the Reid bill. It will essentially need to double in size the Internal Revenue Service just to be able to raise those taxes called for in this big job-killing bill.

The possibility of higher taxes is one reason job creators are currently standing on the sidelines. The President had a job summit. Yesterday he spoke at Brookings Institute and talked about initiatives he was going to undertake in order to help create jobs in this country. But the fact is, government doesn't create jobs except to the extent we grow the size of government. What we need to do in this country is to get out of the way, reduce the burden, and limit the uncertainty for the private sector—small business that is the primary job-creating engine in this country.

But the fact is, job creators are nervous—I would strike that; they are not nervous, they are scared—about one job-killing proposal after another coming out of Washington. Not just the spending, not just the debt, but they see things such as this big health care bill and the increase in taxes that go along with it. Then they see the President going to Copenhagen and perhaps trying to obligate our country to some additional financial burdens that are going to make it harder for these job-creators, not easier.

The debt, for example, is one looming disaster. The total public debt now stands at $12 trillion. Before the end of the month, the majority leader is going to come to the Senate floor, presumably on a Defense appropriations bill or some other vehicle, and ask us to lift the debt limit because Congress has maxed out the American people's credit card, and we can't keep running the government unless we increase the debt limit.

Well, a number of us are not going to vote for that increase in debt limit until we receive firm assurances that the administration and the majority are going to get real about this increasing debt and unfunded Federal liabilities in Medicare, in Medicaid, and other entitlement programs.

We are accumulating debt even faster during this fiscal year. For example, in just 2 months—2 months of this year—the Congressional Budget Office says an additional $292 billion in deficits were accumulated. Our deficits will average nearly $1 trillion for every year during the next decade, according to the Obama administration itself. Of course, I mentioned the other unfunded liabilities out there—things such as Medicare.

I understand the majority has somehow cut a tentative deal to try to grow Medicare. Well, if you grow Medicare and grow Medicaid, what does that do to the already $38 trillion in unfunded liabilities? This $38 trillion is three times our national debt. It means, in essence, a debt burden of $32,000 for every U.S. family. Yet my colleagues don't seem desirous of fixing this problem. They seem determined to make it worse.

Yesterday the Washington Post reported on our Nation's deteriorating fiscal situation. They said:

> The problem is that, if investors think the United States isn't fiscally responsible—

I wonder why they would conclude that? But they go on to say—

> they could start demanding much higher interest rates when they bid on Treasury securities.

That is, when they start buying our debt, as a result of all of this spending and the money we have to borrow from China and other countries that buy our debt, those countries could begin to demand higher interest rates.

The Washington Post goes on to say:

> The feedback loop could get ugly. The Nation could have to borrow hundreds of billions of dollars just to pay interest on what it owes. This has been touted as a classic path to irreversible national decline.

The Post cited Leonard Burman, an economist at Syracuse University, who said:

> Right now, this year, we have $1.6 trillion in debt coming due—

And that is before we pass this ill-conceived health care bill.

He said:

> That's roughly twice individual income tax revenue. Our only plausible strategy for paying that back is to borrow more money.

The Post also cited David M. Walker, a former Comptroller of the United States, who recently testified:

> Our total Federal financial hole is about $10 trillion more than the current estimated net worth of all Americans and the gap has been growing.

Then, adding insult to injury, yesterday Moody's Investors Service said its debt ratings on U.S. Treasury securities ''may test the Triple-A boundaries'' because the government's fiscal status is worsening.

Well, the fact is, this Reid health care bill makes this much worse. My colleagues say the CBO—the Congressional Budget Office—has scored the bill as deficit-neutral. Well, any bill can be called deficit-neutral if you are willing to raise taxes enough and cut programs such as Medicare, both of which this bill does.

The Congressional Budget Office said in their score of the Reid bill:

> The long-term budgetary impact could be quite different if key provisions of the bill were ultimately changed or not fully implemented.

Well, what could they mean by that? What they mean is some of the assumptions about the cuts and other things that range over a 10-year budget window, if they don't come true, then all bets are off.

We know the Reid bill relies on budget gimmicks to hide the true cost of this Washington takeover. One gimmick is, for example, not including the Medicare provider fix, the so-called doc fix, which costs $210 billion over 10 years. In other words, this bill leaves that out entirely. I know—I am confident because Congress has only failed to act to reverse those cuts on one occasion—that if we let this cut in provider payments to physicians be fully implemented—a 23-percent cut come January—then many Medicare beneficiaries, including the vastly expanded rolls that would be included under this deal we have read about in the paper, patients will not be able to find a doctor to see them because doctors will not be able to continue seeing patients with a 23-percent cut in the payments they are entitled to under Medicare.

The other issue is the time shift. This is really sort of the classic shell game. The Reid bill starts the tax increases and the Medicare cuts in 2010, but as we know, the expanded coverage doesn't start until 2014. Someone said that is like buying a house, closing on the sale of a house, and being told: Well, you can't move in for 4 years. You have to start paying the bill today, but you don't get the benefits for 4 years.

The Congressional Budget Office score focuses on the budgetary impact to the government, not on the total cost to the American people. The CBO said the Reid bill increases the Federal budgetary commitments to health care. In other words, rather than trying to bend the cost curve as we have heard should be the goal, this makes it worse. We end up bending the cost curve in the wrong direction. The Reid bill will increase premiums for American families purchasing insurance in the individual market. The Congressional Budget Office hasn't yet been given time to estimate the total cost on the economy as a whole.

David Broder, one of the deans of the Washington Press Corps, did a nice roundup of nonpartisan experts last week. He cited Robert Bixby of the Concord Coalition, Maya MacGuineas of the Committee for a Responsible Federal Budget, and he concluded this:

> Every expert I have talked to says that these bills as they stand are budget-busters.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. So I hope my colleagues will pass the Crapo motion to commit this bill to the Finance Committee so the President can keep his commitment not to raise taxes on the American people.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I wish to speak in support of the Dorgan-Snowe importation amendment No. 2793, which provides some much-needed relief to Americans who are being crushed by ever-higher prescription drug costs. I wish to first note I am eagerly awaiting the details of some of the proposals that were put out there last night. I appreciate the work of my colleagues, but I do want to hear the response from the Congressional Budget Office. As I have said on this floor many times, I am concerned about expanding Medicare unless we do something about the geographic disparities that are already present in our system. When we look at some of the numbers, the average patient got $6,600 in Minnesota in 2006, and Texas is something like $9,300. What we want to try to do with this bill, and what I like about this bill, is all of the cost reform measures that are going to push us toward rewarding States that are participating in systems that provide more efficient care. If we don't do something about these geographic disparities, we are going to further exacerbate this by expanding Medicare.

So I have some concerns about this, and I look forward to hearing from my colleagues as well as, of course, the solvency of the Medicare Program, which is scheduled to go in the red by 2017 under existing circumstances.

Back to the Dorgan-Snowe amendment. This amendment not only would allow American pharmacies and drug wholesalers to import FDA-approved medications from Canada and several other countries and pass the savings on to consumers, it would also import some much-needed competition into the American pharmaceutical market. It is estimated that the amendment, which enjoys both Democratic and Republican sponsors, would result in Federal savings of $19.4 billion over 10 years, just at a time when we are looking for these kinds of savings.

Millions of Americans depend on prescription drugs to help them manage chronic disease or other illnesses, but drug prices continue to skyrocket with annual increases well above the general inflation rate. From 1997 to 2007, retail drug prices increased an average of 6.9 percent per year, more than 2½ times the general rate of inflation, which was 2.6 percent per year over the same period.

Look at that difference: 6.9 percent per year compared to 2.6 percent per year. As a result of these rising prices, many patients are forced to split pills, skip doses, or not fill their prescriptions at all. Yet right across the northern border of Minnesota and Canada, many of these same brand-name prescription drugs are available at a much lower cost.

For example, according to one recent comparison, a 90-day supply of Lipitor costs $256 in the United States. In Canada, it is available for $188. In other words, Canadians pay 26 percent less than Americans for the very same drug.

Here is another example: A 90-day supply of Nitroderm patches cost $303 in the United States but $125 in Canada. The Canadian price is 59 percent cheaper. We can go right down the line of major brand-name drugs and see these dramatic price disparities. In fact, every year, Canada's pharmaceutical pricing board compares Canadian prices for patented drug products with prices in a number of other countries. Consistently, prices in the United States are higher by double-digit percentages. In 2008 U.S. prices were, on the average, 63 percent higher than Canadian prices.

Now, current Federal law says no one except the manufacturer can import a drug into the United States. Wholesale and retail pharmacies aren't allowed to. State and local governments aren't allowed to. Individual Americans aren't allowed to, even for personal use. But, of course, they do, and they have been doing it for a number of years.

My State, as I noted, happens to be on the border of Canada. Every day Canadians cross over to Minnesota to work and make purchases and fish and do all kinds of things. Likewise, Minnesotans cross over to Canada every day to work and make purchases and fish. It is no big deal. We are not afraid of Canadians. Minnesotans know that Canadians pay less—much less—for many of their prescription drugs.

Beginning in the 1990s, the Minnesota Senior Federation started organizing bus trips for seniors to go up and cross the border into Canada so they could get affordable prices for the drugs they depend on.

The Senior Federation also introduced a prescription drug importation program and used its buying power to negotiate directly with Canadian mail order pharmacies to provide lower cost prescription drugs to Minnesota seniors. But drug prices in the United States just continue to go higher and higher and higher so the pressure to find some relief kept growing.

Finally, some State governments decided to take their own initiative to help their residents purchase lower cost drugs from Canada. Minnesota was one of the very first. There was broad bipartisan support for this with a Republican Governor and Democrats and Republicans in the legislature.

In February 2004, the State of Minnesota established RX-Connect, the first State-run Web site to provide citizens with information on how to safely purchase drugs from Canada. The Web site lists prices for hundreds of brand-name and generic medications as well as voicemail and e-mail contact information.

The American pharmaceutical industry likes to use scare tactics to keep people from buying their medications in Canada. Look at what is happening. You don't see a lot of problems there with their drugs.

The Dorgan-Snowe amendment takes on renewed importance and urgency because the American pharmaceutical industry has been imposing suspicious drug price increases this year. Last month, the New York Times reported that drugmakers have been busy raising prices for the most common prescribed medicines in anticipation of

possible health care reform. The newspaper quoted industry analysts as saying that in the 12 months ending September 30, drugmakers have raised the wholesale prices of brand-name prescription drugs by about 9 percent. Overall, that means an additional $10 billion in health care spending. That is the largest increase since 1992, and it happened even as the consumer price index declined during the same 12-month period. Some analysts suggest that these prices are being inflated artificially in expectation of new reform that could otherwise reduce prescription drug prices. A similar trend was observed just before Medicare Part D took effect.

Just last week, an economist at the University of Minnesota said:

> Curiously, prescription drug prices appear to rise more rapidly in periods just prior to major policy changes. Brand-name and specialty drug prices accelerated before the Medicare Part D program was enacted and implemented.

That is what we are talking about here.

This amendment would allow U.S. licensed pharmacies and drug wholesalers to import FDA-approved medications from Canada, Europe, Australia, New Zealand, and Japan and then pass on the savings to consumers.

Real health care reform requires real changes from business as usual. This amendment would start to bring some real changes—opening up new choices to American consumers and injecting new competition into the pharmaceutical marketplace.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I rise in strong support of the Dorgan reimportation amendment of which I am a cosponsor. I am very glad to support this important amendment. It is a bipartisan effort.

Unfortunately, most of this debate and effort about the underlying bill is anything but bipartisan. This is a welcome contrast to that, a bipartisan effort around a very important reform proposal—reimportation of prescription drugs.

We face an interesting situation. The United States is, by far, the biggest market for prescription drugs in the world. Yet with all that buying power and all that activity, we pay, by far, the highest prices in the world.

It is for a simple reason: We don't have a true worldwide free market in prescription drugs. We need to do that, in part, through reimportation.

Americans need lower prices. They need the sorts of prices being offered elsewhere. We need to break down this system by which the big drug companies can and do offer the same drugs at very different prices in different countries, and, of course, they offer them at the highest prices in the world in the United States. Americans should not have to choose between their lifesaving medicines and other basic needs, such as food and utility bills.

By voting for the Dorgan amendment and enacting comprehensive reimportation, we can directly address access to health care and truly lower health care costs, which I believe should be our top goal in this entire debate. That is what this amendment does. It gives Americans immediate relief from outrageously high prescription drug prices.

Our amendment allows individuals the freedom to buy their prescription drugs at affordable prices, while providing oversight to ensure that only FDA-approved and safe drugs are permitted.

Our amendment closes loopholes that big pharma has been using to fight reimportation, such as shutting down drugs to wholesalers who participate in reimportation.

Our amendment would close the poison-pill loophole requiring HHS certification, which has left it up to administrations to deny reimportation by making that comprehensive reimportation discretionary. It would shut down that poison-pill loophole.

We would make it mandatory that Americans have affordable choices for prescription drugs.

Many of us, Democrats and Republicans, and certainly including and starting with Senators DORGAN and SNOWE, have long fought for this comprehensive solution. We have made important steps forward. The Senate has adopted amendments to allow personal reimportation. Just last year, we voted overwhelmingly, 73 to 23, that we need to enact this sort of comprehensive reimportation reform, and we have taken concrete steps, such as the personal reimportation provisions, some of which I have authored and passed through the Senate. But we need to go further, and we need this comprehensive approach.

Obviously, the big stumbling block in the way is the powerful pharmaceutical lobby, big pharma, which has spent millions in lobbying to stop this comprehensive approach. Just this past summer, Senator MCCAIN read an e-mail on the Senate floor from a big pharma lobbyist outlining their strategy to derail those efforts in the Senate. More recently, there are reports that they may have struck a deal with the White House to derail these sorts of efforts and offered to spend tens of millions in support of so-called health care reform, perhaps with a deal to derail these efforts.

That is why I am so glad Democrats and Republicans are coming together around this amendment to say that enough is enough. We need to fight all of these backroom deals. We need to fight this pervasive influence by pharma and finally stand with average Americans and pass real, comprehensive reimportation reform that will bring down prices, bring down health care costs, which should be the top priority of all of us.

We all say we want to lower health care costs. That has been a big issue in this overall debate. Well, this amendment will absolutely do that. The Congressional Budget Office says that and independent analyses say that. Let's take an important step and do what we all say should be a top priority—actually lowering, in real terms, health care costs.

Again, I urge all of my colleagues, Democrats and Republicans, to come together in a bipartisan way. I wish more of this debate and this effort was designed from the beginning to be truly bipartisan. But this amendment and this effort is. This amendment and this effort have been discussed for years. Let's finally get it done with a bipartisan vote to pass comprehensive reimportation.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that we extend the period for debate only until 2 p.m., with the time equally divided, with Senators permitted to speak therein for up to 10 minutes each, with no amendments in order during that time.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Texas and others talked about premiums. I wish to discuss the effect on premiums of health care reform.

Affordability is at the crux of this debate. In fact, reducing costs and making health care premiums more affordable and predictable, while improving quality, is the impetus for this bill. This bill cuts cost and improves quality.

Two analyses have been released that show Americans will pay less and have more choices under this bill. The first is by the CBO. It found that the legislation will lower premiums for millions of Americans. According to the CBO—and there are a lot of claims around here to the contrary, but they are just claims, and it is not documented—according to the CBO, in the individual market health insurance premiums under the Senate plan would fall by 14 to 20 percent compared with the same plan under current law. If you compare apples with apples, premiums under the Senate plan will fall in the individual market by 14 to 20 percent. These savings come from lower administrative costs, from increased competition, and better pooling of risk to include healthier people. Again, in the individual market, premiums will fall 14 to 20 percent.

Let me be clear. CBO does say that those buying health care in the individual market will pay 14 to 20 percent

less under this bill than they would for the same plan under current law. If you currently have coverage you like, you can keep it. You will pay 14 to 20 percent less for that coverage than you would pay under current law. If, on the other hand, people in the individual market are unhappy with their coverage, what can they do? They can choose to purchase the more comprehensive coverage available in the exchange. You can keep what you have, but if you don't like it, you can choose to buy something else in the exchange.

Unlike most of the coverage available in the individual market today, the coverage in the exchange will ensure access to preventive benefits. This is a very important point. Unlike most of the insurance available today in the individual market, that is, people buying just for themselves, the quality of insurance they will get, because of very dramatic insurance market reforms, will be much greater than what they have today. The quality will be much better.

What are some of those quality improvements? First of all, the bill will ensure that insurance companies cannot deny coverage based on preexisting conditions. Moreover, people will have access to preventive benefits. The plan—the bill we are debating—will guarantee that every policy has an out-of-pocket limit. That is not true today. Most plans don't have limits on that. This legislation says you have a limit on out-of-pocket coverage. Insurance companies have to provide the insurance. They cannot provide a policy that says: We can only pay so much.

The legislation will eliminate discrimination by insurance companies against those who have been sick in the past or have a preexisting condition. They cannot deny coverage based on health status. They cannot do that anymore. They do that today.

This health legislation will preclude insurance companies from rescinding your policy if you get sick.

How many times have we heard that happen under current law, insurance companies rescinding a policy when you get sick because they find a little something that has nothing to do with your illness that you perhaps did not report, a preexisting condition someplace else.

For small businesses, the Congressional Budget Office estimates that premiums in the small group market could be 2 percent lower than under current law. For workers in small firms that are eligible for the small business tax credits, premiums would be 8 to 11 percent lower than under current law. Those savings alone make this legislation worthwhile for small business.

Another enormous benefit for small businesses under this bill is predictable premiums. Under current law, if you are a small employer and one of your employees gets sick, your premiums could double, triple next year. I have experienced that many times. I am sure most Senators have. They talk to small businessmen at home and a businessman says: My gosh, my insurance premiums have doubled, tripled, quadrupled over the past year. Why? Because one of my employees has a preexisting condition, and I am placed in this terrible dilemma. This is a key employee. I cannot fire that person to get lower premiums. I cannot pay the increase in premiums. What do I do?

There is one contractor at home in Montana I talked to about this. He felt so bad, he could not let somebody go, one of his best employees. He kept that employee. He kept shopping around, shopping around, and found a carrier that did increase his premiums because this employee had a preexisting condition but not as much as his regular carrier. It was a 20-percent increase rather than a 30-percent increase. That happens today, and it is wrong, wrong, wrong, wrong.

So if you are a small businessperson, under this bill, you are going to find your premiums are going to be much more stable, and there is going to be a greater pool of people so your premiums, the Congressional Budget Office said, will be less—not by a lot but a little less. You don't have to worry about the insurance company coming to you next year and saying: We are going to charge you much more.

Under this legislation, insurance companies can no longer discriminate against small employers that have an employee who gets sick. I mention all the time I hear from small businesses that say they want to buy health insurance for their employees, but it is too expensive and the cost is too unpredictable. They cannot do it. They want to. They cannot afford it. This legislation helps solve that problem. This bill creates a requirement that allows small businesses to provide health coverage to their workers. There is a little reduction in premiums, according to CBO, and also much more predictability and higher quality of insurance all at the same time.

In the large group market—that is companies with more than 50 employees—what does CBO say about their premiums? I have heard all these allegations about people who work for larger companies are going to find their premiums will increase. That is the assertion. That is flatly not true, at least not true according to the Congressional Budget Office. The Congressional Budget Office estimates that premiums could be up to 3 percent lower than under current law. Again, that is not a big reduction, but it is a reduction, nonetheless. CBO says employees who work for larger companies will find their premiums will go down by a little bit. The assertion is, premiums will go up. CBO says they will go down, to be honest, not by a huge amount but down a little bit. That is better, lower premiums. That 3 percent could make the difference whether an employer decides to keep employees. A 3-percent reduction in premiums will keep that employee, or a bunch of employees, working for him.

According to the Congressional Budget Office, five out of six Americans get their coverage through employers of this size. Five out of six Americans work for larger companies. This means 83 percent of Americans will see no change or perhaps a slight decrease in their premiums. That is the Congressional Budget Office. That is what they say. It is in black-and-white print. It is right there. The remaining individuals—that is 17 percent—purchase their coverage on their own in the individual market.

Of those, many will choose to retain the coverage they have and will see a reduction of 14 to 20 percent in their premiums. Those who choose to purchase more comprehensive coverage in the individual market, the vast majority—nearly 60 percent—will see a reduction in premiums. Guess what. That is a big reduction in premiums. They will see a decrease of 56 to 59 percent due to the tax credits provided in this bill.

Let me restate that point. For the majority of those who choose to buy insurance in the exchange, in the individual market, a majority will see a reduction in premiums, according to the Congressional Budget Office, a whopping reduction of between 56 and 59 percent due to the tax credits provided in this bill. That is pretty important. The remaining few individuals may see an increase of up to 13 percent. But those who experience an increase in premiums, let's remember, will do so because they have much better insurance. The increased quality of the insurance they are going to get, in my judgment, is going to outweigh the increase in premiums they have to pay because they are going to get a lot more for the buck, a lot better insurance than they otherwise would get today.

If you buy a new car rather than a used car, most people think maybe they will pay more for a new car as opposed to a used car because it is newer and better. That is what is happening today. You might pay more, but you are getting a lot better insurance.

The Congressional Budget Office analysis, therefore, is good news for health care reform. The analysis does not take into account some of the Senate bill's other policies, such as a catastrophic option available to young adults, otherwise known as ''young invincibles.'' They think: I am not going to get sick, so I will get a catastrophic plan and pay very low premiums. That is available in this legislation.

The Congressional Budget Office analysis does not incorporate the potential effect of the proposal on the level or growth rate of spending for health care. In other words, CBO's analysis does not fully capture the effects of the excise tax on high-cost plans, which will also help.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. I have more to say, too much more to ask for an additional minute. I will continue at a later time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I rise to speak about Senator CRAPO's motion to commit the bill to the Committee on Finance in order that this bill does not increase taxes for individuals with incomes of less than $200,000 or families with incomes of less than $250,000.

Let's start by looking at three basic promises President Obama campaigned on to get elected—promises that almost no one on the other side of the aisle talks about anymore. Here are those promises. These are his quotes.

He says:

But let me [be] perfectly clear . . . if your family earns less than $250,000 a year, you will not see your taxes increased a single dime. I repeat: not a single dime.

Promise No. 2:

. . . nothing in this plan will require you or your employer to change the coverage or the doctor you have. Let me repeat this: nothing in our plan requires you to change what you have.

His third promise:

Under the plan, if you like your current health insurance, nothing changes, except your costs will go down by as much as $2,500 per year.

I think these are three promises that should be the test when we are judging this health care bill. I certainly agree with President Obama on all three of these points. The nonpartisan Joint Committee on Taxation has recently confirmed that this bill, in no uncertain terms, is a middle-class tax nightmare. Even after you account for taxpayers who receive the tax credit, 24 percent of tax filers—so that is a quarter of all tax filers—who make under $200,000 will, on average, see their taxes go up. Only 8 percent of all taxpayers receive the premium tax credit, which, by the way, is a new entitlement program, not a tax cut, as Democrats claim.

This news should not be a surprise to anyone. We have known for a long time that the largest tax in the bill, the so-called Cadillac insurance plan tax, falls heavily on the middle class. Eighty-four percent—let me repeat this—84 percent of the people who pay the tax have incomes of less than $200,000 per year.

What is wrong with this bill? This bill contains nine—that is right, nine—new taxes that will affect every American. I wish to walk you through those brandnew taxes.

First, we have the 40-percent insurance plan tax. This is the biggest tax, and it is designed to make insurance companies and employers drop their premium insurance plans and leave people to buy cheaper plans. As a result, this tax violates promise No. 2 and promise No. 3 that the President made that I showed in my first chart. It also violates the first promise because 84 percent of the people paying this tax are in the middle class, according to the nonpartisan Joint Committee on Taxation.

The insurance tax, tax No. 2, is another tax that will raise the cost of everyone's insurance plans. According to the analysis from the nonpartisan Congressional Budget Office, which I will quote, these taxes ''would increase costs for the affected firms, which would be passed on to purchasers''—in other words, the employees—''and would ultimately raise insurance premiums by a corresponding amount.''

In addition to violating the first promise not to raise taxes on middle-class Americans, it also raises insurance premiums and violates the third promise. This is not a good start for the American people.

Tax No. 3, the employer tax. For businesses that are struggling to stay afloat and to not lay off employees, especially during these tough economic times, this tax will make it much harder and may result in further layoffs in our weakened economy.

I thought our goal was to create jobs and to strengthen our economy.

The drug tax—this is tax No. 4. This tax will increase pharmaceutical prices. In fact, my colleagues should not be surprised that drug companies are already increasing their prices ahead of this bill because they know they are going to be taxed.

Tax No. 5, the lab tax. If you need clinical laboratory tests, then here is another way the government is going to pick your pocket.

Tax No. 6, the medical device tax. If you need surgery, there is a new tax on medical devices, such as pacemakers and other lifesaving devices.

Tax No. 7, failure to buy insurance tax. If you do not buy insurance, as this bill mandates, then you must pay a penalty tax. Do not be fooled by the new bill as it changes the name from ''tax'' to ''penalty.'' It is still money out of your pocket. By the way, 75 percent of that tax is on people who make less than $200,000 a year—once again violating President Obama's first promise.

I also wish to note that unlike the protection we included in the committee's bill to waive interest on criminal and civil penalties on people who do not pay this tax, the current bill on the floor only stops criminal penalties and certain enforcement mechanisms. This bill still allows the IRS to go after people who do not buy insurance.

What is the maximum penalty allowed? For a civil penalty in this bill, $25,000 for not paying this tax. That is what Americans can be penalized if they just fundamentally do not agree with this tax. Some people, such as myself, do not believe it is constitutional that the Federal Government can require us to buy health insurance. If you believe strongly in the Constitution and you do not believe this is a constitutional provision, the IRS can come after you and require up to a $25,000 fine.

The next tax to talk about is the cosmetic surgery tax. Ironically, Democrats want to tax the most market-oriented aspect of medicine that has resulted in lower prices, safer procedures, and more consumer satisfaction by taxing cosmetic surgery procedures.

Tax No. 9, increased employee Medicare tax. Lastly, for the first time, some Americans will pay higher Medicare taxes and that money will finance an entirely new entitlement program.

According to the nonpartisan Joint Committee on Taxation, as I mentioned before, 84 percent of the people who pay the so-called Cadillac insurance plan tax are in the middle class.

Let's consider the whole taxpaying population of the United States. According, once again, to the nonpartisan Joint Committee on Taxation, 8 percent of the population, or slightly more than 13 million, will get benefits that the Democrats tout under this bill. That is about 8 percent of our population.

The other side is wrong to say that this bill delivers a broad tax cut to all Americans. It does this for only 8 percent, and only after shifting $½ billion worth of new taxes around to the rest of Americans. And what about the rest of Americans? They are either clear losers under this bill or come out roughly even by getting a tax credit to balance their tax hike. Even after you account for taxpayers who receive the tax credit, about one-quarter of all tax filers under $200,000 will, on average, see their taxes go up, not down.

About 157 million Americans who get health insurance from their employers will not be eligible for the tax credit. This does not take into account the higher premiums, medical devices, drugs, lab tests that the nonpartisan Joint Committee on Taxation says will be shifted to consumers. They did not break those tax impacts down by income level, so we can't tell you exactly where they fall. But since most Americans make less than $200,000 a year, common sense tells you that most of those taxes will be borne by Americans making under $200,000 a year.

Most of the nine brand new taxes in this legislation violate the President's promise that middle-class families will not have to pay more taxes. The purpose of the Crapo amendment is to inject honesty into the health care debate and to hold Congress to the promises that were made to the American people.

Before we vote on this, I want to remind my colleagues of a very similar vote we had last year. I had an amendment to the Budget Act that was passed 98 to 0 by this body. My amendment last year said: It shall not be in order in the Senate to consider any bill, resolution, amendment between Houses, motion——

The PRESIDING OFFICER (Mrs. HAGAN). The Senator has used his 10 minutes.

Mr. ENSIGN. Madam President, I ask unanimous consent for an additional 1 minute.

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

Mr. ENSIGN. It shall not be in order in the Senate to consider any bill, resolution, amendment between Houses, motion or conference report that includes a Federal tax increase which would have widespread applicability on middle-income taxpayers. That passed 98 to zero. That provision was adopted. Unfortunately, it was stripped later when the budget resolution went to conference.

Let me say in conclusion, despite the actions my colleagues on the other side of the aisle made toward following that policy of not raising taxes on middle-income families, we continue to see legislative proposals—and the bill before us is exactly one of those legislative proposals—that do just that. So I support Senator CRAPO's motion to commit this bill in order to remove these onerous tax burdens on the American people.

My argument is simple: Let's do what we said we would do and protect middle-income families from these taxes.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise this morning—or this afternoon, I guess it is—to speak about health care, but in a very particular context—an area of our health care debate which we, unfortunately, haven't spent enough time on.

The purpose of my remarks today will focus on an amendment that I will be filing today that is entitled ''Support for Pregnant and Parenting Teens and Women.'' It is a challenge within our health care system which I think has gone largely unaddressed, or at least for a segment or a category of pregnant women in our society. We know many teens and women who face an unplanned pregnancy do so with little or no support. This amendment—the Pregnant and Parenting Teens and Women amendment—offers teens and young women the support they need to finish their education and provide for their children. This is especially important to those teenagers or women who are victims of domestic violence or other kinds of violence, and also women on college campuses.

Just a quick overview of the amendment, and then I will walk through some of the main reasons why I think it is important we make this a priority.

First of all, the amendment will provide assistance and support for pregnant and parenting college students. Secondly, the amendment will provide assistance and support for pregnant and parenting teens. Third, it will improve services for pregnant women who are, as I mentioned before, victims of domestic violence, sexual violence, and stalking. Fourth and finally, it will increase public awareness of the resources available to pregnant and parenting teens and women.

I will go through some of the background in the time I have, but the way I look at this—and I think the way a lot of families look at this challenge in America—is that often after a woman becomes pregnant, she has a decision to make. Under our law, she can carry the child to term or not. We want to make sure if she decides to carry that child to term she has all of the help she needs. And not just a little help—not just a program or two here and there—but the full range of help that we can provide, in addition to what so many people and so many organizations do so well.

There are many individuals and organizations in the nonprofit sector, and there are great programs out there right now that help women with their pregnancies, but I look upon this challenge as one that is faced by pregnant women of all incomes, of all backgrounds, and of all circumstances. Even a woman who has the resources and the means often feels that she has to walk that path alone. Sometimes her family abandons her or doesn't provide her the help she needs. But it is especially urgent and especially difficult when a woman is both pregnant and without means or is pregnant and poor, pregnant and vulnerable to all of the challenges she will face.

If a woman makes the decision to bring a child to term and to raise the child, she often does that all alone. What I believe we have to do here—not just as Democrats and Republicans, because that doesn't matter, candidly, on this—we have to do as Americans, if we mean what we all say, that we want to help people who are vulnerable, and we want to help people with their health care, and many of us say that over and over—people in both parties say that—then we have to help women during what can be a very difficult time in their lives.

I realize for some people this is not an issue. Pregnancy is a time of joy and a time when they have no challenges and they bring a child into the world with a lot of support and all the help they need. But there are plenty of women out there who have to walk this road all alone—all alone. And so if we mean what we say about helping, as Americans—forget parties here—we should do everything possible to walk that road with her, if she wants the help and if she can benefit from the services we are talking about.

Why should a woman on a college campus who makes a decision to have a baby be left alone? Why shouldn't we be giving her help? We don't do it now. I know some do it, and I will hear from others that this group does this and this group does that, but unfortunately it is not nearly enough, especially for someone who happens to be a teenager, a woman who is pregnant, or a young woman who is pregnant as a teenager or before the age of 18. Are we doing enough to help that woman who happens to be pregnant get through the challenge of a pregnancy?

Finally, and most horrifically, if a woman is both pregnant and the victim of domestic violence, sexual violence, or stalking, what are we doing to help her? Unfortunately, the answer to that is very little—very little. I think this is a criticism I am making of both political parties. We could have a debate about who is doing more, and that might be instructive, but neither party is doing enough for at least those three categories of pregnant women—teens, women on college campuses, and women who are victims of violence.

I believe we are going to have an awful lot of support for this amendment. I think it is an essential part of this health care debate, and I believe it is an opportunity to bring people together to agree on something around here when we have a lot of disagreement. But also I think it is vitally important to our society in general. It is not just a good thing to do, it is not just the right thing to do or the compassionate thing to do, it is, I believe, a very important part of how we deliver health care and how we help people through what is often a crisis.

Think of the kind of life that mother will have during her pregnancy and after her pregnancy. Think of the life that child will have, while the child is in the womb and then after the child is born. If the pregnancy goes well, the child will learn more. If the pregnancy goes well, the child will grow and develop appropriately so that he or she can be healthy. If a pregnancy goes well, the child will contribute a lot more to society. The real challenge, the urgent question for us is: What are we doing to help pregnant women, especially in these particular categories?

I have been so fortunate, and I am grateful to have worked with Senator KLOBUCHAR on this amendment. We will be talking about it more, but I wanted to provide a summary of it now.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNS. Madam President, over the weeks and months we have been here, we have talked a lot about the economy and the challenges we face in the economy. We have spent time trying to figure out the best approach when it comes to job creation. We went through a debate earlier this year regarding a stimulus package that, when you add on interest, was eye popping—$1 trillion. We were promised by the President that if you pass this gargantuan stimulus package, the unemployment rate won't go over 8 percent. Well, we stand here today with unemployment at 10 percent.

We look at that and we recognize that the 10-percent number doesn't tell the true story of the suffering that is going on out there. When you read much farther in the analysis, you begin to realize it is not 10 percent. When you add in those who have flat given up, those who are underemployed, and those who may be piecing one or two or three jobs together to try to pay the bills, we are closer to the 17.5 percent range. And in spite of that, over the last days, we have been talking about a piece of legislation that, because of mandates and tax increases and burdens placed upon the middle class and our job creators—our small businesses—we can see very clearly we are going to end up with adding to the misery of the American people.

Let me, if I might, start out by focusing on a specific piece of this to get started; that is, the employer mandate.

The bill here and the bill in the House have a common element—certainly different mandates, certainly different amounts of the mandate, but the common element is that under both pieces of legislation there is a ''Washington way or the highway'' sort of approach. It basically says to employers: Thou shalt do it our way or there is the highway. It basically says to our job creators out there that our medium-size, even some of our small job creators are going to be pulled into this. It says: Look, you either do it the Washington way or we are going to penalize you. We are going to use the Internal Revenue Code, the full force and effect of this mammoth government bureaucracy called the Internal Revenue Service, to get you, to get that money out of your business because you have not complied with the Washington way of this legislation. We are going to put a tax on job creators, a penalty on job creators who are already facing the dilemma of how do they keep their employment steady at a time when unemployment is 10 percent and real unemployment is actually in the vicinity of 17.5 percent. The result is obvious. You don't have to study this very long to figure out that if this bill is passed, you are hammering the very people who are supposed to be creating the jobs.

According to our Congressional Research Service:

> Economic theory suggests the penalty [and by that they mean the employer mandate] should ultimately be passed through to lower wages . . . if firms cannot pass on the costs in lower wages, the higher cost of workers may lead firms to reduce output and the number of workers.

Let me kind of pierce through that fancy language, if I might. It kind of sounds like Washington-speak to me. What the Congressional Research Service is saying is this: If you are a worker out there in the United States, you are literally going to be faced with lower wages. If that doesn't work, then it may be your job that is at stake.

Like every Senator in this body, I get across my State. I try to listen to people. I have townhall meetings. We try to keep an open-door policy so if somebody wants to talk to me, they can. The human misery of losing a job is just unbelievable. It does something to a person. It makes them look at themselves very differently. It makes them wonder, is there hope out there?

This administration ran on this notion of hope and promise. According to our Congressional Research Service, when you pierce through that Washington-speak language, what it really says is that this bill by this administration is going to create more human misery because it will impact jobs. Nonpartisan analysis says employer mandates will either decrease wages or lead to layoffs.

This is my first year in the Senate. What a legacy for your first year, that you get to go home at some point and you say: You know, I voted for a bill that, according to the Congressional Research Service, will either cause more layoffs in my State or reduce wages.

Employers will look at their balance sheet—they have to. They don't have the ridiculous opportunity we have here of just spending crazily and running up the Federal deficit. They have to make it work or they go out of business. For them, it has to be a cost-benefit analysis. How many have looked at this bill and said: I think I have figured something out here. I don't like the mandate, they tell me. But then they say: But we have studied this, and if there has to be that result, it is cheaper for us to try to figure out a way to drop our health coverage and pay the penalty. The average employer that provides a health care plan pays about $4,000 per employee for health coverage. If the mandate were something like $750—do the math—a cost-benefit analysis is going to lead to one conclusion: Drop the health plan. We know employers are already considering it. My office recently met with a human resources manager from one of Nebraska's largest cities. She noted how much cheaper it would be if they could just do that. Many employees will lose their coverage. If that happens, then all of a sudden the doctor-patient relationship is impacted.

Remember all those promises: Your taxes are not going to go up; you get to keep the doctor you like; if you like your plan, you are not going to lose it. We have ripped those promises up with this legislation. You would think at some point somebody in the administration would stand up and say: Hold everything here, we are making shambles out of what we thought we could do.

True health care reform should lower costs for businesses so they have more capital to work with, so they can hire workers, not dismiss them. I suggest this bill just completely misses the mark.

I also suggest that this is a step in the wrong direction in terms of health care. Making matters worse, the people this bill supposedly helps will be disproportionately impacted. A professor studying employer mandates recently said this:

> Workers who would lose their jobs are disproportionately likely to be high school dropouts, minorities and females. Among the uninsured, those with the least education face the highest risk of losing their jobs under employer mandates.

Is it a surprise that business groups are opposing this legislation? The U.S. Chamber, Wholesale Distributors, General Contractors, Independent Electrical Contractors—all sent a letter recently, and they said this:

> Perhaps no sector has been more passionate, more active than the small business community in working to advance reforms that lower health coverage costs.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. JOHANNS. May I have an additional minute, by unanimous consent?

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

Mr. JOHANNS. The Senate health care bill '' . . . will lead to higher costs and increased burdens on small businesses. The bill will cause greater damage to our economy and health care system.''

We all agree on some basic premises. One is that about 60 to 70 percent of our jobs in this country are dependent upon small businesses. Isn't this a time for us to take a step back and ask what are we doing to our economy here, what are we doing to these job creators, and work together to get a truly bipartisan bill that builds our economy and protects our jobs?

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. It is alleged here on the floor that the underlying bill raises taxes. The legislation does not increase taxes—essentially. There was a slight modification to that, but I will explain that later. In fact, the bill represents a tax cut. The bill does two things: It provides tax credits to low- and middle-income individuals and families to help purchase health insurance and it results in increased wages for those receiving employer-sponsored insurance.

Let me first speak about how the bill provides a tax cut. The chart behind me basically shows that for a family of four with an income of $66,000, the light blue indicates that the cost of that health insurance is going to be about $14,100. That is basically what health insurance costs today for a family of four. That is what people pay today. After this legislation, look at the bar there on the right. Again, a family of four, income $66,000. Those persons will receive an $8,000 tax cut, in terms of credits that family will get, with a net result of a health insurance policy that costs $6,100. Health insurance is going to cost less for a family of four with an income of $66,000. That is fairly representative, a family of four with $66,000.

Just to repeat, on the left, the health insurance policy for a family of four with that income level is about $14,000. After the tax credit kicks in, once this legislation kicks in, the same family, same four people, will find they are paying only $6,100 net for their health insurance. Why? Because they get a tax cut of $8,000.

I might add—look at the next chart, ''Who Gets A Tax Cut? An individual with an income of $32,000.'' Earlier, it was a family of four with $66,000. This is an individual with an income of $32,400. Currently, today, before health care reform is passed, that individual will pay roughly $5,000 in health insurance. But after this bill is passed, that same individual with an income of $32,400 will find that health insurance will not cost $5,000 but much less—$3,000. Why? Because that person gets a tax cut in terms of a credit of $2,200. I think that is a very important point to make.

While we are at it, we might as well get the next chart.

There are some who are saying this legislation will result in increased taxes for higher income people; that is, people whose income is, say, around $200,000. There is something to that argument, but that is not the whole story. Let's look at the whole story.

This legislation as portrayed by this chart shows:

High-cost insurance excise tax leads to increased wages.

Why increased wages? Because the Congressional Budget Office or maybe it is the Joint Committee on Taxation—the Joint Committee on Taxation concludes that because of that provision of the bill; that is, the excise tax on companies that provide more expensive policies, in effect those policies will be modified or changed, and in effect the premiums for those policies, the so-called Cadillac plans, will actually go down, according to the Congressional Budget Office, between 7 and 12 percent. But that is premiums. The discussion right now is on taxes. Those folks will be paying a little more taxes. That is true under this legislation. But, again, what is the whole story? Why are they going to be paying more taxes? They are going to be paying more taxes because they will get more income. Their wages and salaries will increase tremendously.

Look at the bar on the left. In the year 2013, the percent of the total tax revenue due to increased wages will be about 90 percent, but that person will also pay a 10-percent increase in taxes. The wage increase, salary increase is far greater than the tax increase. That is true for every year—2013, 2014, 2015, all the way up to 2019. It is proportionately basically the same—roughly around an 80-percent increase in wages and roughly maybe about less than a 20-percent increase in taxes. So on a net basis, those persons are going to be doing pretty well.

Consider the example of Joe who works for ACME Company. He is married and has two children. Together, he and his spouse earn $100,000 a year in taxable wages.

In 2012, ACME Company provides family health coverage to Joe at a cost of $25,000. Because of the high cost insurance excise tax, ACME Company finds different coverage that costs only $21,000 in 2013. Thus, ACME Company can afford to pay Joe an extra $4,000 each year.

Now, even though Joe has to pay income and payroll taxes, he will still have an extra $2,076 in his pocket. That is $4,000 −$1,000 in Federal tax −$612 FICA tax −$312 in State tax.

I don't believe Joe would refuse a pay increase just because he has to pay taxes on that raise.

Or consider Sally, a single mother of two working for XYZ Company. She makes $50,000 in 2013 and receives family health insurance coverage costing $27,000.

When XYZ Company restructures their plan to $22,000 as a result of the high-cost insurance tax, Sally will get an extra $5,000 in wages. That is $3,095 in take-home pay after taxes. That is $5,000 −$750 in Federal income tax −$765 FICA tax −$390 State tax.

I have no doubt that Sally will be able to put that extra money to good use.

Also, I would like to remind everyone about this legislation on premiums. Earlier, I discussed what the Congressional Budget Office said about premiums under our bill. Let me repeat, this is what the Congressional Budget Office says: In summary, the Congressional Budget Office concludes that 93 percent of Americans receive decreases in premiums. About 93 percent of Americans net will see a decrease in premiums.

That is not from these charts; that is from the CBO letter. Of that 93 percent, 10 percent will see decreases of 56 percent to 59 percent because of new tax credits. We are talking about on the individual market. About 60 percent of those who are getting insurance in the individual market on the exchange will get tax credits which will result in roughly a 60-percent reduction in premiums. It is between 56 and 59, which is pretty close to 60 percent. The remaining 7 percent will pay slightly higher—100 less 93. Seven percent will pay slightly higher, but they also get much better insurance for that same dollar. When you have a choice between buying a used car or a new car, you probably expect to pay a little bit more when you buy the new car. Hopefully, it is a little better, higher quality, drives faster, safer, all those things. You expect to pay a little more for a new car, but you get more. The same thing here. You are going to pay a little more. But only 7 percent will see their premiums go up according to the CBO. Those 7 percent are people who do not get tax credits because their incomes are a little higher, but they will get much better insurance, higher quality insurance. CBO says that, much higher quality insurance.

So, in effect, they will probably get at least the same, maybe no increase at all, maybe a reduction in premium, if we calculate in the higher quality insurance they will have.

In addition to CBO, MIT's Jon Gruber has also done a study on premiums. And what does he conclude? He concludes, using Congressional Budget Office data, the Senate bill could mean people purchasing individual insurance would save every year $200 for single coverage and $500 for family coverage in 2009 dollars. Most people think he is one of the best outside experts. He has big computer models. He takes the CBO data and, in some respects, he has helped CBO by giving some information to CBO that it otherwise does not have.

Mr. Gruber also points out that people with low incomes would receive premium tax credits that will reduce the price they pay for health insurance by as much as $2,500 to $7,500.

We have also seen several studies funded by the insurance industry. I don't want to be disparaging but to some degree you have to consider the source. I have been citing CBO. I think most people think they are a highly professional outfit, no axe to grind. Sometimes they upset those against health insurance reform. Sometimes they upset those for health insurance reform. They are a very professional group of people. But I have also seen studies paid for by the private sector, by the insurance industry. Those studies find that premiums will increase under the bill before us for all Americans. These studies are flawed and, frankly, some of them, the authors of these studies admitted they are flawed. They were just looking at selective parts of the legislation, not all parts, and they were pushed by the industry to issue a report quickly. They have admitted that. Each of them failed to take into account all aspects of the proposal. They selectively chose the provisions that will increase premiums, and they ignored those provisions that will lower premiums.

Why do they do that? Basically, the insurance industry wants to kill this bill. I can understand it. If I were the insurance industry, I wouldn't want my apple cart upset either. They do just fine under the status quo, thank you very much. They don't want to see any changes. Some insurance companies want to continue their current practices of denying coverage if you have a preexisting condition. That is how they made their money in the past. They made most of their money by denying coverage, by underwriting insurance rather than making money on conventional insurance. Anyway these companies want to continue their current practice of denying you coverage if you have a preexisting condition. Some want to continue charging unaffordable premiums if you have been sick in the past, and some want to be able to rescind your coverage once you get sick. That is their MO, and they have done pretty well under the status quo.

The Congressional Budget Office and Professor Gruber are both credible and unbiased sources that are not bought and sold by the insurance industry. The Congressional Budget Office and MIT's Gruber have confirmed what many of us have known: that the bill before us will lower premiums and provide a great many options for more comprehensive coverage. That is very important. With the exchange set up and with other provisions that will be in this bill, there are many more options for individuals to buy insurance with. It creates a lot of competition. With health insurance market reform, insurance companies will be competing more on price than they are on quality of coverage.

This legislation provides much needed assistance as well to lower middle-income Americans struggling to pay their health insurance premiums.

The Senator from Nevada, Mr. ENSIGN, a few moments ago said people

would pay more because of industry fees in this bill. Let's address that point. The reductions in premiums determined by the CBO that I described earlier took into account any impact of the industry fees. The Congressional Budget Office took that into account. I note for the record, there is no lab fee. I know that was an honest mistake on his part, but I want to indicate there is no lab fees in this bill. He was talking about lab fees.

The bottom line is that for the overwhelming majority of Americans, this bill means lower premiums. I don't have it with me, but also a section in one of the CBO letters basically says these fees will have a very negligible impact on consumers. Frankly, I was a bit surprised. I was concerned that some of these studies might, as determined by the CBO or other outside analysts, conclude that there would be a significant impact on consumers and on premiums, basically, what these companies would otherwise charge. But the CBO says no; the fees on hospitals, the pharmaceutical industry, even the insurance industry will have a very negligible effect on increased costs for consumers. It is negligible according to the CBO. I thought, frankly, that would not be the case.

Here is the letter. It is on page 15. I don't have the date of this letter, but it is from the Congressional Budget Office. It is under the section ''New Fees Would Increase Premiums Slightly.'' The operable sentence is:

> Because that fee would not impose an additional cost for drugs sold on the private market, CBO and [Joint Tax] estimate that it would not result in measurably higher premiums for private coverage.

To be fair, I don't know if they also address the effect of hospital fees or other provider fees. But I think it is noteworthy in that context for us to remember, it wasn't too long ago when the health insurance industry got together at the White House with the President and promised the President they could reduce their costs by $2 trillion over 10 years. If they believed they could reduce their reimbursement by $2 trillion over 10 years, you would think they would kind of know what they are talking about. After all, they have to report to stockholders. They have certain obligations.

They said they could reduce their reimbursement by $2 trillion. This bill cuts down their reimbursement increases not by $2 trillion but by one-quarter of that. That is roughly 4,500 billion over that same 10-year period. They have agreed to that. I can understand why they would agree to that because that is about one-quarter of what they promised earlier.

If they have agreed to it, they are probably going to do OK under this legislation. It is not going to result in reduced quality of care to people because they have agreed to it essentially. As I pointed out, CBO says, at least with respect to the pharmaceutical industry, very little of that will be passed on to consumers. Why is that? The basic reason is, there is waste in our current health care system. These companies know where the waste is. They can find it. They know it is out there.

But, second, with increased coverage, many more Americans will have health insurance. Currently, 84 percent have health insurance. Under this legislation, 94, 95 percent of Americans will have health insurance. If many more Americans have health insurance, there are more patients for the hospitals, more patients for home health care, more medical equipment sold, more drugs provided by the pharmaceutical industry. That is the second main reason they know that with provisions in this bill, the reduction in reimbursement to them is numbers they can live with.

I know the next two speakers, Senator GRASSLEY and Senator DORGAN, both intend to speak for more than 10 minutes. I ask unanimous consent they be allowed to speak longer under the time under the control of the respective sides.

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

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I thank the Senator from Montana for arranging that for me. I hope this afternoon to speak on the issue of importation of drugs because I support the Dorgan amendment. Right now I wish to address the issue of the Crapo motion to commit.

This generally deals with all of the tax provisions in this 2,074-page bill. If Senator CRAPO prevails—and he should—the unrelated House bill, along with the Reid amendment, would be sent to the Senate Finance Committee. The Finance Committee, under the motion, would be empowered to return the bill to the full Senate with an amendment that eliminates the heavy taxes that are in this bill. Senator CRAPO has discussed the impact of the Reid amendment on middle-class families. I will lay out all the taxes that are in this bill.

In farm country, many of us who work the land often observe big freight trains rumbling across the terrain. Sometimes they scare cattle, hogs, and other animals. Those freight trains are impressive in their power, in their speed, and now the length of the trains. It is very common to see a 100-car train, 150-car trains. The partisan force with which the majority is powering this bill through the Congress is equally as impressive as that of a freight train. The speed that is being displayed for such complex legislation is something to behold. Most importantly, the sheer number and breadth of the new taxes in this bill reminds me of a very long train.

Almost $½ trillion in taxes, fees, and penalties, and I think they all have the same economic impact, whether it is a tax, a fee, or a penalty—a negative impact on the economy. These taxes, fees, and penalties are so imposing, I am calling this 2,074-page bill the tax increase express.

The locomotive driving this train is health care reform, driven by the Democratic leadership. So we have the locomotive that drives this tax increase. I don't think the American public knows the bill would impose that much, $½ trillion worth of new taxes, new fees, and new penalties on the American people.

The American public, who supported President Obama with a majority of votes 13 months ago, heard the President loudly and clearly, and that is why they gave him such an overwhelming majority.

They understood our President pledged he would not raise taxes on people making less than $250,000 a year. Unfortunately, the Democrats' leadership bill would violate that clear pledge.

What are the tax increases and the fees and penalties in Senator REID's amendment? Let me take a moment to highlight them because every locomotive needs power to run. The first power source, the first car of the tax increase express, is the so-called fees on health insurance companies, medical device manufacturers, and drug manufacturers.

That might not sound like something the grassroots of America would worry about—taxes on insurance companies, medical device manufacturers, drug manufacturers—because maybe they think businesses pay taxes. But businesses and corporations do not pay taxes, only people pay taxes. So when people find out they are going to be paying these, it puts a whole new light on what is a fee and what is a tax.

There have been numerous studies that have shown that these fees on, for example, health insurers will increase health insurance premiums. Some say premiums would increase by $488 for a family, other studies say $500. Most Members on the other side of the aisle take issue with these studies. They argue these studies were performed at the request of insurance companies or conducted by independent experts with ties to that same industry.

Let me ask my Democratic friends this: Do you question the work of the Congressional Budget Office and the Joint Committee on Taxation? Well, you should not because they are like a god around here. When the CBO says something is going to cost something, that stands, unless there are 60 votes to override it in the Senate. So most everything the CBO says stands. They have respect because of the intellectual honesty of their research and the nonpartisanship they have. So these agencies—the Congressional Budget Office and the Joint Committee on Taxation—have testified that these fees will actually be passed on to health care consumers. Check the record. No one can dispute it.

The Congressional Budget Office and the Joint Committee on Taxation have also testified that the fees will increase

health insurance premiums. Check the record. No one can dispute it.

My friends in the Democratic leadership may say, once their health reforms are in place, premiums will go down, net of the fees. They will hail a recent CBO report highlighting the winners but somehow ignoring the losers. They will say these fees will not affect premiums for the vast majority of Americans. But here is the flaw in that assertion. The Congressional Budget Office analyzed premium costs, what they are projected to be in 2016 under this legislation.

What about premium costs right now in the years before these programs take effect—2010 and 2013? Why is this question important? The answer is, these fees go into effect in the year 2010, not when most of the expenditures go into effect in 2014.

The majority of the Democratic reforms which are intended to lower costs do not go into effect until 2014—4 years from now. I ought to say that 10 times because that is very important to how this bill came out to be revenue neutral.

So we ought to look at what happens in the years 2010, 2011, 2012, and 2013. Premiums will go up. Why? Because, for one, the Democrats are adding costs to the health insurance you buy by imposing these fees on health insurers, and they are giving you no government assistance to help with these added costs.

I would ask my friends in the media, dig a little bit deeper on this point, and you ought to be reporting on it. Why? Because the American public does not understand that in the short term premiums will go up. Instead, the public is simply hearing some media reports on a portion of the premiums, in 2016 and beyond. Of course, that is a very long time from now. The American public does not want to wait for their premiums to go down, if they go down at all. It appears my friends in the Democratic leadership want the tax increase express to barrel through Congress before the public realizes what health care reform actually means; that is, higher premiums as early as 2010.

Let me turn to the second car of the tax increase express. This car is the proposal to restrict the eligibility criteria for claiming the itemized deductions for medical expenses. This proposal says you can no longer deduct expenses that exceed 7.5 percent of your adjusted gross income. Instead, you can only deduct expenses that exceed 10 percent of your adjusted gross income.

In plain English, this proposal limits tax deductions you can take for medical expenses. In other words, you will lose a portion of your tax deductions. Even the New York Times calls proposals that would take away a portion of your tax deduction a tax increase.

Mr. President, I ask unanimous consent that article from the New York Times, dated February 26, 2009, be printed in the RECORD.

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

[From the New York Times, Feb. 26, 2009]

TO PAY FOR HEALTH CARE, OBAMA LOOKS TO TAXES ON AFFLUENT

(By Jackie Calmes and Robert Pear)

WASHINGTON.—President Obama will propose further tax increases on the affluent to help pay for his promise to make health care more accessible and affordable, calling for stricter limits on the benefits of itemized deductions taken by the wealthiest households, administration officials said Wednesday.

The tax proposal, coming after recent years in which wealth has become more concentrated at the top of the income scale, introduces a politically volatile edge to the Congressional debate over Mr. Obama's domestic priorities.

The president will also propose, in the 10-year budget he is to release Thursday, to use revenues from the centerpiece of his environmental policy—a plan under which companies must buy permits to exceed pollution emission caps—to pay for an extension of a two-year tax credit that benefits low-wage and middle-income people.

The combined effect of the two revenue-raising proposals, on top of Mr. Obama's existing plan to roll back the Bush-era income tax reductions on households with income exceeding $250,000 a year, would be a pronounced move to redistribute wealth by reimposing a larger share of the tax burden on corporations and the most affluent taxpayers.

Administration officials said Mr. Obama would propose to reduce the value of itemized tax deductions for everyone in the top income tax bracket, 35 percent, and many of those in the 33 percent bracket—roughly speaking, starting at $250,000 in annual income for a married couple.

Under existing law, the tax benefit of itemizing deductions rises with a taxpayer's marginal tax bracket (the bracket that applies to the last dollar of income). For example, $10,000 in itemized deductions reduces tax liability by $3,500 for someone in the 35 percent bracket.

Mr. Obama would allow a saving of only $2,800—as if the person were in the 28 percent bracket.

The White House says it is unfair for high-income people to get a bigger tax break than middle-income people for claiming the same deductions or making the same charitable contributions.

The officials said the resulting increase in revenues, estimated at $318 billion over 10 years, would account for about half of a $634 billion ''reserve fund'' that Mr. Obama will set aside in his budget to address changes in the health care system. The other half would come from proposed cost savings in Medicare, Medicaid and other health programs.

In a document summarizing its proposals, the White House said it would finance coverage for the uninsured in part by ''rebalancing the tax code so that the wealthiest pay more.''

Mr. Obama's blueprint, which will project spending and revenues for the next decade, will flesh out the president's thinking on his energy plans both to cap the emissions of gases, particularly carbon dioxide, that are blamed for climate change and to spur development of nonpolluting energy alternatives.

The budget will show the government beginning by 2012 to collect billions of dollars in revenues from selling permits to businesses that emit the polluting gases, assuming the president's energy initiative becomes law as soon as this year, officials said.

Because utilities and other businesses would presumably pass on their costs to customers, Mr. Obama will propose to use most of the government's revenues from the permits to finance an extension of the new ''Making Work Pay'' tax credit beyond the two years covered in the $787 billion economic recovery plan that was just enacted.

That tax relief, the administration will argue, will offset households' higher costs for utilities and other products and services from businesses' passing on their permit expenses.

That tax credit annually will provide $400 to low-wage and middle-income workers or $800 to couples; Mr. Obama would like to increase those figures to $500 and $1,000. The credit phases out for those with incomes above $75,000 a year and for couples with incomes of more than $150,000; no benefit would go to individuals with more than $100,000 income and couples with $200,000.

The tax credit will begin showing up in the form of lower withholding for eligible workers beginning April 1.

The remainder of the projected revenues from the permits will finance Mr. Obama's campaign promise for $15 billion a year over 10 years to subsidize research and development of alternative energy sources, officials said. The stimulus package included a multi-billion-dollar down payment to develop a national electricity grid to harness and distribute energy from such sources, including wind farms.

Behind the numbers in Mr. Obama's first budget is one of the most far-reaching domestic agendas in years, and at a time when the president and Congress are already grappling with an economic crisis worse than any in decades. The environmental permits would not take effect until 2012, at which point the administration expects the economy to have recovered. Similarly, some of the tax increases would not take effect until 2011.

Democratic Congressional leaders promised to push the agenda, which parallels their own. ''By the end of this year, I want to do something significant dealing with health care,'' the Senate majority leader, Harry Reid of Nevada, told reporters.

The tax proposals, however, could galvanize Republican opposition and give conservatives a concrete target for taking on Mr. Obama, who despite his political strength could find some members of his own party reluctant to embrace tax increases.

Senator Max Baucus, Democrat of Montana and chairman of the Senate Finance Committee, who has been drafting a health plan, predicted in an interview that the Senate could pass legislation by its August recess.

Mr. Baucus acknowledged that ''there has to be revenue'' to offset the costs of expanded coverage initially, but he did not endorse the proposal for limiting wealthy taxpayers' deductions.

''There will be lots of options to pay it, not necessarily that one,'' Mr. Baucus said.

He would not say what revenue options he would support. But he said tax increases of some kind would not prevent some Senate Republicans from aligning with Democrats to pass a health plan.

In the House, the Republican leader, Representative John A. Boehner of Ohio, telegraphed his side's opposition to any tax increases.

''Everyone agrees that all Americans deserve access to affordable health care,'' Mr. Boehner said in a statement, ''but is increasing taxes during an economic recession, especially on small businesses, the right way to accomplish that goal?''

Mr. Boehner likewise criticized Mr. Obama's cap-and-trade emissions permits proposal, saying, ''Cap-and-trade is code for increasing taxes and killing American jobs,

and that's the last thing we need to do during these troubled economic times.''

To finance health care reform, administration officials suggested to senior aides in Congress on Wednesday that revenues could be raised by ending the policy of excluding the value of employer-provided health insurance from income taxes.

But the officials emphasized that the administration was not advocating that option, which not only is anathema to some in organized labor and business but also conflicts with Mr. Obama's position in last fall's presidential campaign.

The administration is proposing a number of other politically contentious ways of offsetting the costs of the health care initiative. Mr. Obama wants to require drug companies to give bigger discounts, or rebates, to Medicaid, the health program for low-income people.

Drug makers now must provide Medicaid with a discount equal to at least 15.1 percent of the average manufacturer price for a brand-name product. Mr. Obama wants to require discounts of at least 22.1 percent. Pharmaceutical companies have strenuously resisted such proposals in recent years.

Mr. Obama will also propose cutting Medicare payments to health insurance companies that provide comprehensive care to more than 10 million of the 44 million Medicare beneficiaries. He says he can save $175 billion over 10 years with a new competitive bidding system, under which payments to private Medicare Advantage plans would be based on an average of the bids they submit to Medicare.

Mr. GRASSLEY. In the top line, the article says: ''President Obama will propose further tax increases on the affluent to help pay for . . . health care reform.''

I am highlighting this article because the President is also proposing to take away a portion of a person's tax deduction. The President wants to limit the itemized deductions people making more than $250,000 a year can take. The only difference between the two proposals is the medical expense deduction limitation affects people who make less than $250,000 a year—the same class of people the President promised in the election he was not going to increase taxes on.

So, again, do not take my word for it. Data from the Joint Committee on Taxation tells us that in the year 2013, the largest concentration of taxpayers claiming the medical expense deduction will earn between $50,000 and $75,000—people who never thought they were going to have their taxes increased based upon what the President said during the campaign.

The analysis shows, a good number of taxpayers earning between $75,000 and $200,000 also claim the medical expense deduction.

My friends on the other side of the aisle will argue that their government-subsidized tax credit for health insurance will wipe clean any new taxes for those people below 400 percent of poverty. They will also argue that people purchasing insurance through the new exchange will be protected from catastrophic expenses as a result of annual out-of-pocket limits. For this reason, my friends on the other side argue those middle-class taxpayers will not need to rely on medical expense deductions.

I hate to break it to my colleagues, but the Congressional Budget Office—again, that god of Capitol Hill—estimates that in 2014 only 4 percent of Americans will be purchasing exchange insurance and only 3 percent of Americans will be receiving a tax credit. By 2019, when the Reid bill is in full effect, only 7 percent of Americans with exchange insurance will be receiving the tax credit. That leaves a heck of a lot of people below 400 percent of poverty with higher taxes.

What about those individuals and families above 400 percent of poverty? These people earn income below the President's magic $250,000 level, and somehow they do not qualify for this tax credit. What they do qualify for, though, is a tax increase. After all, there is reason why this proposal raises $15 billion over 10 years, and that is a heck of a lot of money.

Let me now turn to the third car of the tax increase express. This car is the high-cost plan tax. The Congressional Budget Office has consistently cited the two most powerful ways to bend the cost curve downward, meaning the cost curve of health care inflation: No. 1 is to cap the tax preference for employer-provided health coverage or the so-called exclusion; and, secondly, Medicare delivery system reforms.

A recent letter sent to the White House by respected economists also contends that placing a limit on high-cost employer plans would slow health care spending and reduce costs.

Well, some of my colleagues have come out squarely in support of a cap on the exclusion. That was an intellectually honest position. My friends, the chairman of the Budget Committee and the chairman of the Finance Committee, took the intellectually honest position. The Democratic leadership, however, has squarely opposed a cap on the exclusion. They argue that a cap on the exclusion would hurt middle-class workers.

But in a sleight of hand, this bill—this 2,074-page bill—and its authors, the Democratic leadership, came up with a proposal that would tax insurance companies for offering high-cost plans. It is a more complicated way of taxing the same workers. It is a sleight of hand because the Democratic leadership knows the tax will be passed through to the worker.

My friends simply did not want to say they were taxing the workers directly. So they have decided to tax those same workers very indirectly. In the end, the worker would be paying the tax, and these workers would be middle-income workers.

Again, do not take my word for it. The Joint Committee on Taxation testified before our very Senate Finance Committee that the high-cost plan tax would be passed on to whom—the workers.

Joint Committee on Taxation data also indicates that in 2019, 84 percent of the revenue generated from the high-cost plan tax comes from—guess who—individuals and families earning less than $200,000 a year, contrary to the President's promise in the last campaign that these folks would not pay any additional tax.

So whether you agree or disagree with the policy of limiting the tax benefit for employer-provided coverage, middle-class workers would see a tax increase.

Let's go to the fourth car of the tax increase express. This car is going to carry two new tax increases. The first tax increase is on workers who contribute to a flexible spending account, better known as an FSA.

Under the current tax laws, a worker may contribute to an FSA on a pretax basis and use those FSA contributions to pay for copays and deductibles tax free. Currently, there is no limit on how much a worker may contribute to an FSA. This 2,074-page bill, put together by Senator REID, would limit the contribution amounts to $2,500. Statistics show, the average FSA contribution is $1,800 a year. So this $2,500 limit does not sound that bad, right? Well, I say wrong. A great number of workers who have serious illnesses contribute significantly more than $1,800 and, let me say, more than $2,500.

On average—on average—these workers whom I am talking about with serious health problems earn about $55,000 a year. If I were to connect the dots, I would see a tax increase on workers with serious illnesses who earn $55,000 a year. Well, here is how. These workers would now have to pay taxes on their FSA contributions in excess of $2,500. The Democratic leadership is taxing health benefits for the first time ever—at least this benefit for the first time ever.

The second tax increase in this fourth car is the elimination of the taxfree reimbursement for over-the-counter medicine. Under the current tax rules, payments for over-the-counter medicine may be reimbursed taxfree if a worker is covered under a flexible savings account or under a health savings account. This 2,074-page bill takes away that tax benefit.

The fifth car of the tax increase express is the new Medicare payroll taxes. Since the New Deal, the United States has put into place several social insurance programs. They are part of the social fabric of America. Included in those programs are Social Security, unemployment insurance, and Medicare. They are all founded on the social insurance concepts. As Senator Moynihan, when he represented New York, used to remind us, to ensure their constitutionality, these programs were designed to be financed with payroll taxes instead of insurance premiums. But to maintain the closest appearance possible to social insurance, the payroll tax looks a lot like a premium for insurance.

This analogy is very intentional. It is not accidental. It is bedrock to the sustainability and universality of social

insurance programs that we all support: Social Security on the one hand, Medicare on the other.

The Reid amendment breaks that precedent, muddies the premium analogy, and could start us on a tax-hike-only journey to dealing with our unsustainable entitlement programs.

Let me explain that. The way the payroll tax works now is that every worker pays in based on his or her salary, wages, or small business income. That is a single, simple, and consistent tax base. Also, one tax rate applies to that payroll tax base. Now, for the first time—for the very first time—an additional second tax rate will apply to the payroll tax base. Also, for the first time in the almost 45-year history of this great social insurance program, we have before us a proposal that creates a marriage penalty in the payroll tax. Now think of the negative comments you get from a marriage penalty from grassroots America. So here we have a proposal that creates such a marriage penalty in the payroll tax. In other words, some married couples will be paying higher payroll taxes due solely to the fact that they are married. A tax on marriage? This is a direct result of this addition to the second tax rate.

Here is another matter that boggles the mind. The second tax rate kicks in if your wages exceed $200,000 if you are single and $250,000 if you are married. These dollar thresholds are not indexed. They are not indexed, so what happens then when you have inflation?

Another tax where the tax base is not indexed is the AMT. That ought to bring back all the horror stories about not indexing something timely when you first pass it. I think every Member of Congress knows that is an annual problem for us. In the late 1990s, commentators called the AMT the tax system's ''ticking timebomb.'' Fortunately, my friend, the chairman, and I started to diffuse this bomb in the 2001 tax legislation. It appears that my friends on the other side of the aisle have created another tax system ticking timebomb problem.

Finally, we have a caboose of this tax increase express. The caboose is the individual mandate penalty tax. It is a tax. It can be called a penalty, but it is a tax. All you have to do is have the IRS collecting it, as it does, and you know it is a tax. President Obama does not want to acknowledge that the penalty for failing to maintain a government-approved health insurance program is a tax, but it is right here in black and white. The Reid bill amends the Tax Code by adding a new excise tax. It is payable by those Americans who do not purchase government-approved health insurance.

I ask unanimous consent to place section 1501 of the Reid amendment in the RECORD, which adds this new excise tax to our tax laws.

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

Subtitle F—Shared Responsibility for Health Care

PART I—INDIVIDUAL RESPONSIBILITY

SEC. 1501. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.

(a) FINDINGS.—Congress makes the following findings:

(1) IN GENERAL.—The individual responsibility requirement provided for in this section (in this subsection referred to as the ''requirement'') is commercial and economic in nature, and substantially affects interstate commerce, as a result of the effects described in paragraph (2).

(2) EFFECTS ON THE NATIONAL ECONOMY AND INTERSTATE COMMERCE.—The effects described in this paragraph are the following:

(A) The requirement regulates activity that is commercial and economic in nature: economic and financial decisions about how and when health care is paid for, and when health insurance is purchased.

(B) Health insurance and health care services are a significant part of the national economy. National health spending is projected to increase from $2,500,000,000,000, or 17.6 percent of the economy, in 2009 to $4,700,000,000,000 in 2019. Private health insurance spending is projected to be $854,000,000,000 in 2009, and pays for medical supplies, drugs, and equipment that are shipped in interstate commerce. Since most health insurance is sold by national or regional health insurance companies, health insurance is sold in interstate commerce and claims payments flow through interstate commerce.

(C) The requirement, together with the other provisions of this Act, will add millions of new consumers to the health insurance market, increasing the supply of, and demand for, health care services. According to the Congressional Budget Office, the requirement will increase the number and share of Americans who are insured.

(D) The requirement achieves near-universal coverage by building upon and strengthening the private employer-based health insurance system, which covers 176,000,000 Americans nationwide. In Massachusetts, a similar requirement has strengthened private employer-based coverage: despite the economic downturn, the number of workers offered employer-based coverage has actually increased.

(E) Half of all personal bankruptcies are caused in part by medical expenses. By significantly increasing health insurance coverage, the requirement, together with the other provisions of this Act, will improve financial security for families.

(F) Under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), the Public Health Service Act (42 U.S.C. 201 et seq.), and this Act, the Federal Government has a significant role in regulating health insurance which is in interstate commerce.

(G) Under sections 2704 and 2705 of the Public Health Service Act (as added by section 1201 of this Act), if there were no requirement, many individuals would wait to purchase health insurance until they needed care. By significantly increasing health insurance coverage, the requirement, together with the other provisions of this Act, will minimize this adverse selection and broaden the health insurance risk pool to include healthy individuals, which will lower health insurance premiums. The requirement is essential to creating effective health insurance markets in which improved health insurance products that are guaranteed issue and do not exclude coverage of pre-existing conditions can be sold.

(H) Administrative costs for private health insurance, which were $90,000,000,000 in 2006, are 26 to 30 percent of premiums in the current individual and small group markets. By significantly increasing health insurance coverage and the size of purchasing pools, which will increase economies of scale, the requirement, together with the other provisions of this Act, will significantly reduce administrative costs and lower health insurance premiums. The requirement is essential to creating effective health insurance markets that do not require underwriting and eliminate its associated administrative costs.

(3) SUPREME COURT RULING.—In United States v. South-Eastern Underwriters Association (322 U.S. 533 (1944)), the Supreme Court of the United States ruled that insurance is interstate commerce subject to Federal regulation.

(b) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

''CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE

''Sec. 5000A. Requirement to maintain minimum essential coverage.

''SEC. 5000A. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.

''(a) REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.—An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.

''(b) SHARED RESPONSIBILITY PAYMENT.—

''(1) IN GENERAL.—If an applicable individual fails to meet the requirement of subsection (a) for 1 or more months during any calendar year beginning after 2013, then, except as provided in subsection (d), there is hereby imposed a penalty with respect to the individual in the amount determined under subsection (c).

''(2) INCLUSION WITH RETURN.—Any penalty imposed by this section with respect to any month shall be included with a taxpayer's return under chapter 1 for the taxable year which includes such month.

''(3) PAYMENT OF PENALTY.—If an individual with respect to whom a penalty is imposed by this section for any month—

''(A) is a dependent (as defined in section 152) of another taxpayer for the other taxpayer's taxable year including such month, such other taxpayer shall be liable for such penalty, or

''(B) files a joint return for the taxable year including such month, such individual and the spouse of such individual shall be jointly liable for such penalty.

''(c) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—The penalty determined under this subsection for any month with respect to any individual is an amount equal to 1/12 of the applicable dollar amount for the calendar year.

''(2) DOLLAR LIMITATION.—The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to all individuals for whom the taxpayer is liable under subsection (b)(3) shall not exceed an amount equal to 300 percent the applicable dollar amount (determined without regard to paragraph (3)(C)) for the calendar year with or within which the taxable year ends.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (1)—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the applicable dollar amount is $750.

''(B) PHASE IN.—The applicable dollar amount is $95 for 2014 and $350 for 2015.

''(C) SPECIAL RULE FOR INDIVIDUALS UNDER AGE 18.—If an applicable individual has not attained the age of 18 as of the beginning of

a month, the applicable dollar amount with respect to such individual for the month shall be equal to one-half of the applicable dollar amount for the calendar year in which the month occurs.

''(D) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2016, the applicable dollar amount shall be equal to $750, increased by an amount equal to—

''(i) $750, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2015' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

''(4) TERMS RELATING TO INCOME AND FAMILIES.—For purposes of this section—

''(A) FAMILY SIZE.—The family size involved with respect to any taxpayer shall be equal to the number of individuals for whom the taxpayer is allowed a deduction under section 151 (relating to allowance of deduction for personal exemptions) for the taxable year.

''(B) HOUSEHOLD INCOME.—The term 'household income' means, with respect to any taxpayer for any taxable year, an amount equal to the sum of—

''(i) the modified gross income of the taxpayer, plus

''(ii) the aggregate modified gross incomes of all other individuals who—

''(I) were taken into account in determining the taxpayer's family size under paragraph (1), and

''(II) were required to file a return of tax imposed by section 1 for the taxable year.

''(C) MODIFIED GROSS INCOME.—The term 'modified gross income' means gross income—

''(i) decreased by the amount of any deduction allowable under paragraph (1), (3), (4), or (10) of section 62(a),

''(ii) increased by the amount of interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

''(iii) determined without regard to sections 911, 931, and 933.

''(D) POVERTY LINE.—

''(i) IN GENERAL.—The term 'poverty line' has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

''(ii) POVERTY LINE USED.—In the case of any taxable year ending with or within a calendar year, the poverty line used shall be the most recently published poverty line as of the 1st day of such calendar year.

''(d) APPLICABLE INDIVIDUAL.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable individual' means, with respect to any month, an individual other than an individual described in paragraph (2), (3), or (4).

''(2) RELIGIOUS EXEMPTIONS.—

''(A) RELIGIOUS CONSCIENCE EXEMPTION.—Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act which certifies that such individual is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section.

''(B) HEALTH CARE SHARING MINISTRY.—

''(i) IN GENERAL.—Such term shall not include any individual for any month if such individual is a member of a health care sharing ministry for the month.

''(ii) HEALTH CARE SHARING MINISTRY.—The term 'health care sharing ministry' means an organization—

''(I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),

''(II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,

''(III) members of which retain membership even after they develop a medical condition,

''(IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and

''(V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

''(3) INDIVIDUALS NOT LAWFULLY PRESENT.—Such term shall not include an individual for any month if for the month the individual is not a citizen or national of the United States or an alien lawfully present in the United States.

''(4) INCARCERATED INDIVIDUALS.—Such term shall not include an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.

''(e) EXEMPTIONS.—No penalty shall be imposed under subsection (a) with respect to—

''(1) INDIVIDUALS WHO CANNOT AFFORD COVERAGE.—

''(A) IN GENERAL.—Any applicable individual for any month if the applicable individual's required contribution (determined on an annual basis) for coverage for the month exceeds 8 percent of such individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act. For purposes of applying this subparagraph, the taxpayer's household income shall be increased by any exclusion from gross income for any portion of the required contribution made through a salary reduction arrangement.

''(B) REQUIRED CONTRIBUTION.—For purposes of this paragraph, the term 'required contribution' means—

''(i) in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible-employer-sponsored plan, the portion of the annual premium which would be paid by the individual (without regard to whether paid through salary reduction or otherwise) for self-only coverage, or

''(ii) in the case of an individual eligible only to purchase minimum essential coverage described in subsection (f)(1)(C), the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the State in the rating area in which the individual resides (without regard to whether the individual purchased a qualified health plan through the Exchange), reduced by the amount of the credit allowable under section 36B for the taxable year (determined as if the individual was covered by a qualified health plan offered through the Exchange for the entire taxable year).

''(C) SPECIAL RULES FOR INDIVIDUALS RELATED TO EMPLOYEES.—For purposes of subparagraph (B)(i), if an applicable individual is eligible for minimum essential coverage through an employer by reason of a relationship to an employee, the determination shall be made by reference to the affordability of the coverage to the employee.

''(D) INDEXING.—In the case of plan years beginning in any calendar year after 2014, subparagraph (A) shall be applied by substituting for '8 percent' the percentage the Secretary of Health and Human Services determines reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for such period.

''(2) TAXPAYERS WITH INCOME UNDER 100 PERCENT OF POVERTY LINE.—Any applicable individual for any month during a calendar year if the individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act is less than 100 percent of the poverty line for the size of the family involved (determined in the same manner as under subsection (b)(4)).

''(3) MEMBERS OF INDIAN TRIBES.—Any applicable individual for any month during which the individual is a member of an Indian tribe (as defined in section 45A(c)(6)).

''(4) MONTHS DURING SHORT COVERAGE GAPS.—

''(A) IN GENERAL.—Any month the last day of which occurred during a period in which the applicable individual was not covered by minimum essential coverage for a continuous period of less than 3 months.

''(B) SPECIAL RULES.—For purposes of applying this paragraph—

''(i) the length of a continuous period shall be determined without regard to the calendar years in which months in such period occur,

''(ii) if a continuous period is greater than the period allowed under subparagraph (A), no exception shall be provided under this paragraph for any month in the period, and

''(iii) if there is more than 1 continuous period described in subparagraph (A) covering months in a calendar year, the exception provided by this paragraph shall only apply to months in the first of such periods.

The Secretary shall prescribe rules for the collection of the penalty imposed by this section in cases where continuous periods include months in more than 1 taxable year.

''(5) HARDSHIPS.—Any applicable individual who for any month is determined by the Secretary of Health and Human Services under section 1311(d)(4)(H) to have suffered a hardship with respect to the capability to obtain coverage under a qualified health plan.

''(f) MINIMUM ESSENTIAL COVERAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'minimum essential coverage' means any of the following:

''(A) GOVERNMENT SPONSORED PROGRAMS.—Coverage under—

''(i) the Medicare program under part A of title XVIII of the Social Security Act,

''(ii) the Medicaid program under title XIX of the Social Security Act,

''(iii) the CHIP program under title XXI of the Social Security Act,

''(iv) the TRICARE for Life program,

''(v) the veteran's health care program under chapter 17 of title 38, United States Code, or

''(vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers).

''(B) EMPLOYER-SPONSORED PLAN.—Coverage under an eligible employer-sponsored plan.

''(C) PLANS IN THE INDIVIDUAL MARKET.—Coverage under a health plan offered in the individual market within a State.

''(D) GRANDFATHERED HEALTH PLAN.—Coverage under a grandfathered health plan.

''(E) OTHER COVERAGE.—Such other health benefits coverage, such as a State health benefits risk pool, as the Secretary of Health and Human Services, in coordination with

the Secretary, recognizes for purposes of this subsection.

''(2) ELIGIBLE EMPLOYER-SPONSORED PLAN.—The term 'eligible employer-sponsored plan' means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is—

''(A) a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or

''(B) any other plan or coverage offered in the small or large group market within a State.

Such term shall include a grandfathered health plan described in paragraph (1)(D) offered in a group market.

''(3) EXCEPTED BENEFITS NOT TREATED AS MINIMUM ESSENTIAL COVERAGE.—The term 'minimum essential coverage' shall not include health insurance coverage which consists of coverage of excepted benefits—

''(A) described in paragraph (1) of subsection (c) of section 2791 of the Public Health Service Act; or

''(B) described in paragraph (2), (3), or (4) of such subsection if the benefits are provided under a separate policy, certificate, or contract of insurance.

''(4) INDIVIDUALS RESIDING OUTSIDE UNITED STATES OR RESIDENTS OF TERRITORIES.—Any applicable individual shall be treated as having minimum essential coverage for any month—

''(A) if such month occurs during any period described in subparagraph (A) or (B) of section 911(d)(1) which is applicable to the individual, or

''(B) if such individual is a bona fide resident of any possession of the United States (as determined under section 937(a)) for such month.

''(5) INSURANCE-RELATED TERMS.—Any term used in this section which is also used in title I of the Patient Protection and Affordable Care Act shall have the same meaning as when used in such title.

''(g) ADMINISTRATION AND PROCEDURE.—

''(1) IN GENERAL.—The penalty provided by this section shall be paid upon notice and demand by the Secretary, and except as provided in paragraph (2), shall be assessed and collected in the same manner as an assessable penalty under subchapter B of chapter 68.

''(2) SPECIAL RULES.—Notwithstanding any other provision of law—

''(A) WAIVER OF CRIMINAL PENALTIES.—In the case of any failure by a taxpayer to timely pay any penalty imposed by this section, such taxpayer shall not be subject to any criminal prosecution or penalty with respect to such failure.

''(B) LIMITATIONS ON LIENS AND LEVIES.—The Secretary shall not—

''(i) file notice of lien with respect to any property of a taxpayer by reason of any failure to pay the penalty imposed by this section, or

''(ii) levy on any such property with respect to such failure.''.

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 47 the following new item:

''CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2013.

Mr. GRASSLEY. The kicker here is that CBO has told Congress that roughly one-half of those Americans who will pay this tax are individuals between 100 and 300 percent of poverty. These folks earn less than $250,000 a year. I see the light at the end of the tunnel that this tax increase express is going through. Unfortunately, that light at the end of the tunnel is the tax increase express.

We can derail the tax increase express if we want to.

That is why today I am supporting Senator CRAPO's motion to commit the Reid amendment to the Senate Finance Committee. Senator CRAPO's motion would require the Finance Committee report a bill back to the Senate that does not include tax increases, fees, and penalties included in the Reid bill.

Why should my Democratic friends vote in favor of the motion? Because they shouldn't want to bear the fallout of legislation that was rushed through Congress as the economic stimulus package was back in February. They shouldn't want to tell their constituents they voted in favor of a bill that increased their premiums. They shouldn't want to vote for a bill that raises taxes on many, only to provide benefit for a few. They shouldn't want to break President Obama's pledge not to tax people making less than $250,000 a year.

What my friends should want is real health care reform, the kind of reform that has broad bipartisan support. I have consistently said that if Congress wants to restructure one-sixth of the economy, it ought to be done on a bipartisan basis, and that is not one or two Republicans voting with Democrats. That is not happening around here on a bipartisan basis. We are debating this 2,074-page bill, a partisan product, a bill that was cobbled together by the Democratic leadership, a bill that has not received approval of the Senate Finance Committee.

I ask my Democratic friends to stop this process foul right now. Vote in favor of Senator CRAPO's motion so we can do health care reform in the right way: on a bipartisan basis, in a transparent and open way, so that the American public can understand what we are doing; so the American public can be a part of the process; so that we can find a way to reform our health care system without burdening our constituents with these higher taxes, fees, and penalties.

Let's reduce the out-of-control spending in the Reid amendment and find savings within the health care system. Let's derail the tax increase express before it steamrolls over hard-working Americans and discourages employment, particularly employment in small business, where 70 percent of the new jobs are created. The taxes, fees, and penalties don't need to be the fuel of this locomotive fire.

I ask all of my colleagues to support Senator CRAPO's motion to commit the Reid bill to the Finance Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, the amendment we are now considering is an amendment I have offered that deals with drug importation; that is, the importation of prescription drugs from other countries. One might ask the question: Well, why would we want to import drugs from other countries? FDA-approved drugs are made all over the world and they are shipped all over the world; again, FDA-approved drugs, approved by our Food and Drug Administration, produced in plants that are inspected by our Food and Drug Administration. The difference is—the only difference is—when they are shipped around the world, the American consumer is charged the highest prices in the world by far.

Here is an example of the drug Lipitor. There are plenty of examples and I will go through a number of them today, but this is an example of Lipitor. For an equivalent amount of Lipitor, 20 milligram tablets, the U.S. consumer pays $125, the British pay $40, the Spanish pay $32, the Canadians pay $33, the Germans pay $48. We are charged the highest prices in the world for Lipitor. Lipitor, by the way, is the most popular cholesterol-lowering drug. I have a couple of empty bottles in the desk drawer here that demonstrates this drug was produced in Ireland. It was sent all around the world. The same pill put in the same bottle made by the same company, approved by our Food and Drug Administration, this was sent to Canada, this was sent to the United States. The difference? Well, the American consumer was allowed to pay three times as much as the Canadian consumer. I shouldn't say ''allowed,'' I should say forced. But it is not just United States versus Canada. As we can see, it is United States versus every other country.

The question is, Should that be the case? Should the American consumer be charged the highest prices in the world? My answer to that is no. Why is it the case that we are charged the highest prices in the world? Because we are the only country in which there is a special little law that prevents our citizens from accessing that FDA-approved drug from wherever it is sold at the most advantageous price. We have a provision in law that says the American people don't have the freedom to import a prescription drug, an FDA-approved drug that they find for half the price or 20 percent of the price in some other country. I say, give the American people the freedom. I hear so much discussion on the floor of the Senate about freedom. This is the ultimate freedom: the freedom of the American people to access those prescription drugs that are sold virtually everywhere else, brand-name prescription drugs at the fraction of the price.

I have examples of other prescription drugs as well to show you. It is not just Lipitor, although Lipitor is the most popular cholesterol-lowering drug.

This is Plavix. Plavix is an anticoagulant. You will see that we pay higher than all of these countries by

far; more than double what the British pay, more than double what the Spanish pay.

This is Nexium. If you are someone who has ulcers and you are taking Nexium, for an equivalent amount of the same drug, Nexium, you are charged $424 if you are an American citizen, $40 for the British, $36 for the Spanish, $37 for the Germans, $67 for the French. The American consumer, trying to control their condition of ulcers, pays $424—10 times the amount of money that others are paying for the identical drug—10 times.

This kind of what I believe is gouging—that is, a pricing strategy that gouges the American consumer—can largely be resolved by the amendment I have offered. It removes that little sweetheart impediment in law and says to the American people: You may import prescription drugs that are FDA-approved from registered enterprises in other countries. We specifically delineate which countries those are—there are a handful of them—that have a nearly identical drug approval process that we have in our country. Identical. We also put in this amendment unbelievable safety provisions dealing with pedigree and batch lots and tracers that don't exist now in our domestic drug supply, let alone importation.

So if we were allowing the American people to do this, the Congressional Budget Office says my amendment will save $19 billion—$19 billion—for the Federal Government over the next 10 years, but about somewhere around $80 billion for American consumers above that. That is a pretty big savings.

Here is another chart that shows what has happened in addition to the fact that we are charged the highest drug prices in the world. What has happened in recent months, in 2009, is that brand-name prescription drugs have increased in price over 9 percent, at a time when there is virtually no inflation. For Enbrel, for arthritis, you get to pay 12 percent more; for Singulair, 12 percent more; and for Boniva, for osteoporosis, by the way, you are paying 18 percent more just this year. That is what is happening. There is nothing in any of the health care plans considered by the Senate or the House that addresses the escalating price of prescription drugs.

There are a whole lot of folks in this country who are not senior citizens and are taking drugs to manage their disease. They may take cholesterol-lowering medicine or medicine to lower their blood pressure. They manage their health issues, and they don't have to go to a hospital because they are doing the right things. They are doing it with pharmaceuticals. The problem is, pharmaceutical prices are going up, up, up, way up above what other people in the world are paying for the identical drugs. I am saying it is just not fair. The issue is not that the pharmaceutical industry is a bad one or that they are infested with bad companies. I just think they have bad pricing policies. They are able to, and therefore they do, charge the American people, by far, the highest prices in the world.

I wish to talk about a couple of important issues with respect to this issue of giving the American people the freedom to access or purchase that FDA-approved drug in selected countries in which the drug safety regulatory system is identical to ours, which is in our bill. And our bill includes, as I said, the establishment of pedigrees for batch lots and tracers that don't exist today for our drug supply.

Some say and allege that you cannot do this safely, that it causes all kinds of problems with counterfeiting and so on. The fact is, the Europeans have been doing it safely for 20 years. For over two decades, in Europe, under what is called parallel trading, if you are a German and want to buy a prescription drug in Spain, you can do it through the parallel trading system. If you are in Italy and you want to buy a prescription drug from France, there is no problem, you can do it. They have done that safely for a long time. To suggest that we don't have the skill and capability to do what the Europeans have been doing routinely for 20 years is, in my judgment, short-changing our country and certainly our consumers. I think we will, however, have people allege again that this is risky, it is just risky.

I would like to make a point about risk because I want to demonstrate something that I think most people don't know. Forty percent of the active ingredients of our existing prescription drugs come from China and India. Again, 40 percent of those active ingredients come from China and India and in most instances from areas that have never been inspected. My amendment doesn't allow drugs to be imported into this country from China or India. I am talking about the ingredients the pharmaceutical industry acquires with which to make their drugs. We don't allow drugs to be imported from China or India as a matter of this amendment; only FDA-approved drugs from FDA-inspected plants in Canada, the European countries, Japan, New Zealand, or Australia. That is all. Why? Because they have similar drug safety standards. That is the basis on which we determine how importation could work safely.

I wish to describe a recent scandal that illustrates the double standard some want to apply to this question. The scandal was about a drug called Heparin, a blood thinner that is commonly used by dialysis patients, which was linked to more than 62 deaths last year. Heparin was ultimately pulled from the market. According to Baxter, which markets Heparin in the United States, the allergic reactions to Heparin that caused the deaths appear to be caused by a contaminant added in place of the active ingredient in Heparin somewhere during the manufacturing process, most likely in China.

The Wall Street Journal did a very important story on the Heparin contamination. They reported that more than half of the world's Heparin gets its start in China's poorly regulated supply chain. This is what the Wall Street Journal, after its investigation, concluded:

> More than half of the world's Heparin, the main ingredient in this widely used anticlotting medicine, gets its start in China's totally unregulated supply chain.

The Wall Street Journal published a series of pictures that I want to show—photographs of the intestine encasing factory which processes pig intestines used to make Heparin. I want to show some photographs that came from the Wall Street Journal. This is a photograph of a facility, and that is the outside. Here is a photograph of someone in the facility who is stirring a rusty vat full of Heparin ingredients with a tree branch. So this is the processing of Heparin from pig intestines in a facility in China, in which a worker is stirring this rusty vat with a tree branch. Are the ingredients that are used to make medicine with respect to blood clotting an issue?

When the industry and others say we can't have drug importation safely from Canada or Ireland, the point is that they are getting a lot of their ingredients from China and India. All you have to do is simply look at this and ask yourself whether the domestic drug supply with respect to that ingredient and those inputs has sufficient safety.

While the record keeping at these Chinese facilities makes it almost impossible to trace the contaminant from this particular factory, these pictures by the Wall Street Journal show the unsanitary conditions in which pig intestines are processed for that particular medicine. Again, by contrast, the amendment we offer would allow the importation of FDA-approved medicines only, with a chain of custody to ensure the drugs are handled properly. It gives the FDA the authority to inspect all facilities in the chain of custody.

The amendment mandates the use of anticounterfeiting technology to track and trace imported and domestic drugs to ensure product integrity. That doesn't exist today, but that is required in the amendment. The amendment also requires pharmacies and drug wholesalers to register with the FDA and to be subject to strict requirements to ensure the safety of imported medications, including frequent random inspections.

The amendment I am offering would ensure safety and, in fact, provide a much greater margin of safety than now exists with all of our drug supply. We need to have these improvements, in my judgment, because our own prescription drug distribution system is not as good as we think it is.

Here is an excellent example of something that took place in the United States. This is a picture of Mr. Tim

Fagan, a young 16-year-old boy from Long Island, NY. He received a liver transplant. He was prescribed a drug called Epogen to boost his red blood cells and fight the anemia after the operation. He received daily inspections, but his red blood cell count wasn't improving and the doctors could not figure out why, what was happening. After 2 months, his mom went to the local CVS pharmacy, where she was told: By the way, the Epogen your son has been taking may have been counterfeit.

Here is an example of counterfeiting in the existing domestic drug supply—counterfeiting in which this container held the counterfeit medicine and this one held the real medicine. There were subtle differences but not many. It turned out that the vial Tim was injecting was one-twentieth the strength of what he was supposed to be taking and what was disclosed on the label.

How did that happen? The weaker drug sells for $22 a bottle, and the high-strength version goes for $445 a bottle. Investigators found that 110,000 of the bogus bottles of that medicine reached the market in this country, and it is estimated that the criminals involved with that counterfeiting in that particular case made $46 million.

The manufacturer of that drug, a company called Amgen, had distributed some of the product through a complicated network of secondary distributors. Although nobody knew it at the time, some of the Epogen that was eventually resold had most likely run through a cooler in the back of this strip club, a seedy Miami strip club called Playpen South.

Here is a chart that shows the distribution system this particular counterfeit drug went through. Again, this is not an import; this is a domestic drug. You can see this unbelievable and complicated distribution system. At the end of that, it traveled through strip clubs, through homes, and through trunks of cars without proper cooling.

This story was told in great detail by some outstanding investigation by Katherine Eban in a book called ''Dangerous Doses.''

The PRESIDING OFFICER. The majority's time has expired.

Mr. DORGAN. I ask unanimous consent to extend the period of debate until 3 p.m., with the time to be equally divided, with Senators permitted to speak therein for up to 10 minutes each, with no amendments in order during this time.

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

Mr. DORGAN. I ask unanimous consent to speak for as much time as I may consume.

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

Mr. DORGAN. Mr. President, again talking about the issue I just described:

> They traveled through strip clubs. They traveled through homes. They traveled through trunks of cars, without proper cooling.

I am talking about a domestic counterfeit drug supply.

The amendment we are offering would fix this supply chain problem. It will require a pedigree for all drugs, not just those imported. It should have been done long ago. Some of us have been trying for a long time. It will allow us to track every single drug from where it is made to the pharmacy in which it is sold.

My amendment will require a set of anti-counterfeiting measures that are not in place now. If you think of it, I have a twenty-dollar bill here, and most people who have looked at them understand there is sophisticated and substantial anti-counterfeiting technology in new twenty-dollar bills. That doesn't exist today, by the way. That sophistication, that relentless search for the ability to detect counterfeiting does not exist today, regrettably, in our drug supply. The pedigree that we require, the tracing capability, the batch lots will make that a requirement on our entire drug supply.

This amendment will make our entire drug supply safer. It will allow Americans to benefit from lower prices—the prices at which these identical drugs are sold in other countries. In many cases they are half the price and in some cases much lower—10 percent of the price at which they are sold in this country.

I wish to talk for a moment about the issue of drug price inflation because the drug price—what is happening to us in this country is drug price inflation, the relentless increases year after year, which is the red line here on the chart. It is 9.3 percent this year. This yellow line is the rate of inflation. If we don't do anything to deal with the price of prescription drugs, we will have missed the opportunity to do something to help the American people.

Let me describe a few stories about the need for the amendment.

In my home State, in Aneta, ND, Maryanne wrote to me:

> My husband has Parkinson's Disease, so he takes a drug called Mirapex. We have Medicare Part D, but in September, he ends up in the so-called donut hole. In 2008, when this happened, we paid $106 for his medication. It increased to $187 in October and November, $198 in December. Now, in September 2009, the price was $286—a $180 increase in one year.

Mr. McCAIN. Will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. McCAIN. The Senator, I know, is aware and has talked about this. How does the Senator account for the fact that there is a nearly 9-percent increase in the cost of pharmaceutical drugs, while the consumer price index this year has gone down 1.3 percent?

I understand this is the highest increase in the history, or in most recent years, in the cost of prescription drugs. What is the explanation between the divergence of those two lines?

Mr. DORGAN. The explanation, I suppose, is probably better addressed to the pharmaceutical industry of how and why do they increase these prices this way. My guess is they do it because they can.

The fact is, the cost-of-living index—the inflation rate is the yellow line. The price of prescription drugs is the red line.

Mr. McCAIN. Would that have anything to do with the anticipation of incoming reductions or reductions in the increase of costs of pharmaceuticals?

Mr. DORGAN. I say to the Senator from Arizona, my expectation is the pharmaceutical industry has said this is the time to increase these prices. The most important element is there is no restraint. No one has any capability of restraining them. The only way you would provide restraint on this is if you said to the American consumer: You know what. You don't have to buy it from these people at these prices because it is sold in virtually every other country at half the price. If we say to the American people, we will give them the freedom to access that drug elsewhere, I think quickly the pharmaceutical industry would not be able to impose those price increases because then you would have competition. Freedom equals competition, in my judgment, on this issue.

Mr. McCAIN. May I ask the Senator another question. We understand you can buy lettuce from overseas. You can buy many other products from overseas. You can buy dairy products. You can buy almost any item except perhaps prescription drugs. Yet the Canadians, in particular, as well as the countries that are included in the Senator's amendment, all adhere to the same standards or higher standards than the United States of America does.

Now I understand one of the Senators—not the Senator from North Dakota—has received a letter saying this is still a problem.

I don't get it. Maybe the Senator from North Dakota can explain it a little better.

Mr. DORGAN. I say to the Senator from Arizona, there is not a safety issue here. To the extent there is any safety issue, it is that we intend to increase the safety of both domestic supply of prescription drugs and the imported prescription drugs because the fact is, there is nothing at this point dealing with batch lots and pedigrees and tracing capability. That does not exist at this point. We will insist on it in this amendment.

For anybody to suggest that somehow we are going to end up with prescription drug products that are less safe, that is just not the fact. As I indicated before the Senator came to the floor, Europe has been doing this for 20 years in something called parallel trading. For 20 years, they have done it. If you are in Germany and want to buy a prescription drug that is approved, you can. If you are in Italy and want to buy

it from France, you can. They do it successfully.

I do not believe anybody should tell us we are not capable of doing what the Europeans have done for 20 years, and that is giving people the freedom to access prescription drugs where they are sold at a better price.

Mr. MCCAIN. May I ask the Senator another question. Isn't it true a letter was written to one of our colleagues from the Administrator of the FDA, the organization that would basically make sure any product that goes to American consumers along these lines, that go through that bureaucracy, said it would require a significant amount of assets and resources?

I have since been told there are 11,000 employees of that bureaucracy. I wonder what he thinks about that argument; and, again, was the Senator from North Dakota informed about this position, which, by the way, is the same position as the previous administration?

Mr. DORGAN. Madam President, the Senator from Arizona is correct. There was a letter from the Food and Drug Administration. The fact is, we have seen this over the years. They say: We don't have the resources or it will pose more risk.

The fact is, this amendment provides the resources for them because those who are going to register to ship FDA-approved drugs into this country at a better price are going to have to pay a fee. The people who are selling will pay a fee, and those pharmacies and others in our country that will be receiving them will also pay a fee.

Mr. MCCAIN. So it would require no additional funding from the taxpayers.

Mr. DORGAN. No additional funding from the taxpayers at all. Those who decide they are going to offer these lower price prescription drugs would be paying a fee for the purpose of being able to do that. This is not a taxpayer-funded issue at all. It will provide the additional resources and pay for those resources without asking the taxpayers to come up with the money.

Mr. MCCAIN. Do these countries that are included in the Senator's amendment—do we have absolute assurance, can we look at the American people and say: Those countries and the agreements we would have with them, you can have products that are safe, you can safely buy, and it would not pose any hazard to anyone's health?

Mr. DORGAN. The countries that are involved in this amendment—and they are limited—are countries that have nearly identical drug safety standards to our country. These are countries that are accessing the same drugs.

I just mentioned—let me do it again—two bottles of medicine. They are empty, obviously. Both of these bottles contain Lipitor. Most of my colleagues know what Lipitor is. This was made by an American company in Ireland and then shipped all over the world. This little bottle was shipped to the United States. This little bottle was shipped to Canada. Same bottle. One was blue, one has red in the label. Same bottle, same company, inspected by the FDA. What is the difference? The price.

The American consumer is told: Guess what you get to do. You get to pay almost triple. Why? And it is not just the American consumer, if I can hold up a chart that shows two drugs—one is Nexium. This is advertised substantially. Nexium is an example. I also have one on Lipitor. Here is the price for Nexium.

Do you think the pharmaceutical industry is selling Nexium at $37 for the equivalent quantity in Germany and losing money? I don't think they are losing money at that. Instead of $37, they charge the American consumer $424.

My point is my beef with the industry is their pricing policy.

Mr. MCCAIN. Wouldn't the pharmaceutical companies say it costs $424 because we have to absorb the cost of all the research that went into developing Nexium?

Mr. DORGAN. I would say that is also always raised. They say: If you don't allow us to charge the American consumers the highest prices in the world, we don't get to do the research and development that produces the next new miracle drug.

Most of the recent studies have shown that the pharmaceutical industry spends more money on promotion, marketing, and advertising than they do on research. I want them to do research. But there is one other piece. The Congress gave, without my support, a proposal that said those American companies that have money overseas should bring it back and we will let them pay a lower tax rate. Guess which industry was one of the largest industries with repatriated profits from abroad? The pharmaceutical industry. If they are making big profits abroad and charging lower prices to those consumers abroad, why can't the American people have access to those prices?

It is not because they are going to lose money because they made a lot of money abroad. That is why they repatriated at a lower rate.

Mr. MCCAIN. Do the seniors from his State and other citizens from his State travel to Canada and buy these prescription drugs because they know and are confident that they are getting, at a much lower price, the same product? Unfortunately, citizens in my State have to go south, and it is unfortunate when they have to do that because we do have a much larger problem there, I am sorry to say.

Mr. DORGAN. Madam President, the citizens from North Dakota often have to go to Canada to buy a prescription drug. I have told the story about the old codger who was sitting on a hay bale in a farmyard when I had a town meeting. He was nibbling on a piece of straw. He said to me: My wife—he was about 80 years old—my wife has been fighting breast cancer for 3 years. He said: The only way we could pay for our prescription drugs was to drive to Canada once every 3 months because when you buy tamoxifen in Canada, you pay like one-tenth the price or one-fifth of the price you pay in the United States. He said: We did that every 3 months so my wife could keep fighting breast cancer.

Of course they do that. What is happening is consumers are allowed to bring back as an informal strategy about 90 days' worth of supply of prescription drugs for personal use only. Most American consumers cannot do that. They do not live anywhere close to a border.

The question is, Can the rest of the American people have access to the same prescription drugs sold at a fraction of the price?

Mr. MCCAIN. May I ask the Senator, isn't it true the Congressional Budget Office has determined that this measure of the Senator from North Dakota, this modest measure of only countries that are of the highest level of quality of inspection, of all the standards that we have, would save the American consumer $100 billion; is that true?

Mr. DORGAN. Madam President, the Congressional Budget office says it will save the Federal Government about $19 billion, and then about another $80 billion will be saved by the consumers. That is about $100 billion, nearly $100 billion in savings in total, $19 billion of which will be saved by the Federal Government for its purchases, and the rest by the American consumers.

Mr. MCCAIN. Finally, I wish to ask the Senator, what is the basis of the argument against the Senator's amendment? What possible reason, frankly, except for the influence of a special interest in this, our Nation's Capitol?

Mr. DORGAN. I am not a very good advocate for the other side. If one were to ask what is the best argument opposed to my amendment, I would say there are not any arguments that are the best. There is a range of poor arguments or arguments that do not hold much water.

I started by saying I do not have a beef against the pharmaceutical industry. I want them to do well. I want them to be successful. I want them to keep finding and searching for miracle drugs. By the way, much of the work they do comes from the National Institutes of Health and the massive investments we make in health. I want them all to be successful.

My beef with them is a pricing strategy that says to the American people: Here is what you pay, and you can do nothing about it because we decided that is what you pay, and we are going to offer everything around the world at lower prices. That is my beef. This is a pricing issue. They are wrong about it.

The way to correct it is to give the American people a little bit of freedom. We will save money for the government and save money for the American people.

I want to raise one additional point while the Senator is here. If the Senator from Arizona is like me, when I am brushing my teeth in the morning, I have a television blaring and I hear all these ads: Go ask the doctor if the purple pill is right for you. I haven't the foggiest idea what a purple pill will do for me. The ads are so compelling you almost feel: I have to get out of here. I have to stop brushing my teeth, go get a phone, and call my doctor to see if my life might be improved by taking a purple pill.

I read a whole series of advertisements:

> Does your restless mind keep you from sleeping? Do you lie awake exhausted? Maybe it's time to ask if Lunesta is right for you. Ask your doctor how to get 7 nights of Lunesta free . . .

I read a bunch of these. I will not now. Bladder problems, Flomax, Ambien—you name it and they advertise it all day and every morning. I say knock off a little of that. Give us some better prices. God bless you for doing all you do, I would say to the industry, but give us fair prices. Give fair prices to the American consumer and knock off a little of the advertising. The advertising is only for a product that only a doctor can prescribe. You cannot get this product unless a doctor thinks you need it. Stop asking me if the purple pill is right for me, asking me to ask a doctor if the purple pill is right for Senator MCCAIN. Knock it off.

Mr. MCCAIN. Mr. President, I ask unanimous consent to make an additional comment.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mr. MCCAIN. I thank the Senator from North Dakota who has been pursuing this issue for a number of years. I believe we are on the verge of success.

I appreciate his eloquence, I appreciate his passion, but most of all, on behalf of the citizens of my State who can't get up to Canada, who now are experiencing unprecedented economic difficulties, and who need these lifesaving prescription drugs—many of them senior citizens—I just wish to say thank you for your advocacy.

I think you have made an eloquent case, and I hope my colleagues have paid attention and will vote in the affirmative for the Senator's amendment today.

Mr. DORGAN. Mr. President, let me say that Senator MCCAIN has been a part of this effort for a long time. It is interesting, with all the action on floor of the Senate in recent weeks, this is one of the few examples of a significant policy that is bipartisan. We have Republicans and Democrats—over 30 cosponsors—who have worked with us to make certain we can do this, do it safely, and give the American people the opportunity they deserve. This is very bipartisan. I appreciate that a lot.

I wish to say, the National Federation of Independent Businesses supports this; the AARP supports this. We have a long list of organizations that are strong supporters of this amendment, and so I hope, today, perhaps at last—at long last, after 8 or 10 years—we might finally achieve a breakthrough and get this through the Senate.

I have said previously that the pharmaceutical industry is a formidable opponent. I understand that. We have had difficulty getting this in a piece of legislation to get it signed and give the American people freedom and give them fair pricing. When we do this—Senator MCCAIN, myself, and others—it is suggested that somehow we have no regard for this industry. That is not the case at all. It just is not. We have no regard for a pricing policy, however, that we believe is unfair to the American people. It has been that way for too long—a long time too long. Perhaps today—with the vote on this amendment, which I expect later this afternoon—will be the first step in getting that changed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I believe if I am to speak for more than 10 minutes I need to ask unanimous consent. If that is correct, I ask unanimous consent to speak for 15 minutes.

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

Mr. KYL. Mr. President, I wish to speak to the Crapo motion—an amendment that, hopefully, we will be voting on a little later today—and I urge my colleagues to support the motion of the Senator from Idaho.

This is about jobs and it is about taxes. I think one thing Americans don't expect out of this legislation is that they are going to have a pay a lot of taxes and that jobs are going to be killed rather than created. The President is talking about creating more jobs. Everyone in America is focused on putting people back to work, ending this recession, and bringing unemployment down so we can get jobs and go back to work. One of the problems with this bill is it kills jobs. It kills job creation. One of the ways it does that is through the many new taxes and mandates it imposes.

Naturally, we want to be sure that whatever we do, we don't harm our economy or job creation, but this $2.5 trillion legislation is filled with new taxes and mandates that will ultimately be borne by small businesses and the American workers. I will talk about just three.

First, a new employer mandate that says that employers have to provide insurance to their employees or face a penalty. This would hurt low-income workers especially, according to a Harvard economist, and I will be talking about that.

Second, there is a new Medicare payroll tax. Incidentally, the revenue raised doesn't go back to Medicare. It would be nice if we could help with the Medicare solvency, but this too threatens the creation of jobs, particularly in small businesses, because it is a direct tax on hiring more people.

Finally, new taxes on the health care industry could undermine its ongoing job creation gains. By the way, it is the only industry to have gained jobs since the start of the recession and this legislation will actually cause job losses.

I will describe all three of these. First, the employer mandate. The bill imposes a requirement—a costly new mandate—on employers that will have the perverse impact of actually hurting employees, especially low-cost employees. How so? Any employer with more than 50 employees who does not offer health care coverage would be required to pay an assessment for each employee who receives a tax credit for purchasing coverage through a newly created exchange. Those are folks in the lower income brackets who qualify for tax credits. So this becomes a direct tax on hiring people.

According to the Center on Budget and Policy Priorities,

> . . . the particular employee provision in the Finance Committee bill would pose significant problems by imposing a tax on employers for hiring people from low- and moderate-income families who would qualify for subsidies in the new health insurance exchanges, it would discourage firms from hiring such individuals, and would favor the hiring—for the same jobs—of people who don't qualify for the subsidies (primarily people from families at higher income levels.)

To conclude:

> It would [also] provide an incentive for employers to convert full-time workers (i.e., workers employed at least 30 hours per week) to part-time workers.

So here you have it—a mandate in the bill that would directly impact the hiring of low-income workers—precisely the opposite of what we want to be doing these days.

Harvard economist Kate Baicker examined the effect of an employer mandate similar to the one in the Reid bill. She estimated the cost of hiring a low-wage worker would rise by 33 percent—or $2 per hour on a worker earning $6 per hour. Think about that. She concluded that 224,000 workers would lose their jobs as a result of a mandate with these costs.

In addition to all the other problems we have with growing unemployment, here is another one-quarter million people who would lose their jobs because of this bill. It makes no sense.

There was a recent letter sent to the two Senate leaders from the National Federation of Independent Businesses which states:

> Mandates destroy job creation opportunities for employees. The job loss, whether through lost hiring or greater reliance on part-time employees, harms low-wage or entry-level workers the most.

That is exactly what the other study said. By the way, the NFIB is a nonprofit, non-partisan organization, defining itself as the voice of small business. We are all familiar with the good work it does. I think it would know

what is best for American business and workers.

The second way this bill imposes taxes and hurts workers is it actually creates a payroll tax; in other words, a tax on hiring people or keeping them on your payroll. It raises the Medicare payroll tax by 0.5 percent on small businesses with taxable receipts of $200,000 a year or $250,000 or more, if the small business employer filer is married.

Because many small businesses pay taxes at the individual level, imposing higher individual income taxes hurts these engines of job creation. The Joint Committee on Taxation recently estimated that one-third of the income that would be taxed under a similar House proposal comes from small businesses. Let us remember, as President Obama reminded us earlier this week, small businesses generated 65 percent of the job growth between 1993 and 2008 and represent about half the private sector employment of the United States.

So this huge potential engine for job creation is going to get whacked by the imposition of a new tax, which is a direct tax on the hiring or retaining of employees. The Joint Committee estimates that this increase in the Medicare tax would raise $54 billion over the next 10 years. That is $54 billion of resources that could have better been used in the private economy, in these small businesses, to expand job creation.

Each new tax dollar paid by these small businesses is one less dollar that could go toward the hiring of new employees or, for that matter, preventing layoffs or even giving raises to their existing employees.

A group of organizations recently told us in a letter—by the way, these are all organizations that represent small businesses in their communities—they oppose this bill because of what it would do to these small businesses. I wish to read the names of the groups that represent these folks: the Associated Builders and Contractors, the Associated General Contractors, the International Food Service Distributors Association, the National Association of Manufacturers, the National Association of Wholesaler-Distributors, the National Retail Federation, the Small Business and Entrepreneurship Council, and the U.S. Chamber of Commerce.

Here is a telling quotation from their letter:

> In order to finance part of its $2.5 trillion price tag, H.R. 3590 imposes new taxes, fees, and penalties totaling nearly half a trillion dollars. This financial burden falls disproportionately on the backs of small business. Small firms are in desperate need of this precious capital for job creation, investment, and business.

That is exactly what President Obama said yesterday. We have to get more capital into the hands of these small businesses so they can either continue their businesses with their employees or, potentially at least, soon begin hiring more. Yet as this letter points out, this bill imposes taxes with a burden that falls disproportionately on the very firms we are trying to help.

In a November 19 statement, the National Federation of Independent Businesses said of the bill's impact on small businesses:

> We oppose [the Reid bill] due to the amount of new taxes, the creation of new mandates, and the establishment of new entitlement programs. There is no doubt all these burdens will be paid for on the backs of small business. It is clear to us that, at the end of the day, the costs to small business more than outweigh the benefits they may have realized.

They go on:

> The impact from these new taxes, a rich benefit package that is more costly than what they can afford today, a new government entitlement program, and a hard employer mandate equals disaster for small business.

They know what they are talking about. These are the folks whom we are depending upon to create jobs and we are punching them right in the stomach, right where it hurts, with respect to their ability to create these new jobs with the new taxes and mandates imposed in this bill.

Let me share a brief letter from one of my constituents. He is a small business owner in Tempe, AZ. His name is Justin Page. He would like to be able to grow his business, but the burdensome new taxes in this bill would force him to lay off workers and cut hours from his payroll. Here is what he says:

> Dear Senator Kyl, As a long time Tempe and Arizona resident, who has been operating a small business for the past 19 years, I urge you to not vote for the healthcare bill as it is currently proposed and as recently passed by the House of Representatives. My business has taken a severe financial hit in the past 18 months with several employee layoffs, reduced hours for current employees, heavier workloads, et cetera. My answer to increased health care costs and additional small business taxes is to lay more people off . . . not good for [my employees], and not good for me! But survival is my primary goal right now! Reform is necessary, but please do it in a bipartisan manner and within a timetable that allows for constructive debate. This is too important.

So small businesses have some very real concerns about this legislation and good reason to worry that they will be victims of its destructive policies. Obviously, it is not the kind of legislation small business owners or the American worker wants and, of course, not particularly in times of double-digit unemployment. We need to listen to the people out there who are actually creating jobs, who have to meet a payroll, balance a budget, and know what is necessary to run a successful small business. They are not happy with this legislation.

The third and final point is the new taxes on the health care industry, which of course get passed through to the people who ultimately have to buy insurance. Let me just discuss one—the medical device tax. This medical device tax is a tax on things that are used to treat us, to give us health care every day. The $110 billion in new taxes on industries such as this—the pharmaceutical, the insurance, and medical device industries—is a direct passthrough in terms of what we will end up having to pay in insurance premiums.

For example, this medical device tax will be assessed against thousands of products, such as contact lenses, stethoscopes, hospital beds, artificial heart valves, and advanced diagnostic equipment. Why would you impose a tax on these things that help us? I could maybe see a tax against liquor or a tax against tobacco but a tax on things such as this—these advanced technologies that help us? Why do we want to make them more expensive? These have been invented so we can have an extension of our lives; so our families can have better health care.

We all know when you tax something, you get less of it. In fact, a UBS Investment Research paper recently confirmed:

> If the plan passes as proposed and our estimates are correct, the initial years would be a financial challenge for medical device manufacturers, as the full industry fee becomes due before newly covered patients impact volumes.

What they are saying here is, first, before they can even begin to pass these costs on, it could kill this particular industry.

These taxes will hit smaller firms particularly hard since some of the smaller companies don't start out with a lot of profits. They rely almost entirely for domestic sales on their revenues.

I note my colleagues on the other side of the aisle, Senators KLOBUCHAR, BAYH, FRANKEN, and in addition Senator LUGAR from this side of the aisle, recently sent a letter in which they said:

> Independent estimates indicate that this tax could translate into an annual income tax surcharge of between 10 and 30 percent on medical device manufacturers.

Think about that, a 10- to 30-percent tax on folks who are inventing these kinds of things to help us.

These Senators go on in their letter:

> This provision would harm economic development and health care innovation nationwide.

This was a letter to the chairman of the Finance Committee.

I know there some who argue that lost jobs in the private health care sector will be made up with new jobs in the government with health care bureaucrats here in Washington. Wonderful, I say.

That is not a good thing. We need jobs in the private sector. That should be our primary goal and that certainly is what President Obama was talking about yesterday when he talked about creating more jobs in the private sector.

In conclusion, I have described three ways in which this legislation through its mandates and its new taxes will

cripple our ability to come back out of this recession. It will make it very difficult for us to retain, let alone hire, new employees.

All of us here in the Senate I know want to do what we can to bring down the current very high unemployment. It is obvious that this health care bill makes things worse, not better. At every turn its new taxes and mandates put us on the wrong course. I think it is very hard to justify support for this legislation that threatens job creation, especially job creation for low-income workers.

I urge my colleagues, when we vote on the Crapo motion here pretty soon, to consider its impact. It will enable at least people in the lower income levels to avoid the kind of taxes that are imposed here, one of which, for example, is the tax that IRS will enforce if you do not buy the insurance policy that the government, under this bill, will mandate that you buy. If you cannot afford the insurance the Government has, you have to buy it anyway. If you do not, we will impose a new tax on you, enforced by the IRS. The Crapo motion would say no, not so fast, IRS, we are going to protect folks from that new tax. That is why it is important to support the Crapo motion.

I urge my colleagues, even though I know we have had a lot of votes here where very few Democrats have supported Republican amendments, this is one which I hope all of us could support.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in strong support of the amendment offered by Senator DORGAN. Frankly, this amendment should be a no-brainer—it saves taxpayers and consumers money by bringing down prices for prescription drugs. I don't think American consumers should have to pay the highest prices in the world for prescription drugs, particularly when those prices keep going up.

The Congressional Budget Office has stated that brand-name drugs cost, on average, 35 to 55 percent less in other industrialized nations than they do in the United States. And the AARP released a study recently that found that the price of drugs most commonly used by seniors has risen faster than the general inflation rate every year since 2004. In 2007, the price spiked by 8.7 percent—three times the general inflation rate of 2.9 percent.

It is no wonder that Americans turn to Canada to buy more affordable, and entirely safe, prescription drugs. Americans are now importing more than $1 billion in prescription drugs from Canada alone. Consumers would not go to such lengths to buy their medicines this way if they were not saving money.

Now, the drug industry has said that drug importation can't be done safely. I give PhRMA credit. They have gone to great lengths to scare the public. The reality is drug importation has occurred within European Union countries—called parallel trade—for the last 25 years. The pharmaceutical industry should know drug importation is safe. The industry has imported drugs and sold them in the U.S. for decades. One-quarter of the drugs consumed by Americans today are made in foreign manufacturing plants.

The Dorgan amendment includes a number of protections to ensure that imported drugs are safe—and certainly safer than the completely unregulated system we have today.

I don't need to remind my colleagues about the deficit hole we are in. Federal spending is one of the top concerns I hear about from my constituents—they want to know what we are doing to get our deficit under control. That is why I introduced legislation, the Control Spending Now Act, to propose concrete ways to bring down runaway government spending. And one of the proposals I included was Senator DORGAN's drug importation legislation, because it is such a commonsense and effective way to save the government tens of billions of dollars. I am pleased that the health care reform bill we are debating already includes three other proposals in my control spending bill, championed by Senator BINGAMAN and others, that would slash Federal spending on prescription drugs by billions of dollars.

With passage of the Dorgan amendment we can make it four.

We do a lot of things in Congress that leave our constituents scratching their heads. Now we have a chance to show them we are listening to them, that we understand their concerns, and that we want to bring down Federal spending while ensuring the prescription drugs they need are more affordable. Again, that sounds like a no-brainer to me.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that we extend the period for debate until 4 p.m. with the time equally divided, with Senators permitted to speak up to 10 minutes each, with no amendments in order during this period of time.

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

Mr. ENZI. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, Americans across this country are facing the reality of an economy that is in trouble. The unemployment rate is now 10 percent. According to the Department of Labor's broadest measure, some 17.5 percent of Americans are without a job entirely or are underemployed.

We have shed 3½ million jobs since January of this year and the average work week is now down to 33 hours for the American worker. Americans are struggling to find good jobs and, because of that, they are having trouble making their mortgage payments. Fourteen percent of all mortgage loans, meaning 7.4 million households, were delinquent or in foreclosure in the last quarter. That is the highest number since the mortgage bankers industry began this survey in 1972.

Many economic indicators point toward a slow, unsteady and jobless recovery, and the American people know it. In a recent survey, 82 percent of Americans said our Nation's economic conditions are poor. In recent weeks, President Obama has convened a summit at the White House to discuss jobs and economic issues. He has given speeches to discuss proposals for job creation and economic recovery. There has even been discussion about spending additional billions of dollars on another economic stimulus bill.

Unfortunately, the President has not advocated for the single quickest and simplest way to promote economic growth. If the President wants to save jobs and grow the economy, all he needs to do is tell the majority leader and the Senate Democrats to scrap this $2.5 trillion Reid health care reform bill and work it over, step by step, to get it right and to save costs.

Senator REID's prescription for our economic troubles is a $2.5 trillion bill full of tax increases, higher health care costs, and $500 billion in Medicare cuts. The Reid bill contains $500 billion in new taxes. Primarily that is how it is being paid for—steal money from Medicare and tax people additionally. There are new taxes on individuals, new taxes on small businesses, and new taxes on health care providers.

These new taxes will raise health care costs. They will be passed on to the individuals in the form of higher premiums. According to the Congressional Budget Office, the Reid bill will drive premiums up by 10 percent to 13 percent.

I know the other side likes to relate to those pieces of the bill that talk about—one section that brings it down by 7 percent and another one that brings it down by 7 percent, but they fail to notice that the bill actually raises it to 27 percent to begin with. When you subtract that out, it still winds up with a 10-percent to 13-percent increase.

Who gets taxed under the Reid bill? If you don't have a government-approved health insurance, you get taxed. Incidentally, we are going to tell you—Washington is going to tell you what the minimum requirement is. That will be higher than most people have for insurance at the present time. The government will tell you what you need and they will fine you if you do not agree.

The total amount of new taxes on uninsured Americans is $8 billion. According to the Congressional Budget Office, half of the new taxes on the uninsured will be paid by families earning less than $68,000 a year.

If you do not have insurance, you will get taxed. If you have insurance, you can get hit twice by new taxes in

the Reid bill. First, new taxes on health care providers will be passed on to consumers in the form of higher premiums. Second, if the government bureaucrats decide your employer-sponsored insurance is too generous, you will get taxed for that too.

The Reid bill contains $150 billion in new taxes on employer-sponsored health benefits. These new taxes on benefits fall disproportionately on middle-income Americans. According to the Joint Committee on Taxation, 73 percent of those hit with new taxes on benefits earn less than $200,000—73 percent. That is a whole bunch of people down there in that category.

The Reid bill also contains new taxes on businesses that cannot afford to provide health insurance. Most employers do provide health insurance to their employees, but there are some who simply cannot afford to and stay in business. Senator REID's health care plan will mean they will have to pay $28 billion in new taxes. These are the same businesses that are barely making it. These are the same businesses that are having to lay off workers to keep the company afloat, the same businesses that are cutting shifts to prevent further layoffs, and they are cutting wages to keep their employees on the payroll.

With our Nation's unemployment in double digits and millions more Americans worried about keeping their jobs and paying their bills, it is unthinkable to me that any Member of this body would support new taxes on businesses that are already struggling. These are the small businesses that absorb the extra employees that get laid off from the big businesses—and hopefully it is the small businesses that become the future big businesses.

In addition to the job-killing taxes, the Reid bill raises Medicare payroll taxes by $50 billion. These will fall disproportionately on small businesses. Approximately one-third of America's small businesses will be hit with this tax increase. These are the same small businesses that employ 30 million Americans.

I have to say, when you talk about taxing the rich, we are also talking about taxing the owners of small business corporations, because the money flows right through to them, even though they have to put most of it back into the business in order to keep the business going.

Not only will small businesses see their taxes go up under the Reid bill, they will see their health insurance premiums go up as a result of new taxes on health care providers. Beginning in 2010—that is 3½ years before many of the health reforms go into effect—new fees will be imposed on health insurance companies. That is right now, 3½ years before the reforms go into effect. The Congressional Budget Office and the Joint Committee on Taxation have characterized these as excise taxes. They have also testified that these fees will be passed through to consumers in the form of higher premiums.

If you need prescription drugs, you get taxed. Beginning in 2010, new fees will be imposed on prescription drug manufacturers. Similar to the health insurer fee, CBO and Joint Tax say it will be more expensive to buy prescription drugs.

If you need a medical device, you get taxed. Medical device manufacturers will be subject to a 2½-percent excise tax on sales. Again, the Congressional Budget Office and Joint Tax have testified that this tax will increase the cost of medical devices. Just like prescription drug costs and health insurance, this new tax on devices will drive premiums up. If you have high out-of-pocket drug expenses, you will get taxed. A family will no longer be able to deduct medical expenses that exceed 7½ percent of their gross income as they can now. Instead, they can only deduct expenses that exceed 10 percent. In plain English, this proposal limits the tax deductions a family can take for medical expenses. For example, a family of four earning $57,000 in 2013 would lose a tax deduction of $1,425. A family of four earning $92,000 in 2013 would lose a tax deduction of $2,300.

Instead of working toward a bipartisan solution to our economic problems, Senator REID has brought a bill before us that spends $2.5 trillion over 10 years, raises taxes on middle-class families and small businesses. I support health care form, and I will continue to work to enact real reforms that lower the cost of health care. I cannot, however, support higher taxes that further jeopardize our economic recovery by punishing small businesses and raising health care costs for working families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. How much time do I have allotted? I thought there was an agreement that I had a certain amount of time.

The PRESIDING OFFICER. The minority side has 46 minutes 59 seconds, with the 10-minute time limit therein.

Mr. BROWNBACK. I yield myself 10 minutes to speak on the Dorgan amendment.

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

Mr. BROWNBACK. Mr. President, the Senator from North Dakota is a strong, good, talented legislator. He has a good amendment, one I have looked at. It has been around for a long time. I have to rise in opposition to it.

I am ranking member on the Appropriations Subcommittee on Agriculture, Rural Development, and the Food and Drug Administration. The FDA is in the purview of our subcommittee, so I work on the issues of the FDA. If I may brag, the University of Kansas is one of the best pharmaceutical schools in the world and is often rated No. 1 as a pharmacy school. For anybody interested in that field of study or work, it is a good place to go. They are very concerned about what is in the Dorgan amendment.

The United States currently has one of the safest drug supply systems in the world that allows the Federal Food and Drug Administration to monitor and regulate the manufacture and distribution of approved medicines. The legal authority to import drugs already exists in this country. However, no HHS Secretary, Democrat or Republican, has been able to certify that the importation of prescription drugs from foreign nations is safe or will lead to cost savings. None have been able to.

The Dorgan amendment will allow for the importation of drugs from outside our current regulatory system, established and enforced by the FDA without certification from the Secretary of HHS or the Food and Drug Administration. Allowing drug importation from foreign nations could threaten public health and result in unsafe, unapproved, and counterfeit drugs being placed on pharmacy shelves in the United States.

I want to develop that thought. The FDA has been tasked with the responsibility of safeguarding this country's prescription drug supply and has executed that responsibility quite well. But as this country and the Food and Drug Administration struggle to prevent the growing threat posed by imported, foreign-produced goods, as evidenced by recent failures to detect polluted products such as infant formula, pet food, and toothpaste, permitting the importation of drugs from foreign nations without the complete assurance from the FDA that it will not jeopardize public safety is irresponsible and threatens this Nation's safety and proven drug supply.

Toward that end, I ask unanimous consent that a letter that Senator CARPER received from the Health and Human Services agency, the FDA Director, be printed in the RECORD at the conclusion of my comments.

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

(See exhibit 1.)

Mr. BROWNBACK. This letter states in particular:

> We commend the sponsors for their efforts to include numerous protective measures in the bill that address the inherent risks of importing foreign products and other safety products relating to the distribution system of drugs within the U.S. However, as currently written, the resulting structure would be logistically challenging to implement and resource intensive. In addition, there are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues related to confusion in distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

In other words, they don't think we can do this—importation, reimportation of drugs—without significant safety problems.

There has been an explosion of illegal drug counterfeiting occurring around the world. Emergence of a multibillion-dollar international black market has

proven to this Senate, current and past HHS Secretaries, and the FDA that weakening our prescription drug regulatory framework would only increase the risk of life-threatening counterfeit, contaminated, or diluted prescription drugs entering our prescription drug supply that millions of Americans rely on and trust. Prescription drug counterfeiting has become a highly profitable criminal enterprise that has been taken up by international organized crime syndicates, rogue nations such as North Korea, Syria and Iran, and developing nations such as China and Pakistan that seek to exploit ineffective or weak counterfeit enforcement frameworks around the globe.

Criminals have realized that the production of counterfeit drugs is twice as profitable as the trafficking of illegal narcotics and comes with significantly less criminal penalties compared to those handed out for illegal drugs.

Due to these limited and minimal criminal penalties, global counterfeiting has grown into an epidemic that reaches every country around the world. The World Health Organization estimates that tens of thousands of people are dying due to counterfeit HIV, diabetes, and tropical disease medicines. Unfortunately, in most counterfeit cases, it is not what is included in these fake drugs, it is what has been excluded that proves to be most harmful and deadly to patients. By taking counterfeit, diluted, or completely ineffective drugs, many patients fail to receive the important lifesaving medicines they need. It is just as dangerous for a person with high cholesterol to use a counterfeit drug that lacks the prescribed medicine as it is for a person to ingest a contaminated or even a poisonous pill. Due to this global counterfeit epidemic, two Secretaries of HHS, under both the Clinton and Bush administrations, have been unable to certify that the importation of prescription drugs will not pose a substantial risk to the health and safety of citizens within the United States.

Current Secretary Kathleen Sebelius, from Kansas, has committed to preventing a drug importation system in the United States until it can be proven that the safety standards of the imported drugs are ''at or above American standards.'' The FDA doesn't believe they can get that done at this time.

Many have argued that parallel trade in Europe has proven drug importation across nations' borders has resulted in prescription cost savings and has not increased risks to consumers or general public health. However, these cost and safety assertions do not correctly reflect the European experience with drug importation through what is called parallel trading.

A study by the London School of Economics on drug importation costs concluded that savings from parallel imports benefit middlemen and third-party vendors who buy and resell the imported drugs and do not get passed on to the patients in the form of lower prices. They say this:

> Although the overall number of parallel imports has continued to increase, healthcare stakeholders are realizing few of the expected savings . . . profits from parallel imports accrue mostly to the benefit of the third-party companies that buy and resell these medicines.

Furthermore, a report by the University of London School of Pharmacy on the safety of the parallel prescription drug trade stated this:

> The United Kingdom is the most vulnerable in Europe to counterfeiting owing to the high level of ''parallel importing.''

Due to parallel trade, the Medicines and Health Care Regulatory Agency in the UK has issued 10 different recalls of counterfeit drugs in the past 5 years. Drugs recalled include prescriptions to treat schizophrenia, blood pressure, and prostate cancer. The most disturbing fact of this counterfeit infiltration was that these drugs entered the United Kingdom through legitimate supply chains through parallel distribution trade, according to the MHRA, the regulator agency in the UK.

In other studies, the European Commission found that the prescription drug supply chain in Europe, which includes the former Eastern bloc counties such as Latvia, Slovakia, and Bulgaria, is increasingly targeted by international criminal counterfeiters.

The European Commission's Vice President, Gunter Verheugen, stated European parallel trade ''[B]rings a considerable risk for the safety of the patients'' and that the increase in counterfeit medicines ''is a very serious threat to public health and can cost lives.''

We don't want that happening to the United States, particularly with what we have seen in recent products coming in from China, not regulated under our system: things such as toothpaste, pet food, and then the problems we have here. Do we want that to happen in the drug system? No, we don't. We can't certify that we can keep these products safe.

As you can see, safety concerns and the lack of savings that may result from exposing this country to the potential risk created by the importation of drugs from outside our current safety system are real threats.

It is kind of interesting. In October 2004, then-Governor Rod Blagojevich of Illinois launched the I-SaveRx Program to allow residents in Illinois, and later Missouri, Vermont, Wisconsin, and Kansas, to purchase low-cost drugs from Canada. However, by 2006, the Illinois State auditor found that the program cost nearly $1 million and was used by only about 3,700 people in Illinois and 267 residents of my State of Kansas.

Health and Human Services has concerns regarding the safety of importation. The Food and Drug Administration has concerns regarding the safety of importation. Given the opportunity to purchase Canadian prescription drugs, only 267 Kansans took that chance. We should not throw out the safety of our drug supply chain without safety assurances from this country's regulatory bodies.

I yield the floor.

EXHIBIT 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD AND DRUG ADMINISTRATION,
Silver Spring, MD December 8, 2009.

Hon. TOM CARPER,
U.S. Senate,
Washington, DC.

DEAR SENATOR CARPER: Thank you for your letter requesting our views on the amendment filed by Senator Dorgan to allow for the importation of prescription drugs. The Administration supports a program to allow Americans to buy safe and effective drugs from other countries and included $5 million in our FY 2010 budget request for the Food and Drug Administration (FDA or the Agency) to begin working with various stakeholders to develop policy options related to drug importation.

Importing non-FDA approved prescription drugs presents four potential risks to patients that must be addressed: (1) the drug may not be safe and effective because it was not subject to a rigorous regulatory review prior to approval; (2) the drug may not be a consistently made, high quality product because it was not manufactured in a facility that complies with appropriate good manufacturing practices; (3) the drug may not be substitutable with the FDA-approved product because of differences in composition or manufacturing; and (4) the drug may not be what it purports to be, because it has been contaminated or is a counterfeit due to inadequate safeguards in the supply chain.

In establishing an infrastructure for the importation of prescription drugs, there are two critical challenges in addressing these risks. First, FDA does not have clear authority over foreign supply chains. One reason the U.S. drug supply is one of the safest in the world is because it is a closed system under which all the participants are subject to FDA oversight and to strong penalties for failure to comply with U.S. law. Second, FDA review of both the drugs and the facilities would be very costly. FDA would have to review data to determine whether or not the non-FDA approved drug is safe, effective, and substitutable with the FDA-approved version. In addition, the FDA would need to review drug facilities to determine whether or not they manufacture high quality products consistently.

The Dorgan importation amendment seeks to address these risks. It would establish an infrastructure governing the importation of qualifying drugs that are different from U.S. label drugs, by registered importers and by individuals for their personal use. The amendment also sets out registration conditions for importers and exporters as well as inspection requirements and other regulatory compliance activities, among other provisions.

We commend the sponsors for their efforts to include numerous protective measures in the bill that address the inherent risks of importing foreign products and other safety concerns relating to the distribution system for drugs within the U.S. However, as currently written, the resulting structure would be logistically challenging to implement and resource intensive. In addition, there are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues related to confusion in distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

We appreciate your strong leadership on this important issue and would look forward to working with you as we continue to explore policy options to develop an avenue for the importation of safe and effective prescription drugs from other countries.

Sincerely,

MARGARET A. HAMBURG,
Commissioner of Food and Drugs.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this is the 10th day in the debate on health care reform. I believe it is one of the most important issues we have ever debated, certainly in my time on the floor of the Senate. There have been a variety of amendments offered, and there has been a lot of work going on off the Senate floor. Before we could reach this point and start this debate, committees held hearings that went on for weeks and months. They started with the base bill and entertained hundreds of amendments. The HELP Committee, as well as the Finance Committee, devoted so much time to this.

The first time I can recall the chairman of the Senate Finance Committee MAX BAUCUS coming to see me personally on this was over a year ago. So over a year has gone into this effort to come to this moment. I might add, the negotiations and efforts to improve the bill have not stopped. As late as last night, a large group of members of the Democratic caucus in the Senate were meeting to work out pretty contentious issues relating to competition for private health insurance companies. They worked late into the night, night after night, and finally came up with a consensus where differing points of view had to make concessions and come up with the best way to move forward. That is what has gone into the base bill that is before us.

This is it, 2,074 pages put together through all of the work I have just described. I understand the responsibility of the minority party in the Senate is to disagree. But we hope they will do it in a constructive fashion. In this situation, we have invited them in from the beginning. In fact, in each of the committees, Republican Senators have been active participants offering amendments, many of which were adopted.

Beyond that, there were meetings off the Senate floor. The Senator from Wyoming was a party to meetings that went on for, I am told, more than 60 days in an effort to find a bipartisan middle ground. But the fact is, we come here today in the Senate debating this bill, and there are several realities. The first reality is, after the House of Representatives went through a similar exercise, only one Republican Representative, a Congressman from New Orleans, LA, voted for health care reform, only one. In the Senate to date, only one Republican Senator, Senator SNOWE of Maine, has voted for health care reform in the Finance Committee. Not one single Republican Senator other than Senator SNOWE has voted to move forward on health care reform.

There is a second reality. There is no Republican health care reform bill. None. They have a variety of different ideas, but each one is discrete and specific. They are not comprehensive. They don't really address the issues this bill addresses. They have not presented a bill which makes health insurance premiums in America more affordable. This bill does.

Don't take a politician's word for it. The CBO looked at this bill and said it will bring down premiums for the vast majority of Americans paying for health insurance today, something we definitely need because we are dealing with a situation where individuals, families, and businesses can no longer afford health insurance. There has not been a bill produced on the other side of the aisle which guarantees that 94 percent of Americans will have health insurance. This bill does. They haven't produced that bill. When this bill is enacted into law, we will have a larger percentage of our American citizens covered with health insurance than ever in our history.

They have not produced a bill which changes the way health insurance is managed and its relationship with its customers across America. This bill does. There is a bill of rights in here that says: American consumer, you have a right to have health insurance, even if you have a preexisting condition. You have a right to stand up to the health insurance companies when they deny you coverage, saying: We only cover you when you are well, not when you are sick. You have a right for your children to be covered under your family health insurance policy until they reach the age of 27. These are rights which we guarantee in the bill and have not been brought to the floor by the Republican side because they do not have a health care reform bill.

Before us at this moment is a motion to commit by a friend of mine, Senator CRAPO, who raises a question about will there be taxes. Will people have to pay for what we are doing here? Well, I can tell you, we think we have struck a good balance in terms of shared responsibility. First and foremost, understand this: If we dropped this debate, as most Republicans would have us do at this moment, and walked away and said: We are not going to do anything, each and every American will continue to pay over $1,000 a year in added premium costs to cover the cost of uncompensated care.

In my hometown of Springfield, IL, we have some wonderful hospitals. When poor people with no insurance show up, they are treated, they are cared for. That hospital, then—whether it is St. John's or Memorial—has to pass along the cost of that health care to the other people who are paying for their care, which means each of us is paying $1,000 more a year for our families in health insurance premiums to cover those uninsured. So that $1,000 tax is already there.

Let me tell you what this bill does. This bill says, if you are making less than $80,000 a year, we will help you pay your health insurance premiums, give you tax breaks to pay those premiums. That means a lot of people who today cannot afford to pay for health insurance premiums will be able to. They will go to this exchange. They will be able to chose from health insurance options, and they will get a helping hand to pay for health insurance.

We also have special provisions in here to take care of the smaller businesses. If you have fewer than 25 employees and have a small business—and that represents a lot of businesses, mom-and-pop businesses, for example—we are going to give you a helping hand so you can pay for the health insurance coverage for yourself, the owner of the business, and the people who work for you.

What about those that are larger companies? Well, let's be honest about it. We expect them to step up and accept this shared responsibility. Most of these companies do not question whether they have to pay into unemployment insurance or workers' compensation. That is part of the cost of doing business. We are saying that in this era of health care reform, with shared responsibility, businesses should offer good health insurance for their employees. In most instances, they do, and they deserve our commendation for doing it.

But we also understand there are some that may not cover their employees, may have waiting periods that are unreasonable. We start moving our policy against that so people do have the peace of mind of knowing, when they go to work, they have good health insurance that is going to be there when they need it. It is a new look at it.

But we started with a real challenge. America is the only developed, industrialized country in the world where a person can die for lack of health insurance. We are the only one. There is not another country where that happens.

We are also the only developed country in the world where a person can be driven into bankruptcy because of medical bills. We kind of accept it. Well, so and so had an accident, went to the hospital, was there for a month, and has a huge medical bill. They did not have any savings or insurance, and it wiped them out. It wiped them out.

It does not happen in other countries. In developed countries, it does not happen because they take care of people, and they understand whether they are using private health insurance or public health insurance, there is a social obligation to make sure we all have the peace of mind of knowing that is not going to happen.

So we address this, and we help people pay for their premiums as well. There is $441 billion in tax relief in this bill for families over the next 10 years to pay their health insurance premiums. That is a tax break that will lead to more insurance coverage and more peace of mind. That is a reality. For the smaller businesses, with 25 and

fewer employees, there is a helping hand for them to cover their employees as well.

We also provide some competition that in many places does not exist today. We provide that there is going to be health insurance options for people. Too many small employers whom I have run into say: It is a take it or leave it deal with our health insurance company. We will renew last year's policy at a higher cost with less coverage, and you better take it because there is no place else to go. That is going to change here. That is part of the change.

For all my Republican friends and colleagues who have come to the floor over the last 10 days critical of this health care reform bill, I understand, that is part of Senate debate, that is part of what we are here for. But make no mistake, these same Senate Republicans do not have a health care reform bill. Most of the amendments that have been offered have been to protect health insurance companies, companies that are wildly profitable, companies that, frankly, dictate in this system how much people are going to pay and whether they are going to have coverage.

Dutifully, now, the Republican Senators have stepped up saying: We have to protect these health insurance companies and their profits. I do not think that is my responsibility. My responsibility is to almost 13 million people in my State of Illinois and to the rest of the Nation, to make sure they have the same peace of mind we all want—to know they have quality, affordable health care, to extend the reach of health care and the peace of mind that comes with it to the largest percentage of Americans in history.

The last point I wish to make is one about the deficit. We hear a lot about the deficit. This health care reform bill will cut more money from the deficit—$130 billion over the next 10 years—than any single bill ever considered on the floor of the Senate. Again, that is not my conclusion but the conclusion of the Congressional Budget Office, which analyzes these bills for Democrats and Republicans—a $130 billion reduction in the deficit over 10 years and, in the next 10 years, an additional $650 billion. Because as we start to bend the curve to bring down the increase in health care costs, it means we pay less for Medicare services, less for Medicaid services, less for many services that are offered through government programs.

This bill is fiscally responsible. President Obama challenged us to make it such, and we did it. There has not been a bill offered by the Senate Republicans which reduces the deficit—not anywhere near this amount. No one has ever done it. It took a lot of hard work to reach this point.

I would say the net result of the motion to commit by Senator CRAPO is, unfortunately, to delay this debate even further, to stop the momentum toward health care reform. I do not think that is what America wants or needs. This is a once-in-a-political-lifetime opportunity to address an issue on the mind of every American and to do it in a fair and comprehensive way.

Certainly, this bill is not perfect. As hard as we tried, it never will be. But to just continue to argue there are elements they want to question, without offering a comprehensive health care reform alternative, I do not believe is a fair debate. We have put the time into this. I stand by it. I will be proud to support it. There are things in it I do not agree with; most things I do. But the fact is, it is the right thing for us to do at this moment in history. We cannot miss this opportunity. I encourage my colleagues to oppose the Crapo motion to commit.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. SANDERS). Twenty-four minutes 40 seconds for the Democrats.

Mr. DURBIN. Mr. President, how long have I spoken?

The PRESIDING OFFICER. The Senator has spoken for 8 minutes.

Mr. DURBIN. Mr. President, I stand in support of the amendment that is being offered by the Senator from North Dakota, Mr. DORGAN. Senator DORGAN has talked about drug reimportation, and he has raised an issue which troubles me. Why is it that pharmaceutical companies in America charge Americans more for their product than they charge customers in other countries buying exactly the same product? Senator DORGAN had a hearing once, and the response was obvious. The pharmaceutical companies say: We charge Americans more because we can.

In all those other countries, such as Canada, when they try to sell drugs to Canadians, the Canadian Government steps in and says: You are entitled to a profit, but don't go overboard. We will allow you to increase your profits only so much each year.

In the United States, there is no such mechanism and no such effort. So we continue as a nation to pay premium prices for drugs that are exactly the same drugs that are sold at a fraction of the cost around the world.

The AARP, which is the largest organization of seniors in America, did a study of drug prices published in April. It showed that the price of the most commonly used drugs has risen faster than general inflation every year since 2004. This year, drug prices are going to go up another 9 percent, for example.

So a lot of Americans are saying: If I can buy the same drug in Mexico or Canada at a lower price, why wouldn't I be allowed to do that? Why would you stop me under the law? Well, I do not think we should. I think we ought to give people that opportunity.

What Senator DORGAN has done is to build in his amendment safety features so we know we are not dealing with counterfeit drugs and we know there is accountability as to the source and the purity and the effectiveness of the drugs that are bought.

This amendment creates a role for the Federal Government in providing oversight, with the goal of ensuring that Americans have access to lower prices and the peace of mind of knowing their drugs are safe.

The bill allows pharmacies and drug wholesalers licensed in the United States to import FDA-approved medications from Canada, Europe, Australia, New Zealand and Japan and pass along the savings to their American customers. What does it mean? A 35- to 55-percent lower cost for some of the most widely used drugs in America.

This approach will reduce costs when people need it, particularly sick people who are dependent on drugs to stay healthy or to avoid even further illness.

The CBO estimates that the new policy will result in Federal savings of $19.4 billion over 10 years. I will tell you why I think this is critically important. There are a lot of drugs and drug companies that are doing very well. They are very profitable, and they are based in the United States. I think it is unfair they are charging the people of their own country higher prices than they are charging people in other countries around the world.

This reimportation is an effort to try to help bring down some of these drug prices. These companies, incidentally, say: Well, we need the money because we need to do research for new drugs. Well, certainly they need to do research for new drugs. But maybe they can stop and explain to me or to someone why they spend more money on advertising than they do on research. You have seen the ads on television, heard them on the radio, and seen them in magazines. They spend a fortune advertising, trying to lure people into using the highest priced drugs in America.

These pharmaceutical companies are doing very well. Their profits are skyhigh, sometimes the highest in America. I think it is fair in this bill, as we try to bring down the cost of health care, that we also bring down the cost of these drugs by allowing the importation, with strict safety standards, of these drug into the United States.

I support the Dorgan amendment and look forward to making more affordable prescription drugs available across the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent to speak for up to 20 minutes.

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

Mr. CRAPO. Thank you, Mr. President.

Before I begin my remarks, I would like to yield a couple minutes to my friend and colleague from Oklahoma who would like to respond to the question that has been raised as to whether

the Republicans are presenting reliable, meaningful, and comprehensive alternatives.

Mr. COBURN. I thank my colleague from Idaho.

Mr. President, the majority whip realizes there is an alternative bill. As a matter of fact, there are four alternative bills out there. They were not given a hearing. They did not have the resources. They did not have the CBO that would score them.

We have a bill that guarantees if you like what you have now, you can keep it; has absolutely zero tax increases on American families; no increases in taxes on American business; lowers the cost of everybody's health insurance premiums; covers preexisting conditions, period; protects seniors' high-quality care and choices; increases personal control over your own health care; no Medicaid expansion, but, in fact, puts Medicaid patients into true coverage without discrimination and allows all the doctors in this country to see them. It protects the physician-patient relationship and empowers patients, families, and physicians and providers. It does not empower the government. The majority whip knows that. Yet we have just heard on the floor we have not offered anything.

We have offered a bill that outside evaluators say saves the States at least $1 trillion in the first 10 years, saves the Federal Government $70 billion, treats everybody the same, creates access to health care, and, more importantly, it incentivizes prevention and the management of chronic disease and, finally, it attacks some of the $100 billion a year in fraud in Medicare and Medicaid, where this bill attacks less than $400 million a year in Medicare and Medicaid.

I yield back to the Senator.

Mr. CRAPO. I thank my friend from Oklahoma because it is frustrating sometimes to have it continuously said that there are no alternatives being put forward when we have for years promoted major and comprehensive alternatives to the kinds of issues Americans are asking us to address today.

What is it that Americans are asking? I have said this many times on the floor. Americans are asking us to find a pathway to lower health care premiums and costs and to increase access to better quality health care. Yet what is it that we are being faced with in this legislation? This bill drives up the cost of health care, not down, contrary to claims that have been made on the floor repeatedly; raises taxes by hundreds of billions of dollars; cuts Medicare by hundreds of billions of dollars; grows the government by $2.5 trillion; forces the needy uninsured—it doesn't give them a pathway toward subsidized insurance or any access to insurance but instead forces them into a failing Medicaid Program; imposes damaging unfunded mandates on the struggling States; leaves millions of Americans still uninsured; and establishes massive government controls over our health care economy. And we wonder why we cannot get engaged in a meaningful bipartisan solution here with this kind of heavy-handed approach being insisted upon.

When I talk about the fact that it raises the costs or the size of government, often the response is: No, this bill doesn't raise the size of government, it doesn't increase the size of government, it is balanced. Actually, CBO has issued a report that says it reduces the deficit. Well, the fact is it grows the size of government over a true 10-year period by $2.5 trillion. It does provide some increased taxes—a lot—and it does cut Medicare. By doing so, it does reach an equilibrium, according to CBO, with regard to its impact on the deficit. But let's not mistake this deficit with the size of the government. This bill will grow the size of the government and the reach of the government by $2.5 trillion.

With regard to the question as to whether it truly impacts the deficit, I think most Americans have already heard that there are some budget gimmicks here. You could not ever claim this bill doesn't increase the deficit unless you had all the taxes I am going to talk about in a minute and unless you had all of the Medicare cuts we have been talking about for the last week, and unless you had the budget gimmicks that are in the bill. The budget gimmicks are clearly depicted right here.

Look at the first 4 years of this bill on the spending side: very little, if any, spending. The actual implementation of the spending part of the bill doesn't happen until 2014, but all the taxes start in the first year, and all the Medicare cuts come into place in the first year, and we start seeing the offset side of the bill run for a full 10 years. It is going to be easy to say you have balanced out spending and taxing if you don't count the spending for the first 4 years. But if you look at that first true 10-year period of time, it is a growth of the government by $2.5 trillion.

What I am here today to talk about is my motion that is on the floor to do one very simple thing: to commit this bill back to the Finance Committee and have the Finance Committee make the bill comply with the President's pledge to the American people about taxes. And what was his pledge, repeated many times across this country? In the President's own words:

> I can make a firm pledge . . . no family making less than $250,000 will see their taxes increase . . . not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes . . . you will not see any of your taxes increase one single dime.

That was the rhetoric. That was the pledge. What is the reality of the bill? In its first 10 years, the bill raises taxes by $495 billion. If you take that 10-year window that starts in 2014 where you are comparing spending and taxing at the same time, the total of taxes in that 10-year window is $1.2 trillion of new taxes, a huge proportion of which falls squarely on the backs of the middle class whom President Obama has defined here to be those earning less than $250,000, and that is per family. He said under $200,000 per individual.

What are some of these taxes we are talking about? First, there is the excise tax on high-cost premium plans. One might say, wait a minute, that is a tax on companies, employers who provide very high quality insurance to their employees. It is an ingenious way—it is technically written that way—but it is an ingenious way to actually increase the cost, the tax base, of the workers and not the employer. Let's see the first chart. The way this works is the government will now say to an employer: You cannot provide health insurance to your employees that is worth more than a certain amount. Most employees who get health insurance—and that is most employees in the country who get health insurance from their employer—get wages and health care as a part of their total employment package.

I picked an example of a woman who receives $50,000 in wages and let's assume a $10,000 employer-provided health care benefit. The government is now going to say wait a minute, to her employer; we are going to tax you if you provide that health care benefit on such a robust level. CBO and Joint Tax have told us that the reaction of the vast majority of all employers is going to be to reduce the health care benefit down below the level that gets taxed. They are not going to reduce the employee's overall benefit, however, their overall employment package. So let's pick a number. Let's say they reduce this $10,000 down to $7,000. They will increase the wages by $3,000 and the employee's total compensation package stays the same: $60,000, with one difference. Now that extra $3,000 is wages instead of health care, and it gets taxed. And that way the individuals in this country see their health care values go down. Their total compensation package stays the same, but then gets also reduced as it is taxed, and our Joint Tax Committee and CBO have told us that 84 percent of this $149 billion new tax is going to be borne by those with incomes under $200,000.

That is one way this bill ingeniously gets at the pocketbook of those making less money than the $200,000 or $250,000 as a family that the President talks about.

What is the next way? Medical deductions. I think everybody in America who itemizes deductions knows about the first line that says you can itemize your medical expenses, and to the extent they exceed 7.5 percent, you can deduct those medical expenses. So people who have a large proportion of their income represented by medical costs get a break in the Tax Code for that deduction. Well, that break is now going to be smaller under this bill because the level of where you are able to

get it is no longer going to be 7.5 percent, it will be 10 percent. And as I indicated, that 84 percent of the excise tax is going to fall on people making less than $200,000 a year. Ninety-nine percent of the medical deduction restriction will fall on people making less than $200,000 a year; as a matter of fact, making a lot less than $200,000 per year.

Then what about the next one? The next major tax in the bill is the Medicare payroll tax. This one has been presented to the American public as a tax on rich people. It starts out primarily impacting people at the higher levels, but at the outset, it will already hit 345,000 Americans, and it is not adjusted—I think most people understand how the alternative minimum tax works today. It is not adjusted for inflation properly. So over time, the payroll tax itself is going to increasingly hit more and more people in that income category under $200,000.

There has been some analysis on these three provisions in the bill. Joint Tax has indicated that by the year 2019, at least—and I say at least because we are only talking about three provisions in this bill right now, and there are more—73 million American households—not individuals, households—73 million American households earning below $200,000 that are going to face a tax increase.

Some have responded to this by saying, Wait a minute. Our bill actually cuts taxes and you are not characterizing this fairly. The tax cuts they are talking about are primarily a $394 billion government subsidy for purchase of health insurance, a subsidy that will be administered through the Tax Code. What they don't tell you is that $288,000 of this so-called tax cut is nothing other than a direct government payment to those who don't pay any taxes today anyway. It is not reducing their tax liability; they have no tax liability. It is a direct government subsidy, and CBO says so. It is scored by CBO not as tax relief; it is scored by CBO as direct government spending. To characterize that as tax relief I believe is inaccurate.

Moreover, even if it were true tax relief, is that what the President was saying, that I won't raise your taxes more than I will lower someone else's or was he saying to the American people that he would not raise taxes on people who are making less than $200,000 a year, or $250,000 as a family? I believe it is inherently obvious what the President was saying. And to say now that we are cutting somebody else's taxes so we can raise yours does not comply with the President's pledge.

To give another couple of perspectives on this in terms of numbers, when all is said and done, 7 percent of Americans will get this so-called tax relief that is, in reality, direct Federal spending, and the rest of Americans—specifically, those who don't fall in that category—will get the tax increases. Out of 282 million Americans with some kind of health insurance today, only 19 million of them will be helped by this subsidy. The rest are going to fall into that category of those who get to share in the burden by seeing their taxes increase.

But let's say we give credit for all of these arguments and say, All right, we will let you claim that all of this spending is tax relief. What is the true story then? Even if you give that argument, which is not valid, by 2019, there will still be at least 42 million American households earning below $200,000 that will face a tax increase. This is information from the Joint Committee on Taxation.

In fact, the data there is rather interesting. Joint Tax data indicates that by 2019, individuals earning between $50,000 and $200,000 on average will see an increase in their taxes of $593. Families earning between $75,000 and $200,000 will see on average a net tax increase of $670.

So what does my amendment do? My amendment says very simply that the bill will be committed back to the Finance Committee and that the provisions in the bill that violate the President's pledge should be removed. Simply make the bill comply with the President's pledge. The President, frankly, shouldn't sign this bill unless this amendment is passed and implemented, because that is the direction we need to go.

Once again, the President's pledge is that no family making less than $250,000 is going to see their taxes increased.

There is further information available about this, though. I recently sent a letter to the Joint Tax Committee. I recently sent a letter to the Joint Tax Committee asking them about whether there were other provisions in the bill other than these three—the reason I talked about these three taxes is because those three taxes have been analyzed by Joint Tax and it is Joint Tax that is telling us what they are going to do.

In response to my letter saying are there more taxes in the bill than those you have analyzed, the answer has come back, yes, and below, they say, is a list of the provisions that they have not previously distributed and that have statutory incidence on individuals with those who fall below the income threshold which has been defined already. What are these taxes? There is a confirmed definition of medical expenses for health savings accounts. In other words, the reduction of benefits in health savings accounts will have an impact, and I believe that impact is about $1.5 billion.

The increased penalty for nonqualified health savings account distributions and limitations on flexible spending arrangements will raise almost $15 billion. Most of this—although we don't have the data yet from Joint Tax—most of this comes from families below the income tax threshold, as well as the 5 percent excise tax on cosmetic surgery and similar procedures and the individual mandate in the bill that will force all Americans to purchase insurance or the IRS will come and collect a fee from them.

I don't have the chart here that shows what will happen with the IRS, but think for a minute. The current size of the IRS is about $12 billion in terms of the appropriations we give them to perform their functions. CBO says that if this bill passes, there will be so much additional business for the IRS in monitoring health care and the new plans and programs in the bill, there will have to be at least another $5 billion and maybe a $10 billion increase in the size of the IRS just so it can implement its enforcement responsibilities under this bill.

The bottom line is that the President of the United States, Barack Obama, has made a pledge. It was that pledge, among a number of others—such as ''if you like what you have, you can keep it''—that caused us to see a strong low-confidence level by the American people, and maybe it is time for Congress to truly dig in and build a strong health care reform package. That pledge is being squarely broken by this bill.

Again, all we are asking in this amendment is to send the bill back to the Finance Committee and have the Finance Committee make the bill conform to the President's pledge. What that will mean to the American people is that in the first 10 years of the bill, just under $500 billion of new taxes will not be imposed, and over the true first 10-year period, when the spending starts kicking in, $1.2 trillion worth of taxes will not be imposed.

There are many other issues with this bill that we have seen discussed. There is the question of whether it truly increases the cost of premiums in health care. Virtually 10 out of 11 studies say that it does. The CBO report says that, clearly, for 30 percent of Americans, it does it in major ways, and for the other 60 percent, the impact is marginal, or the status quo.

As we move forward, some of these big problems with the bill need to be fixed. My motion focuses on taxes. We have debated Medicare for some time now. We need to talk about the unfunded mandates on the States. We need to talk about the impact on premiums in health care because we don't want to be passing legislation that drives up the cost of health care at a time when that is the primary purpose for people calling for health care reform.

I urge my colleagues to let us step down for a moment from the intensity of the debate, commit this bill to the Finance Committee, and let's, on a bipartisan basis, work out some of the solutions to these problems and do so in a way that does not result in such a massive growth of our Federal Government, such a massive increase in taxes, such a massive unfunded deficit on the

States, and all for no control of cost or health care premiums.

With that, I yield back the remainder of the time I requested.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, here we go again. We keep hearing it, and the other side keeps using scare tactics. All those Democrats say is tax, tax, tax. Scare tactics. They think they can scare people into believing something that is not true. The fact is, not only does this bill not raise taxes on the middle class, this bill is a tax cut for Americans.

Look at the chart behind me, which shows that. This is individual taxes. We are talking about taxes on individuals in America. This chart shows that in the year 2015, there will be a net tax cut for Americans of $26.8 billion—a tax cut. The other side says some of those folks are not paying taxes. That is true. It is a refundable tax credit of about $27 billion. In 2017, it is a net tax cut of $40 billion. In 2019, it is a net tax cut of almost $41 billion.

Nobody can read the small print on the chart, so I will read it:

Combined effects of the high-premium excise tax, health care affordability tax credits, increase in HI tax, increase in HI floor for medical expense deductions.

It is the basic provisions.

It is very important to point out that this is a net tax cut for most Americans. For some, there is a tax increase. But guess what. According to CBO, that is because those folks will make more money. Their wages and salaries will go up.

I don't see a chart-meister behind me to change the charts, but the chart shows almost for every year about a 10-percent increase in taxes for upper income areas and about an 80-percent increase in wages or income. That is basically because, according to the CBO, the high-premium excise tax will result. People will be paying lower premiums, 7 to 12 percent lower premiums as a consequence of the Cadillac tax provision. CBO says that; it is not my prediction. That will be passed on in the form of higher wages and higher income to people. People will be paying higher taxes, but they will be making more money.

Let's make it clear. This bill lowers taxes. At least that is what CBO says. It is one thing to make an allegation that it increases taxes, but CBO says there is a net tax cut, which I mentioned.

Turning to another subject—small business—one of the goals of health care reform, clearly, is to ensure employees and small businesses have access to quality, affordable health care options. Small businesses have a tough time providing health insurance, that is true. Last year, only 62 percent of small businesses offered health insurance to their employees. Compare that with about 99 percent of companies with 200 or more employees. Big businesses offer health insurance, but small businesses just can't do it. They have a hard time. Among the very small businesses, fewer than half offered their employees health insurance.

Small businesses say the main reason they cannot provide health insurance is because premiums are so high. That is probably true; it is expensive. I have talked to many small businesspeople, and I am quite certain the Senator from Vermont, who is in the chair, has run across the same comments from businesses. It is just too expensive.

In the past 10 years, premiums have risen 82 percent for single workers and 93 percent for families employed by small businesses. As health care costs rise, small businesses are forced to make workers pay a greater portion of these expensive premiums. Last year, employees in small businesses that provided health insurance paid more than twice what they paid in 1999. So in a period of 8 years, the amount employees paid more than doubled.

The low rate offering and higher cost-sharing responsibilities for employees and small businesses often limit the ability of small businesses to attract and retain good employees.

That is why the health care bill before us today includes provisions to make quality coverage more affordable for small businesses and their employees. The bill includes $24 billion in tax credits to help small businesses and charitable organizations purchase health insurance for their employees—$24 billion.

Starting in a couple of years, eligible small businesses would receive tax credits worth up to 35 percent of the employer's contribution to employee health insurance plans. Then in 2014, eligible small businesses will receive tax credits worth up to 50 percent of the employer's contribution to employee health insurance plans purchased in health insurance exchanges. That is half of the cost to the employer. An employer could take half of that cost as a tax credit against that company's income.

To qualify for the tax credits, businesses would have to cover at least half of their employee premium costs. The value of the tax credit is based on the size of the business and the average wage of its employees.

The small business tax credit will help make health insurance more affordable for many small businesses. That is clear. In 2011, 4.2 million Americans will be covered by quality, affordable health insurance because of this credit. On average, small businesses across the country will receive a new tax credit of around $5,000 to help them purchase insurance. The CBO has estimated that the small business credit will help lower insurance costs by 8 to 11 percent for employees at small businesses who receive that credit. CBO says, again, that small business credit will help lower insurance costs by 8 to 11 percent for employees of small businesses who receive the credit.

One of the reasons many small businesses are currently unable to afford health insurance is because they lack the buying power larger companies have to negotiate group rates. Our bill creates small business insurance exchanges, known as shop exchanges, where small businesses can join together and pool their risks. That will enhance their choice and buying power. These State-based exchanges will be a critical tool to help small businesses with fewer than 100 employees shop for health insurance plans and determine their eligibility for tax credits to buy health insurance. Small businesses that prosper and grow beyond 100 employees will be allowed to continue shopping in the exchanges.

The insurance plans sold in these exchanges will be subject to the same transparency requirements and consumer protections, so small businesses can feel confident they are purchasing high-quality plans that will provide quality, affordable coverage for their workers.

One more point. We all talk to small businesspeople. Time and time again, they say they like to provide health insurance. But what happens? The insurance company comes along and says: Next year, we are going to raise your premiums 20, 30, 40 percent. Why? The answer is that we found out one of your employees has a preexisting condition, so we are going to raise your premiums by that much. It puts small businessmen in a terrible dilemma: they either have to fire that employee to get the lower increase in premiums or eat that big increase and keep that employee.

I remember a businessman in Billings, a small contractor, whose heart sank when he got that notice from the insurance company. He decided to keep the valuable employee, who had worked for him for a good period of time. He will not fire that employee. He shopped around and finally found another insurance company, and the increase was not 30 percent, it was more in the nature of 20 percent.

Small businesspeople face this great variety of premiums. They go up this much and that much. It is because of the terrible situation we have where companies can deny coverage based on preexisting conditions, health care status, and so forth. Different States have different rating rules and so on. This will help small businesses get more stability and quality.

The insurance plans sold will be subject to the same transparency requirements and consumer protection that other individuals will also find available.

The health care reform bill before us also institutes reforms of the insurance market that will protect individuals and small businesses purchasing plans. I already mentioned that. These reforms will stop insurance companies from denying coverage based on preexisting conditions.

Passing health care reform is critical to small businesses. Without reform, many small businesses will be forced to drop their health care insurance coverage because they will no longer be

able to afford the increasing premiums. That would leave employees to fend for themselves in the individual market.

The CBO tells us these reforms will make coverage more affordable for millions of small business employees. The small business tax credit will help reduce health care costs for small businesses and their employees. As a result of the larger health reform proposals in this bill, there will be an increase in the percentage of small firms that offer health insurance coverage.

I ask unanimous consent to extend the period for debate only until 4:30, with the time equally divided, with Senators permitted to speak therein for up to 10 minutes each, with no amendments in order during that time.

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

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I ask unanimous consent to speak for up to 20 minutes.

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

Ms. SNOWE. Mr. President, today the Senate is addressing the future of health care in our Nation—both Americans' access to care and its cost. As we confront projections of escalating health spending—exceeding $33 trillion in the coming decade—the imperative is clear that we must address rising costs, or affordable access to coverage simply cannot be achieved and sustained.

That is why I am joining Senator DORGAN, who has been a relentless champion on the issue of drug reimportation, in proposing the amendment to this legislation, so that Americans can safely and affordably access the medications which they rely upon to improve their health and which the industry has reminded us time and again are critical to reducing severe illness and hospitalization and, of course, extending life.

Senator DORGAN has long been the Senate's tireless leader. In fact, it has been more than a decade, as I recall, that he began to pursue this endeavor and this journey in seeking to end the inequity which resulted when Americans were barred from importing less expensive medications. He has reminded us regularly of the trade inequity which has been imposed on consumers. He also has reminded his colleagues that drug importation, conducted with proper safety measures, provides a route to improving access to lifesaving medications.

I am pleased to have joined him in this effort, once again, along with Senator MCCAIN, who has been a stalwart on this issue from the very outset and a tremendous advocate and a driving force. Of course, the Presiding Officer, the Senator from Vermont, Mr. SANDERS, throughout his career has been pursuing and advocating this inequity to be remedied once and for all.

We introduced this legislation back in 2003 for the very first time. We worked on a comprehensive approach required to address the safe, economical importation of medications. I well recall the efforts—the yeoman efforts—of the late Senator Kennedy who worked relentlessly to remedy this flaw in our policy, along with Senator GRASSLEY, Senator STABENOW, and Senator VITTER, whose bipartisanship on this vital question has also been instrumental as we advanced this cause for the better part of a decade. It has been a greater undertaking than I think many would have surmised or anticipated, frankly.

There can be little doubt that the effort to reduce health costs poses one of the greatest challenges in health care reform. That is why the Senate Finance Committee, under the leadership of Chairman BAUCUS, has worked mightily to incorporate provisions in the pending legislation to ''bend the cost curve.'' Let there be no mistake, the resistance to reforming spending has been immense. That is in part because, as so often has been said: ''One man's waste is another man's profit.'' So while other nations pay 35 to 55 percent less for their prescription drugs than the United States, we have continued to pay the world's highest prices for brand drugs for the past decade, despite nearly 10 years of effort to provide for the safe importation of prescription drugs.

Fortunately, that has not deterred a broad bipartisan call to arms on this issue, despite the industry's actions that have blocked attempt after attempt to provide Americans both access and assurances that imported drugs would be safe. Indeed, this issue of both safety and affordability has drawn a bipartisan coalition which has been a model for how we can work together to address this health care problem.

We created legislation which the Congressional Budget Office previously estimated would save our Nation approximately $50 billion over 10 years. The CBO has not yet estimated the total savings to consumers but has projected a savings to the Federal Government alone of $19.4 billion. Since Federal savings was about 20 percent of total savings in the past, one can hypothesize dramatically increased consumer savings likely approaching $80 billion. These are exactly, precisely the kinds of savings we must advance today.

One can easily see that the failure to act on this legislation since its introduction in April 2004 has needlessly carried a high cost for the American people, made all the more egregious and unacceptable given these difficult economic times, as more Americans are reducing or skipping doses or forgoing medication altogether. And this problem is not going to get better. It is regrettably only going to get worse.

The trend is undeniable and unabated. We are all painfully aware of the price increases in brand-name prescription drugs this year that bear absolutely no relationship whatsoever to our overall economy. Manufacturers have increased prices of brand drugs by an average of 9 percent, just as inflation measured by the CPI actually fell by nearly 1 percent.

We can look at this chart and demonstrate the contrast in increases. Brand drugs increasing 9 percent, and here are generics and here is the CPI. It truly is emblematic and reflective on this chart how actually prices have been decreased by the same amount that brand drug prices have escalated.

In other words, just as we are working to expand coverage to tens of millions of more Americans, we have the industry establishing a new pricing baseline that is entirely off kilter with the rest of the economy, in comparison between the CPI and the cost of brand-name drugs. It is widely unaffordable for the American people and clearly unsustainable for the future. How can we possibly not act on this amendment?

This is an industry that has offered $80 billion in concessions toward health care reform—approximately $8 billion over the next 10 years. When one considers that our annual spending, while this single price increase of 9 percent imposed over $290 billion in drug spending, with over two-thirds of that amount representing brand drugs, it is clear that this single price increase alone at this 9 percent will yield at least twice as much as the industry has pledged to reform in the pending health care reform legislation.

Frankly, that is cost shifting of the worst kind because it occurs on the back of the American taxpayer, most especially on those in greatest need who are also the least able to afford these exorbitant prices. There should be no mistake, these most recent increases are following the patterns we have witnessed year after year.

How do we know? Following passage of the Medicare Modernization Act, Senator WYDEN and I requested that the GAO track drug price trends, including looking back to before the bill was enacted.

What did we find? First, that the price of brand drugs has escalated two to three times the rate of inflation. That means $100 in drug costs in 2004 has grown to more than $140 today.

Tell me whose income has increased by that amount in the last 5 years alone. These unabated, escalating costs for drugs are only widening the already yawning gulf of unaffordability for the American people.

But that is not all. When Senator WYDEN and I examined the GAO data, we also discovered that as we neared the achievement of a prescription drug benefit under Medicare, the rate of price increases actually rose faster. History also appears to be repeating itself once again to the everlasting detriment of all those whose health security depends on medications.

One year ago, the Associated Press reported a startling find that for the

first time in a decade, prescription drug use was down. Given the rising costs imposed on struggling American families, that should come as no surprise.

It also should serve as a wake-up call, an alarm bell. We are long past the point where we should heed Einstein's timeless truism that one should not keep doing the same thing over and over and expect a new result. The fact is, we simply cannot assume pledges of savings in the form of the industry's monetary concessions to health reform actually amount to real, fundamental reforms or that drug assistance programs are a substitute for a market which brings consumers better value. They are not.

It is clear that the time for enactment of this legislation is long overdue and, frankly, more urgent than ever, as illustrated by this second chart of unfilled prescription drugs. Just looking at it, you can see how the unmet need for medications has actually increased since 2003. Among working age adults, only those with Medicare coverage experienced any improvement in their ability to fill their prescriptions. All others saw a rise in their inability to obtain the necessary medications.

Among the uninsured, more than one in three individuals went without a required prescription. And in those with chronic diseases, that number doubles. This is a travesty. Indisputably, despite manufacturer assistance programs, despite the increased use of generics, the high and escalating cost of brand-name drugs is directly and negatively affecting the health of millions.

That is why our voices today echo those of an overwhelming 7 out of 10 Americans who have called for lifting the ban on prescription drug importation. Let there be no doubt, this is a mandate for action. The President has added his voice to ours, calling for safe drug importation as one means to address health care costs which threaten the health of Americans in perilous economic times.

The bottom line is, when nations institute safe, regulated trade in pharmaceuticals, they achieve results, as Sweden did when it entered the European system of trade and saw a reduction of 12 to 19 percent in the price of traded drugs.

Opponents claim importation will cause American consumers harm. For those who did express concern about safety, no one shares that sentiment more than I do. So let me be unequivocal in stating that safety is the foundation of this legislation.

Our constituents have taken action repeatedly to purchase drugs which they could afford mostly in Canada. That is certainly true in my State of Maine. It is true in the State of Vermont, the Presiding Officer's State. It has been demonstrated time and again that importation is safe. We can ensure Americans safe access to imports. In Europe, over 30 years of parallel trading of pharmaceuticals has demonstrated indisputable safety. In fact, a former Pfizer executive, Dr. Peter Rost, has stated from his first-hand experience in Europe:

> I think it is outright derogatory to claim that Americans would not be able to handle reimportation of drugs, when the rest of the world can do this.

Yet some will point to a recent FDA letter cautioning that drugs must be demonstrated to be safe and effective, that they must be manufactured under the highest standards, that an imported drug must be demonstrated equivalent to existing products used domestically, and that we must guard against contaminated and counterfeit drugs. This amendment does each of these things and much more to ensure that Americans can safely have access to safe imports.

Under this legislation, we see with this next chart, we would import drugs from 31 countries which meet high regulatory standards. Those are shown in blue on this chart. There are nations which meet our high standards. In most cases, individuals will purchase an imported prescription drug from their local pharmacists. Pharmacies will receive these drugs from U.S. wholesalers which import them. These wholesalers will be registered, inspected, monitored by the FDA. This higher level of safety is a first step in establishing a higher standard in the handling of prescription drugs in the United States.

Our legislation also allows individuals to directly order medications from outside the United States when using an FDA-registered and approved Canadian pharmacy. Again, just as with wholesalers handling prescription drugs, the FDA will examine, register, and inspect these facilities on a frequent basis. FDA will assure the highest standard for such essential functions as recording medical history, verifying prescriptions, and tracking shipments. Regardless of whether the purchase is from the local pharmacist or a Canadian pharmacy, we assure that a legitimate prescription and a qualified pharmacist are required to help assure safety.

For those who say that consumers could unwittingly purchase an unapproved or suspect drug, our legislation assures that drugs received will always be FDA approved. If any difference exists in a foreign drug—even the most trivial of distinctions—our legislation assures FDA will evaluate the product and determine its acceptability.

For those who say counterfeiting is a threat, our legislation requires the use of anticounterfeiting technologies to protect drugs. Today we can thwart counterfeiting by employing technologies like the one now used on $20 bills. Our bill not only requires the use of such counterfeit-resistant technologies but also a standardized numerical identifier unique to each package of a drug. Moreover, this bill supports the development of future anticounterfeiting and track-and-trace technologies which we hope will be used to protect all drugs.

For those who say the consumers won't know who has handled an imported prescription drug, our bill requires a chain of custody—otherwise known as a pedigree—be maintained and inspected to help ensure the integrity of imported drugs. A pedigree for medications was mandated by law in 1988 and has still not been implemented. This bill will change that.

For the first time, in fact, this legislation will include resources to inspect all facilities handling medications. So we are not just making imported drugs safer but also domestic drugs.

Some attempt to alarm Americans about the countries from which we would import drugs, citing nations such as Latvia, Estonia, Slovakia. The last time I checked, these are members of the European Union. The same is true for Ireland, for example, where Lipitor is made.

So let me get this straight: It is fine for those countries to manufacture drugs in their plants for domestic U.S. companies and ship those drugs here where we then have the privilege of paying higher prices than anywhere else in the world, but we somehow cannot safely import drugs made in those same countries. Exactly what kind of sense does that make?

In fact, going back to this chart where the European Union and other countries from which we would import appear in blue. So all those countries that are in blue are areas in which this amendment would allow the importation of drugs, which we see infrequent FDA inspections are in these red countries. All of these countries that are designated in red are the ones in which we have manufacturers importing ingredients for the final product. Yet there are infrequent FDA inspections. There are plants right now—today—shown on the chart in red that are making drugs that are sold and consumed in the United States, plants where there are few FDA inspections. In fact, it has been estimated that approximately 40 percent of the active ingredients in prescription drugs consumed in the United States are actually made in India and China, and we know oversight there is lacking. In fact, such plants may be inspected as infrequently as every 12 years.

Currently, there are more than 3,200 foreign manufacturing plants that make medications for the United States market according to GAO. The GAO also found that FDA, in the words of an Associated Press article on the matter, ''isn't even sure how many foreign facilities are producing for the American market. One government database suggests it's 6,760. Another says about 3,000.''

With the explosion of drugs coming in from nations such as India and China, as reported in the Washington Post, the FDA's ''budget for foreign inspections has not kept pace,'' and as a

result, as of 2007, ''foreign drug and drug ingredient makers are inspected on average once every eight to 12 years, while American-based manufacturers must be inspected at least once every two years.''

The article also reported that China itself has more than 700 plants, but the FDA only has the resources to conduct about 20 inspections a year there.

So let me just indicate, on this chart again, that we, under this amendment that is pending before the Senate, would allow drugs to be imported from those countries designated in blue. The countries that are designated and reflected in red are those countries where we currently manufacture the ingredients of the final product. We are not suggesting that drugs be imported from these nations. Yet our legislation will make it safer because of the resources that we have incorporated in this legislation before the Senate and all of the standards that will be required for FDA to inspect these facilities that are currently not inspected.

We have seen the dangers in ignoring these problems, and that is why this legislation would fund enhanced FDA foreign inspections to fundamentally improve the safety of drugs consumed in the United States. But that is not all. While opponents will cite current law on drug importation, the fact is, in the Medicare Modernization Act—the current drug importation statute which has never been implemented—there are just six safety provisions over as many pages—as detailed in this chart—versus the 31 major provisions in our amendment.

So when we passed the Medicare Modernization Act back in 2003, we included safety features because we heard from many of our colleagues who simply did not want to have drug importation. They claimed we had to have a safety certification process, which we have had numerous times for the last decade, to which nothing has advanced with respect to importation. Obviously, a safety certification hasn't been made because we haven't given any resources. We haven't implemented that certification in good faith.

Under the pending amendment, we incorporate 31 major provisions in our legislation to address each and every issue. We systematically analyze and identify every issue that has been raised by the opponents to the drug importation legislation—every safety-related issue, every standard-related issue, every failure that has occurred with respect to the FDA inspection system on where they are importing drugs currently and where they have not inspected those facilities. We have 31 different provisions in order to address every facet of safety-related issues.

So for those who say importation isn't safe, we show that it shall be. This legislation will set a model and a mandate for improving safety in the handling of not only imported prescription drugs but of all medications—even domestic ones.

But if that is not enough, let me also suggest to the opponents of this legislation that they are failing to observe the greatest safety threat to Americans—that the inability to take a drug as it is prescribed undoubtedly exacts a toll on thousands of American lives every year.

So beyond question, our measure addresses the crucial issue of safety. I think it is certainly indicative and reflective in this chart today, all the provisions that have been incorporated in the pending amendment before the Senate. This clearly will deliver the real savings as well as safety for consumers.

Organizations across the board are supporting this legislation. They represent more than 50 million Americans who realize that extending this coverage is fundamentally critically important to the well-being of all Americans.

The PRESIDING OFFICER (Ms. STABENOW). The Senator's time has expired.

Ms. SNOWE. I thank the Chair.

The PRESIDING OFFICER. The distinguished Senator from Montana.

Mr. BAUCUS. Madam President, I believe we have to amend the previous order which restricted speakers to 10 minutes. So I ask unanimous consent that the previous order be changed so that Senators may speak for longer than 10 minutes, and I yield 15 minutes to the Senator from New Jersey.

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

The Senator from New Jersey is recognized.

Mr. MENENDEZ. I thank the distinguished chairman of the Senate Finance Committee for yielding me the time.

Madam President, I rise in strong opposition to the Dorgan amendment to allow the importation of drugs from 32 different countries in the world into the medicine cabinets of American families. I believe that is, at its core, a regressive amendment.

This amendment, however well-intentioned, reminds me of a time when the lack of sufficient regulation allowed people to sell snake oil and magic elixirs. Let's not relive that history. Let's learn from it.

I am sure many in this Chamber remember a time when the doctor would give us a prescription, we would take that to the local pharmacy, and the one thing we never did was question what was in the bottle. Now, with this amendment, we would not be so certain. We would not be sure that what is in the bottle is what we think it is. We would not be so certain from where it came. It could be directly from countries all over the world—Lithuania, Estonia, Latvia, the Czech Republic, or any 1 of 28 other countries, and I will speak to that. Yes, I have heard they are part of the European Union, but I will talk about what the European Union just said about their challenges with counterfeit drugs. Or maybe they will come indirectly from any number of countries that have proven to make tainted medicine; those who are not part of the European Union but who are counterfeiting their drugs into the European Union, getting into their supply chain and ultimately getting to us, if we were to allow it to happen. We would not be absolutely sure of the conditions under which they were manufactured, whether they are safe to use, or where their ingredients originated.

Health care reform and lowering costs does not mean we should roll the dice with the health and safety of the American people.

I appreciate my colleagues' interest in bringing lower cost drugs to the market. In fact, I agree with them. But we cannot risk the health and safety of the American people in order to do it, and I am afraid this amendment would do just that.

We have heard a lot about the FDA—the Food and Drug Administration. Yes, they are the ones who safeguard Americans from having the wrong type of drugs get into our marketplace or making sure the right type of drugs are approved and the wrong ones stay out. I have heard the stories of Americans searching for affordable prescription drugs and either going online to get them or traveling sometimes. But we have to ensure the drugs they buy are not counterfeit, not tainted, not substandard, and that they are what the doctor ordered and will work.

This amendment would undo current safety protections that ensure that patients are getting prescription medications that are the same in substance, quality, and quantity their doctor has prescribed. So let's see what the FDA said.

In a letter from the Food and Drug Administration issued the other day to one of our colleagues in the Senate, Commissioner Hamburg said there are four potential risks to patients, in her opinion, that have to be addressed.

First, she is concerned that some imported drugs may not be safe and effective because they were not subject to a rigorous regulatory review prior to approval. Second, she says the drugs ''may not be a consistently made, high quality product because they were not manufactured in a facility that complied with appropriate good manufacturing procedures.''

Third, the drugs ''may not be substitutable with the FDA approved products because of differences in composition or manufacturing.''

And, fourth, the drugs simply ''may not be what they purport to be'' because inadequate safeguards in the supply chain may have allowed contamination or—worse—counterfeiting.

In addition, the FDA's letter went on to cite significant ''safety concerns related to allowing the importation of nonbioequivalent products . . . and confusion in distribution and labeling between foreign products and the domestic product.''

The FDA is also concerned it does not have clear authority over foreign supply chains. In other words, there is a very real risk that imported drugs either would not make us better or, yes, could very well make us worse.

One reason we never question what is in the bottle when we go to the pharmacy to fill our prescription is because the U.S. drug supply system is a closed system. That is why it is one of the safest in the world. Everyone in the system is subject to the FDA's oversight—to these very standards—and to strong penalties for failure to comply with the law.

The FDA would have to review data to determine whether the non-FDA-approved drug is safe, effective, and substitutable with the FDA-approved version. In addition, the FDA would need to review drug facilities all over the world to determine whether they manufacture high-quality products consistently.

It is clear that keeping our drug supply safe—in a global economy in which we cannot affect the motives and willingness of others to game the system for greed and profit—is a monumental task. It is not simply allowing for the importation of lower cost medications, as the proponents of this amendment would have us believe. It will require a global reach, extraordinary vigilance, and a serious investment to enforce the highest standards in parts of the world that have minimal standards now, so we don't have to ask which drug is real and which is counterfeit; so we don't have to wonder, if the packaging looks the same: Is it approved Tamiflu or is it counterfeit Tamiflu? The packaging looks the same, but is the content the same? One is approved; one is counterfeit.

When the swine flu was coming through and everybody started trying to get hold of Tamiflu, what did they do? They went online and got counterfeit Tamiflu which didn't do the job. In this photo, the answer is no. One is real, one is counterfeit. You can't tell the difference. Is this helping people save money, if they just paid for a counterfeit product? No. Is this an effective treatment for a contagious H1N1 flu, if you have just been fooled by a counterfeit bottle of Tamiflu because you thought it was cheaper? No. How is this in the best interest of the American people?

Here is another example—Lipitor. Can you tell which is counterfeit or approved Lipitor? They look the same. Americans who purchase them are told they are the same, but how do you tell the difference? Most people can't. So they will go about their normal routine each morning taking the so-called Lipitor, thinking they are treating their high blood pressure, but really they are walking around with the same silent killer and not taking the appropriate medication for it.

Another example, Aricept, a drug to slow the progression of Alzheimer's disease—something my mother was taking when she was alive. Can you tell the difference between the pills in this photo? No. And that is the problem.

The global economy opens global possibilities to counterfeiting these drugs. It opens the potential for these drugs—or the ingredients used in these drugs—to find their way from nation to nation, from Southeast Asia where the problem is epidemic to one of the 32 nations listed in the amendment that supposedly are safer, and then ultimately into American homes. That is a gamble we cannot afford to take. We should not have to wonder what is in the bottle.

Americans suffering from Alzheimer's should not have to wonder if the drug they are taking is real or counterfeit. By the time they figure that out, buying a drug either online or abroad that is counterfeit or not of the same substance or of a different dosage, it could be too late to help reverse the damage, as was promised.

One final example, Celebrex, used to treat arthritis and chronic pain. Can you tell the difference between these pills? No, and neither would those who continue to suffer if they are scammed into buying the counterfeit version. One is approved, one is counterfeit.

I fully appreciate my colleagues' desire to keep the cost of prescription drugs down, but our first task is to protect the safety of Americans and to prevent counterfeit drugs from infecting the American market.

The real problem is bringing down the cost of prescription drugs as part of overall health care reform, and the real solution is expanding access to affordable drugs in the United States.

I have heard several of my colleagues refer to 9 percent increases. What they fail to mention is the deep discounts the industry provides, particularly to the government and other entities, against that increase. They do not do that because, of course, it doesn't serve their purpose.

In this fight to create affordable drugs in the United States, I take a back seat to no one. But at the same time, I strongly believe we cannot roll the dice with the health and safety of the American people. This amendment is that roll of the dice. We should never put Americans in the position of having to worry about whether their medicine will make them better or worse. We should never put Americans in a position of wondering is that a real pill or is that a poison pill?

To see what happens if we allow importation we only need to look to the European Union. One of my colleagues earlier today used it as an example as to why we should pass this amendment. But I listened to the words of the European Union, and I hear quite the opposite.

Earlier this week, the European Union Commissioner in charge of this issue said:

> The number of counterfeit medicines arriving in Europe . . . is constantly growing. The European Commission is extremely worried.

To quote another section of the statement:

> In just 2 months, the European Union seized 34 million fake tablets at custom points in all member countries. This exceeded our worst fears.

It went on to say:

> Every fake drug is a potential massacre. Even when a medicine only contains an ineffective substance, this can lead to people dying because they think they are fighting their illness with a real drug.
>
> I expect the EU will agree in 2010 that a drug's journey from manufacture to sale should be scrutinized carefully.

He goes on to talk about other safeguards.

So, in fact, the very essence of what some claim is the very reason we should allow importation, the European Union is saying, quite to the contrary, that they think this is a huge problem for them and, in fact, what seems to be an action that would not hurt someone can actually mean the difference between life and death.

I don't want American families to see those fears come to life. Yes, counterfeit drugs may happen, but if we pass the amendment, we just open the floodgates. The European Union's experience only proves my concerns, not alleviates them like some others suggest. A $75 counterfeit cancer drug that only contains half of the dosage that a person has been prescribed and needs does not save Americans money and certainly is not worth the price in terms of dollars or risk to life. Let's not now open national borders to insufficiently regulated drugs from around the world.

Finally, in a different dimension, I think safety is utmost, but at a time of joblessness in this country, I don't want to offshore those jobs abroad to allow contaminated and counterfeit prescription drugs to come into this country. We are attacking the one last major research and manufacturing entity in the United States, one that has been at the forefront of the health care reform effort and put $80 billion of its own money in for reform. I want to see more partners like that in this process.

Let's reject this amendment. Let's keep our drug supply one of the safest in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I ask unanimous consent we extend the period for debate only until 5 o'clock, with the time equally divided with Senators permitted to speak up to 10 minutes each; with no amendment in order during this time.

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

Mr. BAUCUS. I suggest the absence of a quorum and ask the time be equally charged to both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I have listened this afternoon to some of the opposition to the legislation, the amendment we have offered trying to deal with the increasing price of prescription drugs. Those who are opposed apparently are oblivious to the question of the dramatic runup in prices for prescription drugs. They talk about counterfeiting and their worry about that. I wish to talk about that. Because if you are worried about counterfeiting—and, by the way, there is a counterfeiting issue with respect to prescription drugs in this country and several of my colleagues have described that issue—if you are worried about that, then you have to support the amendment I and Senator MCCAIN and others have offered that provides the only basis for getting to things such as pedigrees on prescription drugs, batch lots, and tracers. The only mechanism to do that is in this amendment, which will make the domestic drug supply safer, allow us to track back drugs to their origin, and will certainly allow us to import FDA-approved drugs when they are sold in other countries for a fraction of the price.

Let me describe what brings us to the floor of the Senate. To those who are opposed to this amendment, if one wants to be oblivious, I guess, fine, but the consumers will certainly notice. You want to buy some Nexium, guess what. Nexium is going to cost you $424 in this country. But if you buy it in Great Britain, it is $41 dollars; Spain, $36; Canada, $65; Germany $37. Once again, the American consumer gets to pay $424 for an equivalent amount, 10 times the cost of what it costs in Great Britain. Is that fair? To me, it is not. It is not fair to me that the American consumer is charged the highest prices in the world.

Plavix, you can see what is happening here, $133; $59 in Britain; $58 in Spain. The American consumer gets to pay $133 for the equivalent amount. Lipitor, the popular cholesterol-lowering drug, for an equivalent amount of Lipitor, the American consumer pays $125. In Great Britain, they pay $40. In Spain, they pay $32. In Germany, they pay $48. Again, the American consumer is told: You get to pay $125. I have described, over and over again, the two bottles of Lipitor, empty bottles made in Ireland by an American corporation and distributed all across the world, the most popular cholesterol-lowering drug. Same pill put in the same bottle made by the same company, FDA approved. Only difference is this one has a blue label and this one has a red one. This one went to Canada and this one to the United States. The U.S. consumer got to pay nearly triple the price. Is that fair? Not where I come from.

By the way, my colleague from Maine, who spoke moments ago, talked about a nearly 10-percent increase in the price for brand-name prescription drugs just this year. This chart shows what is happening. You take the arthritis drug Enbrel; you got a 12-percent increase this year. Singular, for asthma, this year you got a 12-percent increase. Boniva, for osteoporosis, an 18-percent increase this year in drug cost. The list goes on. Plavix, 8 percent up this year. In fact, I have a chart that shows what has happened year after year after year. The price of brand-name prescription drugs in the United States is way above the rate of inflation in every single year. In fact, during this year, the rate of inflation has dropped down here and the price of prescription drugs has gone up 9.3 percent.

Several of my colleagues, at least a couple of my colleagues have talked about the issue of counterfeit drugs. I am concerned about counterfeit drugs as well. In fact, there were proposals in the Congress that would have done what we should have done long ago with respect to ensuring a safe drug supply: attaching pedigrees to drugs, batch lots so you can trace them all the way back to their origin and trace them all the way through the chain of custody. That has never been done, and it should be done. It is in our amendment. That is the only way we will have a totally safe drug supply.

A couple of my colleagues have talked about circumstances where there have been counterfeit drugs in this country. That is true. Those were domestic drugs, drugs inside the country. By the way, how does some of that happen when you have not only counterfeit drugs but contaminated drugs? Forty percent of the active ingredients in prescription drugs for the United States comes from India and China. Think of that: 40 percent of the active ingredients of all the prescription drugs consumed in our country comes from India or China. I described earlier today the Wall Street Journal investigative report which shows the circumstances with the active ingredient for Heparin, the production of Heparin in a building in China. This shows the development of pig intestines for the production of Heparin. You will see this in the Wall Street Journal articles and the expose. Here is a man in this building in China who is producing Heparin, stirring a rusty old pot with what appears to be a twig from a tree, clearly unsanitary conditions. That becomes ingredients for America's prescription drug supply; 40 percent of our active ingredients comes from circumstances in which there is virtually no inspection or very few inspections of those kind of places where those prescription drugs are developed.

By the way, there was a drug called Epogen produced by a pharmaceutical company, a very reputable one. There is a wonderful book written called dangerous doses by Katherine Eban. She traced this drug to a 16-year-old boy named Timothy Fagan, whose health was dramatically affected by what has happened here. This drug found its way all the way through these places, including a strip joint in Miami, a cooler in the back of a strip joint in Miami, in the trunks of automobiles, distributed through all sorts of strange and unusual places, and gets to a 16-year-old boy with devastating results because this drug had one-twentieth the strength that was supposed to have been given to this young boy for his disease. Does anybody have the capability to understand where all this happened, how it got tracked? A journalist did the investigative work to find this out. Fortunately for us, we now have a track on this one drug that affected this young boy in a devastating way.

That was not importation. That was the domestic drug supply. How can this happen? Because we don't have batch lots and pedigrees and tracers and the capability to find out where a drug is produced and where it goes from that production to the final user in every single circumstance. We have that in our amendment. It is the only way it will happen if we pass this amendment.

It is interesting to me. There was a man named Dr. Peter Rost. He was the former vice president of marketing for Pfizer Corporation. By the way, Dr. Rost also worked in Europe in the parallel trade area for 20-some years. They do this in Europe routinely. They actually have parallel trading where you can purchase drugs, one country to another, no problem. Here is what he says:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation has been in place for 20 years.

They say this is going to be unsafe, you can't do it. Europe has been doing it for 20 years. Don't tell me we don't have the capability if Europe can do it. Why would we do it? Because it is unfair to the American people to be paying double, triple or quadruple or 10 times the cost of prescription drugs that are being paid for by people in the rest of the world. That is unfair. It doesn't make any sense to me.

We offer an amendment. It is one of the few amendments in the Senate, in recent days and weeks, that is bipartisan. Most of the things offered are not bipartisan. This is an amendment, Dorgan-Snowe. We offer it with broad support. The late Ted Kennedy, bless his soul, sat right over there. He was a cosponsor of our amendment. JOHN MCCAIN is a cosponsor of our amendment. Senator GRASSLEY and Senator STABENOW are cosponsors.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. DORGAN. I ask unanimous consent for 5 additional minutes.

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

Mr. DORGAN. This is broadly bipartisan. It is one of the few bipartisan amendments. My expectation is, we will have a vote on the Crapo motion. He offered his last evening and I offered mine last evening. My expectation is

we will have a vote on the Crapo motion and then a vote on this amendment and move on. I would hope we will have the votes on this. It is the only thing in any health care proposal in the House or the Senate that starts to put the breaks on the escalating prices of prescription drugs. It is the only thing. Without this, we will pass health care reform, if, in fact, it passes and if someone says to you: What have you done to try to put the brakes on the fact that prescription drugs are increasing at 9 and 10 percent? What have you done about that? The answer is going to be, we didn't do anything. We just couldn't do that.

The fact is, a whole lot of people in this country use prescription drugs regularly to control their cholesterol, their blood pressure, and otherwise manage diseases. It keeps them out of the hospital. The fact is, many of these prescription drugs are very important in the lives of people. The question for us is, if we are allowing these drugs to be priced out of the reach of people, what does that say about the value of the drugs? We need to have fair pricing for the American people. We must insist on fair pricing for prescription drugs for the American people. It is that simple. This notion of there being any kind of a safety issue is a total canard by those who ignore the very provisions of the bill that establish the most rigorous regime of safety ever established for the domestic drug supply and for the reimportation of prescription drugs. That is just a fact.

My hope is, in very short order, we will have an opportunity to have the Members of the Senate cast their votes on this and, at long last, Senator SNOWE and I, having been at this, I think, now for 8 or 10 years, will have at the right time—and that is health care, when you are considering health care, when is a more important or more appropriate time to consider the questioning of prescription drugs—and in the right place, the ability to pass the legislation. We offer a bill as an amendment. Thirty Senators having cosponsored it, Republican and Democrats, conservatives and liberals and moderates having cosponsored it. It is my expectation, we will have this vote and at long last be successful in doing something for the American people.

The question is, does the pharmaceutical industry have a lot of clout? The answer is, they sure do. As I said many times, I have no beef against that industry. I want them to succeed and earn profits. I think their pricing strategy is unfair to the American consumer. Do they have a lot of clout. Yes, they do. But it is my hope that when it comes time for a vote, the American people and the interests of the American consumers will have as much clout in this Chamber, based on the facts, facts that suggest the American people ought to be treated fairly.

This amendment is all about freedom, giving the American people the freedom to do what everybody else can do and that is participate in the global marketplace. When the medicine they need that is FDA-approved is available somewhere else for half price or for an 80-percent reduction, why on Earth should they not be able to acquire that lower priced drug that is FDA-approved? The answer is, they should have the freedom to do that. The only way that freedom will exist is if we pass this amendment. That is just a fact.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I yield the time remaining on our side to the Senator from Maryland.

Might I ask, how much time is that?

The PRESIDING OFFICER. There is 4 minutes 40 seconds.

Mr. BAUCUS. Madam President, not withstanding the prior agreement, I ask unanimous consent that the Senator from Maryland be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I might amend that by asking unanimous consent that the Senator from Kansas also be recognized for 15 minutes following the Senator from Maryland.

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

The Senator from Maryland is recognized.

Mr. CARDIN. Madam President, I ask unanimous consent that I be able to speak as in morning business.

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

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

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Madam President, I understand I am recognized for 15 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERTS. Madam President, I understand the distinguished Senator from Michigan wishes to attend the very important Democratic conference on a brand new health care bill. I understand that, and I shall try to expedite my remarks, only with the suggestion to the Presiding Officer that when you are late in the Senate, you are early, and they are not going to say anything important without you.

I wish to yield at this time to the distinguished Senator from Georgia, who I understand has a statement to make.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I thank my friend from Kansas.

I rise to discuss the tax implications that this health care bill will have on Americans.

Last year, President Obama made a promise to the American people. He assured us over and over that he would not raise "a single dime" of taxes on Americans earning less than $250,000 per year.

But the health care bill presently before this body—the very bill that the President has demanded—will not only raise taxes, it will create new ones.

And as of yet, we have no idea what the Congressional Budget Office will say about how much the deal my colleagues apparently struck last night will cost taxpayers.

But we know that this $2.5 trillion proposal is going to hit three groups with new or higher taxes: families, businesses, and the health care industry itself. And we know that under the current bill taxes overall are estimated to go up by $867 billion.

Tax hikes are detrimental at any time. But they are doubly hurtful in the bad economy we are in.

Under the terms of this bill, in 2019, more than 42 million individuals and families—this is 25 percent of all tax returns under $200,000—will see their taxes increase.

In addition, if we pass this bill, the Congressional Budget Office estimates that $36 billion in new taxes and fines will be forced upon individuals and businesses.

Families without insurance would be fined up to $2,250. And according to the Joint Committee on Taxation, some of those are expected to have incomes below $200,000.

Also, businesses with more than 50 workers that do not offer coverage will be forced to pay a penalty of $750 for every full-time worker if any of those workers get subsidized coverage through insurance exchanges.

Many of these businesses will not be able to afford the cost of providing health insurance or the fine. According to the CBO, 5 million Americans will lose employer coverage. Others may find their pay reduced so employers can cover the cost of these new taxes and fines.

This bill has been sold as an attempt to "help businesses be more competitive in the marketplace."

But the National Federation of Independent Business—which actually represents small businesses—disagrees.

In a letter to the majority leader, the NFIB was very clear—and this is a quote: "The current bill does not do enough to reduce costs for small business owners and their employees." It also called this bill "the wrong bill at the wrong time."

Also hit hard would be the health care industry and medical-device manufacturers.

Now, it may not be popular to worry about fees imposed on health insurers and the like, but the fact is, the $100 billion in taxes and fees this bill will impose on them will be passed on to Americans in the form of higher premiums. That is also according to the CBO.

Our health care system needs to be reformed. We absolutely need to cover those with preexisting conditions, and

Americans in the medical fight of their lives should not be kicked off their insurance.

But swapping out a system that needs fixing with just another broken system that also raises taxes on Americans who need every dime of their paychecks to get through the month is not the way to go.

We need to move in the right direction. We need to emphasize wellness and prevention.

We need to reduce frivolous medical malpractice lawsuits that add so much to the cost of practicing medicine. Senator GRAHAM and I have introduced a ''loser pays'' bill that would do just that.

We also need to allow health insurance purchases across state lines, and allow small businesses to pool resources to buy insurance for their employees.

But do we need an insurance tax, an employer tax, a drug tax, a lab tax, a medical device tax, a failure-to-buy-insurance tax, a cosmetic surgery tax, and an increased employee Medicare tax?

We don't need to impose eight new taxes on the American people.

The absolute last thing we should be doing during the worst economy we have had in decades—with 10 percent, 26-year-high unemployment—is hiking taxes on the middle class and on small businesses, both of which are the backbone of America.

The NFIB is right—this is the wrong bill at the wrong time.

Madam President, I thank the Senator from Kansas.

Mr. ROBERTS. Madam President, President Obama has repeatedly made two pledgees to the American people—and we have heard it and heard it before, and we will probably hear it again—about health care reform. The first is, if you like the health care you have, you can keep it.

We know the bill before us breaks this pledge because all but two in the majority voted to preserve the nearly $500 billion in cuts to Medicare, which includes $120 billion in cuts to Medicare Advantage.

The nonpartisan Congressional Budget Office, or CBO, has confirmed that these cuts to Medicare Advantage mean that ''approximately half'' of the Medicare Advantage benefits will be cut for the nearly 11 million seniors who are enrolled in this program.

This vote confirms whether Americans will be able to preserve and keep the health care benefits they have and like. That answer, unfortunately, is no.

So now let's look at the President's second pledge: that he will not raise taxes on families earning under $250,000 or individuals earning under $200,000.

A number of my colleagues have pointed to comments made last year in Dover, NH, by then-Candidate Obama, who said:

> I can make a firm pledge—

And we have heard this before—

> . . . no family making less than $250,000 will see their taxes increase—not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes.

I think he said ''by one dime'' at the end of that.

Yet time and again in this bill, that pledge is also broken. This bill calls for nearly $500 billion in new taxes, penalties, and fees that hit virtually every American, including middle-class families making less than $250,000 and individuals earning less than $200,000.

Even though the majority has tried to disguise these taxes as various ''fees'' and presents them as being paid for by targeted health care industries, the reality is that this bill taxes the average American coming and going.

It taxes you if you have health insurance. It taxes you if you do not have health insurance. It taxes you if you use medical devices, such as a hearing aid or a pacemaker. It taxes you if you save on your own to pay for your health care expenses. And it effectively increases taxes for individuals and families with catastrophic medical expenses.

Americans should understand that the higher taxes called for in this bill will come straight out of their pockets, with the middle class bearing much of this tax burden.

Let me give you a few examples of the new taxes proposed and who will pay for them.

The bill imposes a 40-percent excise tax on health insurance providers that offer high-cost health insurance plans. This provision is the largest tax hike in the bill and raises almost $150 billion and will be paid for primarily by individuals—not the health insurance provider, but by individuals—through increased income and payroll taxes.

By the time this bill is fully implemented, 84 percent of this tax on ''high-cost plans'' will be paid by Americans who earn less than $200,000—taxpayers the President promised would not pay additional taxes.

Second, the bill imposes new taxes on health insurance providers and medical device manufacturers. Both the nonpartisan Congressional Budget Office and Joint Committee on Taxation have said these taxes will be passed on to consumers in the form of higher insurance premiums. The new $60 billion tax on health insurance providers alone could raise premiums by as much as 2 percent according to some analyses, and that increase could come as early as next year.

Not only that, the $19.3 billion in new taxes on medical devices could increase costs for up to 80,000 medical products, such as heart stents, blood pressure monitors, eyeglasses, pacemakers, hearing aids, and advanced diagnostic equipment. Such a tax would stifle and will stifle innovation and reduce the ability for manufacturers to develop new lifesaving devices and technologies.

So make no mistake, the cost of this tax will be passed on to and paid for by anyone who uses a medical device, including those middle-class taxpayers the President has pledged will not experience any tax increase.

If you need a pacemaker or a stent, you will pay more for it because of these new taxes. If you need a diagnostic procedure, you will pay more for it because of this new tax.

Furthermore, under this bill, the floor for deducting medical expenses from income tax is raised from 7.5 percent to 10 percent of adjusted gross income. Those who will take this deduction are most often seniors and those with serious or catastrophic medical issues.

For a family of four, earning $57,000 in 2013, limiting the deduction means they would lose a tax deduction of $1,425. A family of four earning $92,000 would lose a tax deduction of $2,300.

It goes without saying, I think, that losing a portion of your tax deduction means you pay more in taxes. These are real dollars to hard-working Americans. This provision alone raises $15 billion in new taxes on Americans who deduct medical expenses.

Finally, this bill raises taxes for the more than 35 million Americans who participate in flexible spending accounts, or FSAs. For the first time, this benefit to middle-income workers is taxed to pay for new government spending and an expansion of entitlement programs.

FSAs are a key benefit for many families for whom health insurance does not cover or does not cover sufficiently some of their highest cost health care expenses such as dental, vision, as well as prescription drug costs. They are also important for individuals who manage chronic diseases such as diabetes, heart disease, or cancer.

Flexible savings accounts allow the participants to set aside money out of their own pocket to pay for these necessary expenses. However, under this bill, the government caps how much can be set aside in an FSA account at $2,500, effectively raising the tax burden on certain FSA participants and increasing their health care costs.

The typical worker who contributes more that $2,500 to their FSA has a serious medical condition. This means that under this bill, workers with serious illnesses and earning an average of $55,000 will be paying more in taxes.

I have highlighted a few of the many tax hikes in this bill and the fact that the middle-class taxpayers will bear the brunt of these higher taxes, but if there are any doubts remaining about what this bill means for Americans' pocketbooks, let's consider this. An analysis by the nonpartisan Joint Committee on Taxation looked at four tax provisions in the bill and how, when taken together, they will affect Americans. They looked at the tax credit for health insurance, the additional Medicare payroll tax, and several I have already mentioned, including the high-cost plan tax and the medical expense deduction limit. Their analysis shows that when this bill is in full effect, on average individuals making over $50,000

and families making over $75,000 would see their taxes go up under this bill. Even after taking into account the premium tax credit, the subsidy that the government will provide to help people offset the cost of health insurance, when this bill is fully in effect, more than 42 million individuals and families or 25 percent—one-quarter of all tax returns under $200,000—will see on average their taxes go up as a result of this bill.

In addition, based on the same information, the Joint Committee on Taxation identified two groups of taxpayers. The first are those individuals and families who are not eligible to receive the premium tax credit to purchase health care, and second are those individuals and families whose taxes will increase first before they then see some type of tax reduction as a result of their premium tax credit. Taking these two groups together, the number is even more disturbing: 73 million individuals and families or 43 percent of all tax returns under $200,000 will on average see their taxes increase under this bill, says the Joint Committee on Taxation.

To put it another way, under this bill, for every one individual or family that benefits from the tax credit to purchase insurance, this bill raises taxes on three middle-income individuals and families. These tax increases are on top of those I discussed earlier, such as the new taxes on FSAs, so the estimates I have already mentioned understate the tax impact, again, on middle-income taxpayers. The JCT the Joint Committee on Taxation—has confirmed that these additional taxes, such as the FSA tax, will likely further raise the taxes of middle-income Americans.

All Americans, and middle-class taxpayers especially, need to take notice of what these higher taxes will mean for them and their families. They need to know these taxes will be used in part to pay for a vast expansion of the role of government in health care and more government intrusion into families health care choices.

Paying for health care on the backs of the middle-class and working Americans is the wrong solution for health care, violates the President's pledge to these taxpayers, and is terribly counterproductive in regard to the No. 1 issue facing this country, and that is jobs and the economy.

I urge my colleagues—I plead with my colleagues—to support the Crapo motion to prevent the enormous tax hike this bill inflicts on middle-class Americans.

Mr. President, I appreciate your indulgence. I know you are ready to go to your conference.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida.) The majority leader is recognized.

RECESS

Mr. REID. Mr. President, I ask unanimous consent the Senate stand in recess until 6:15 p.m. today; that upon reconvening at 6:15, the Senate continue in debate-only posture for an additional hour under the same conditions and limitations specified under previous orders.

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

Mr. REID. Mr. President, I would also tell everyone here there will be no more votes tonight. I don't think we can arrange any.

Thereupon, the Senate, at 5:06 p.m., recessed until 6:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BROWN.)

SERVICEMEMBERS HOME OWNERSHIP TAX ACT OF 2009—Continued

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

Mr. GRAHAM. Mr. President, I assume it is our turn to talk a bit.

Mr. BAUCUS. Mr. President, I remind all Senators that we have an hour, equally divided, with each Senator able to speak up to 10 minutes each.

Mr. GRAHAM. I appreciate that. I appreciate the effort to try to solve a hard problem. It is easy to criticize in this business, and it is hard to bring folks together. Maybe one day we can solve a hard problem where we get 70 or 80 votes. I don't think this is that day.

One thing I will point out about the process is that somehow between the time this started until now, something went wrong. This is what happened. This is what was said by Candidate Obama in January 2008:

> That's what I will do in bringing all parties together. Not negotiating behind closed doors, but bringing all parties together and broadcasting these negotiations on C–SPAN so that the American people can see what the choices are.

In November 2007, he talked about, in his Presidency:

> We are going to have a big table and everybody is going to be invited—labor, employers, doctors, nurses, hospital administrators, patients, and advocate groups. The drug and insurance companies, they will also get a seat at the table, and we will work on this process publicly. It will be on C–SPAN. It will be streaming over the Net.

March 2008:

> But here's the difference: I'm going to do it all on C–SPAN so the American people will know what's going on.

August 2008:

> When we come together around this health care system, I am going to do it all in the open. I am going to do it on C–SPAN.

August 2008:

> I am going to have all the negotiations around the big table. We will have the negotiations televised on C–SPAN.

The truth is, Mr. President, I am not so sure negotiating on C–SPAN is the way to find a solution to hard problems. But being at the table with all parties represented is probably a very good idea. And the process, as I understand it now, is that our Democratic colleagues are trying to negotiate among themselves to get to 60 votes. There was an announcement made last night by the majority leader that we have had a breakthrough. He said, ''I can't tell you what it is, but it is good.''

Mr. President, that is not the way we want to change one-sixth of the economy. I argue that is not the best process by which to make major decisions that affect the quality of Americans' lives.

The idea of Medicare being changed so dramatically by one party is probably not a good idea. What have we done on the Medicare front? The actual bill that has been proposed increases spending by $800-something billion. To pay for that, there are cuts in Medicare of close to $400 billion to $500 billion. The money that would be taken out of the Medicare system is not plowed back into Medicare but used to fund other aspects of this bill. This is at a time when Medicare—the trust fund—is $36 trillion underfunded and will begin to be exhausted in 2017.

I argue that both parties should be trying to find a way to save Medicare from the pending bankruptcy and do something about entitlements in general, Social Security and Medicare, to make them solvent so that, one, they don't run out of money and we don't have to raise taxes in the future or cut benefits for young people because those are the choices we will pass on to the next generation if we do nothing.

Instead of coming together to save Medicare from bankruptcy, we are actually reducing the amount of money going to an already-strapped system and using it for something else. There is another idea floating around that one of the solutions that may come out of this deal, which we don't know the details of yet, is we are going to allow more people to buy into Medicare under the age of 65, and we will be expanding the number of people going into a system that is already about to go bankrupt. If we add new people to the system, approaching insolvency, something has to give. Who will be coming into the system from 55 to 64? I argue those people are going to be in as a result of the process of adverse selection, people who have health care problems. It is going to put more pressure on a system that can't stand one more drop of pressure. That doesn't make a whole lot of sense to me.

We know this Medicare system is very much under siege, that the baby boomers are about to come into the system by the millions. There are three workers for every retiree today, and in 20 years there are going to be two. So what do we do? We take money out of the Medicare system and use it for other things, and we are adding more people into the system that are going to drive up the cost overall to those already on Medicare.

So if you are over 65, your ability to receive treatment is going to be compromised because now we have to accommodate more people. If you don't believe me, ask the hospitals and doctors who are very worried. The Medicare reimbursement system now makes it very difficult for doctors and hospitals to pay the bills. So the hospital association, the Mayo Clinic, and others have warned Congress: Please don't expand Medicare because we can't survive on the reimbursement rates we have today.

If we add more people, we create more stress on a system that is hanging by a thread. I argue that is not change we can believe in or accommodate. If you had run for President on the idea that you are going to put more people on Medicare and expand that system, not reform it, take money out of it and use it for another purpose, you would have never had a chance of getting elected. No one during the campaign for President ever suggested any of these ideas.

I just hope we will, as a Congress, stop and think about what we are doing and realize if we do this—if we cut Medicare and expand the number of people who will be in the system—we make it impossible to save it down the road and make it difficult for people coming behind us to have the same quality of life we have enjoyed. Between Medicare and Social Security and other entitlement programs, we are about $50 trillion short of the money we are going to need in the next 75 years to pay the bills.

In trying to reform health care, we have taken a weak system and almost made it impossible to reform. We have expanded taxes at a time when the economy can't bear any more tax burdens because part of the bill raises taxes by about $500 billion. You will never convince me or anybody else that if you raise $500 billion in taxes to pay for this new health care bill, it would not affect the economy in general. There has to be a better way.

I am on the Wyden-Bennett bill. I am a Republican who agrees with mandated coverage for everybody. Senators WYDEN and BENNETT have a comprehensive proposal that is revenue neutral. We would take the tax deductions given to business over a period of time and give them to individuals so that all of us would have tax deductions to go out and purchase health care in the private sector. We would have exchanges where we can go shop for health care that is best for us.

If you are single and 22, you would want a plan that is different than if you were 45 and had 3 kids. The tradeoff is that the Republicans, on the Wyden-Bennett bill, would agree to mandate coverage. The Democrats would allow people to purchase health care in the private sector. We would all use the Tax Code to fund those purchases. If you didn't make enough money to have the tax deductions, you would get a subsidy. That makes perfect sense to me.

I want to solve the problem. I want to make sure everybody is covered because a lot of us are paying health care bills for those who are not covered that could afford to pay—about 7 million or 8 million people make over $75,000 a year, and they don't pay anything for health care of their own. So the rest of us have to pay it when they get sick. That is not right.

There is a better way, in my view. I just hope we will understand that what we are doing with one-sixth of the economy is going to have a lasting effect on the quality of American life, and now is not the time to cut Medicare or add more people to it. Now is the time to come together in a bipartisan fashion to save Medicare from impending bankruptcy. Now is not the time to raise taxes.

I hope our colleagues will understand that there is a better way.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Ohio be recognized following my statement.

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

Mr. REID. Mr. President, I had a conversation earlier today with the distinguished Republican leader. It appears now that we are going to get the appropriations bill from the House of Representatives. The bill is bipartisan, and everybody has worked hard. There are some conference reports we have completed. Yet we didn't find them to work on the floor, for reasons everyone understands. That bill will come over from the House tomorrow. We can move to that with a simple majority vote, and then if I have to file cloture on it tomorrow, we would have a Saturday cloture vote. Thirty hours after that—sometime Sunday morning—we would have a vote on the conference report.

I have indicated to the Republican leader that it would probably be to everyone's advantage if we allow people to go home for the weekend, rather than going through all these procedural gyrations.

We have worked hard. I had a Senator come to me and say she hadn't been home in 2 or 3 weeks, and it was not a good situation. That Senator said if we have to be here this weekend, she will be here. We need to not be doing things just to delay. I understand the Republican leader doesn't want to do health care. I appreciate that, and we have different positions on that issue.

I see no reason to punish everybody this weekend. I hope the minority will give strong consideration to the proposal I have made. We are waiting for a score to come back from CBO anyway. Anybody who has had experience with CBO knows that will take a matter of days. So I hope the minority will allow a little bit of time to go by so that we can have our respite from the tedious work we have been doing on the Senate floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Ohio is recognized.

Mr. BROWN. Madam President, I have come to the floor most days reading letters from people in Ohio—from Springfield to Mansfield to Marion—who thought they had good insurance a year or two ago, if you asked them, but found out their insurance was not so good when they had a preexisting condition or when they got very sick and the costs were high and the insurance companies cut them off. In some cases, as the Presiding Officer knows, in my State and across the country, women so often are paying higher premiums than men.

Our bill will fix a lot of those things. One of the things the bill still needs to fix—and we have gotten letters on this—is what happened with the price of prescription drugs. There are many things I like about the bill and a few I don't. Here is one.

I rise to support the Dorgan amendment No. 2793. I will start with a story.

About a decade ago, maybe a little more than that—I live in northern Ohio—and I used to take a bus load of senior citizens every couple of months—maybe a dozen times—from Elyria to Sandusky into Toledo and into Detroit and into Ontario—across the river into Windsor, Ontario. I did that so seniors could buy less expensive prescription drugs. I would go into a drugstore in Windsor—same drug, same packaging and dosage, but the price would be one-half, sometimes one-third of what seniors paid in the United States. In many ways, it broke my heart that, as a Federal official, I was going to another country to buy something that was more often than not made in the United States, when the drug companies charge twice or three times that to the United States as in Canada. But I thought it made sense for seniors in my State—congressional district in those days—to go to Canada and be able to get those prescriptions.

They then would be able to get a refill every 3 or 6 months at least a couple times with that doctor's signature they got in Canada to buy those drugs.

I appreciate Senator DORGAN and Senator SNOWE offering this amendment. I hope it is signed into law as part of health care reform. If the drug companies were struggling and not making any money, it would be a different situation. Drug companies earn higher profits than almost any other industry in America. In fact, they have been one of the three most profitable industries in our Nation for decades.

Just last year, the pharmaceutical industry was the third most profitable industry in America, ranking right up there with the oil conglomerates.

Let's face it, to call these corporations American is a stretch. Most of them are multinational, and most reap huge profits from around the globe.

It is true they earn higher profits in our country than in any other, but that hardly qualifies them as patriotic.

As drugmakers earn billions, U.S. drug spending is fueling double-digit increases in health insurance premiums. There is a reason health insurance premiums go up. Certainly, the insurance industry is one of the reasons. We know about insurance industry profits. We know about insurance industry executive salaries. In the 10 largest health insurance companies in this country, CEO's average around $11 million in income. That is part of the reason.

Another reason is drug prices continue to fuel the high cost of health insurance. Drug prices continue to drain tax dollars out of the Federal Treasury, and drug spending is undermining the financial security of millions of seniors and other Americans, of course, but especially seniors who can ill afford to be the piggy bank for big PhRMA's—that is a drug company trade association—global operations.

Because we do not allow importation—a decision our government has reached in all too close consultation with the drug lobby—Americans are forced to pay more for the same drugs than everyone else in the world.

It is not about safety. We know that. The equivalent of the Food and Drug Administration in Canada or in France or in Germany or in Israel or in Japan knows how to make sure drugs are safe in their country. It is not a question of safety. It is a question of industry profits.

Prohibiting importation has cost American consumers and taxpayers dearly. It has driven up the cost of insurance premiums and it has driven up the cost of Medicare, paid by taxpayers, Medicaid, paid by taxpayers, TRICARE, paid by taxpayers, and all Federal health care programs, again paid by taxpayers.

It has reduced—and this is equally important—not just the cost, but it reduces access to lifesaving medicines. Some people simply cannot afford the cost of these drugs. It has reduced seniors' budgets to the point where they buy groceries or heat their homes or purchase prescription drugs but not both. Too often seniors cut their pills in half, take their prescriptions in smaller doses, and that, obviously, is jeopardizing health also.

This amendment is a step in the right direction for increasing access to those drugs.

In 2008, the pharmaceutical industry had more than a 19-percent profit margin and had sales of $300 billion. I am way more interested in protecting U.S. consumers, U.S. taxpayers, and U.S. small businesses that are burdened by these high drug costs than I am U.S. drugmakers and their inflated drug prices.

The CBO estimates this amendment will save the government $20 billion over the next 10 years—$20 billion. I wish to encourage more competition. I do not want this body, again, to come down on the side of preserving monopolies.

As it stands now, the U.S. Government permits the drug industry to hold American consumers hostage. Meanwhile, the largest drug companies—Pfizer, Merck, and others—continue to outsource operations abroad to cut costs and increase profit margins.

Here is what happens: It is OK for big PhRMA to look abroad to cut costs and boost profits while American consumers and businesses are stuck paying the bill. The drug industry is trying to convince us—the Senate, the House and, more importantly, trying to convince the American people—that importation is unsafe. Wait a second. They go to China—I had hearings about this in the Health, Education, Labor, and Pensions Committee. We have had hearings, which Senator Kennedy, a couple years ago, asked me to chair, involving American drug companies outsourcing their production to China. They could not tell us about the entire supply chain that supplied the ingredients to these drug operations in China that later made their way back to the United States. We know about Heparin, a drug that killed several people in Toledo, OH, because it was contaminated with who knows what ingredients that came from China.

So these drug companies are arguing these products are unsafe, these drugs you can buy in Windsor, Ontario, or pharmaceuticals you can buy in Bristol, England, or pharmaceuticals you can buy in Marseilles, France, or pharmaceuticals you can buy in Dusseldorf. They are saying those are unsafe, but they are unwilling to import drugs themselves.

Lipitor, one of the best-selling drugs in the United States, for years, was made in Dublin. They can import their drugs from abroad. They can import ingredients from China, which has nothing like the Food and Drug Administration, and they are going to hire all their lobbyists and they are going to go around desk to desk, Member to Member, office to office—435 House Members, 100 Senate Members—and they are going to tell us these drugs are unsafe? We know better than that.

This amendment would simply make imported medicines available to consumers. It is a free-market mechanism. Open it so people can compete, giving customers more purchasing power so they can pay lower prices. The drug industry should not be protected from the same competition that every other industry faces in a global marketplace.

I urge my colleagues to support the bipartisan amendment of Senator DORGAN from North Dakota, Senator SNOWE, Senator GRASSLEY, and Senator MCCAIN—all three Republicans from Maine, Iowa, and Arizona. This amendment makes sense for taxpayers. It makes sense for consumers. It makes sense for businesses. It makes sense for our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I wish to speak to a couple issues this evening. The first one has to do with what we understand to be the evolving so-called deal that is being worked out by the other side on the public option/government plan and the attempt to try and reach 60 votes on the other side, in what appears to be a process that continues to unravel and break down because every single day there is a new story about some new gimmick thrown out there to attract the requisite number of Senators to get to that threshold of 60.

The most recent one—and, of course, as I said, I cannot verify all of this because we have not been privy or included in any of the discussions that have occurred behind closed doors. In fact, one of those meetings just occurred earlier this evening.

We read from press reports that one of the proposals contemplated by the majority to get that requisite number of votes is the expansion of the Medicare Program. What is interesting about that is that has engaged organizations that prior to this time had essentially been at the table and negotiated their own kind of agreement. But that has gotten the interest level up of the American Hospital Association, the Federation of American Hospitals, the AMA, the physician group, and I even have something here from the Mayo Clinic.

It is interesting that would be considered now as an alternative to what previously had been discussed in terms of a public option. Here is why. Medicare, as we all know, is destined to be bankrupt in the year 2017. It is a very large program that benefits a lot of seniors across the country. We all support reforming it, making it more sustainable, putting it on a pathway to where it will be solvent well beyond that date and extending its lifespan.

What this would appear to do is allow people younger than 65 or 62, down to 55, to buy into Medicare. Essentially, you would allow more people to participate in a program that, as I said before, is destined to be bankrupt in the year 2017. So what you are doing with this proposal—because we all know the underlying bill cuts Medicare reimbursements to hospitals, nursing homes, hospices, home health agencies, and to Medicare Advantage beneficiaries by about $1 trillion over 10 years, when it is fully implemented—you are going to take $1 trillion of revenue out of Medicare—remember, this is a program that is already destined to be bankrupt in 2017—you are going to take $1 trillion of revenue out of it over the 10-year period, when it is fully implemented, and expand and add the number of people who are going to be on it. It is equivalent to putting more people on a sinking ship. In fact, that is what has gotten the attention of provider groups around the country.

Hospitals, as we know, cannot recover their costs with the reimbursements they are currently receiving under Medicare. In most States, it varies a little bit—80 to 90 cents on the

dollar. So hospitals, every time they serve a Medicare patient, shift that cost over to the private payers and increase costs for everybody who is receiving insurance in the private market.

Essentially, what you will be doing is expanding the government-run Medicare Program which underreimburses hospitals, physicians and other health care providers and forcing even more of a cost shift. You are exacerbating the cost shift already occurring, making it worse and getting all the provider hospital groups—the American Hospital Association, the American Medical Association—engaged in this debate because they see what a train wreck it would be for them.

Frankly, what that means is you would have a lot of providers that would not be able to make ends meet. They would have to shut their doors and go out of business because many of them are very dependent on Medicare patients.

In my State of South Dakota, most of our hospitals, especially in rural areas, are heavily dependent—70 percent or thereabouts—between Medicare and Medicaid. If they are not a critical access hospital and still getting reimbursed under the traditional Medicare Program, they are going to have a very hard time making ends meet because right now what they do is what all hospitals do. They shift costs over to the private payers.

Here is what AMA said about the proposal:

> AMA has a longstanding policy of opposing expansion of Medicare given the projections for the future.

That is what the doctors group said.

The American Hospital Association urged all Senators to reject expansion of Medicare and Medicaid as part of the public option, saying Medicare pays hospitals just 91 cents of each dollar of care provided. This again would expand the number of people they would have to cover and shrink the private-payer market and lump more and more of the costs on those so everybody else's premiums would go up.

The Federation of American Hospitals, which is the private hospitals across the country, said any Medicare buy-in would invariably lead to crowdout of the private health insurance market, placing more people into Medicare. Such a policy will further negatively impact hospitals after we have already agreed to contribute a maximum level to sustainable reductions in the deal they struck earlier. It seems to me these deals have fallen off the table.

This latest proposal—if, in fact, what we are reading is true—I think they recognize would be a disaster. Here is what the Mayo Clinic in their letter said:

> Any plan to expand Medicare, which is the government's largest public plan, beyond its current scope does not solve the nation's health care crisis, but compounds it.

They go on to say:

> Expanding the system to persons 55 to 64 years old would ultimately hurt patients by accelerating the financial ruin of hospitals and doctors across the country. A majority of Medicare providers currently suffer great financial loss under the program. Mayo Clinic alone lost $840 million last year under Medicare. As a result of these types of losses, a growing number of providers have begun to limit the number of Medicare patients in their practices.

That is what we are talking about. If you expand this program and you have a reimbursement system that currently does not cover the cost of hospitals, they are going to cease covering Medicare patients in the same way they currently are not covering Medicaid patients.

They say about 50 percent of physicians today have chosen not to accept Medicaid patients. So you compound the access problem that many people in rural areas already experience.

There are big problems with this proposal. I have to come back to what Congressman Anthony Weiner said about this issue:

> Extending this successful program to those between 55 and 64, a plan I proposed in July, would be the largest expansion of Medicare in 44 years and would perhaps get us on the path to a single payer model.

Therein, I think, lies the ultimate goal, and that is to expand Medicare to where we have a whole government-run health care system in this country on the way to single-payer status. That is precisely what many of our colleagues on the other side want to see happen.

Ironically, there are some who have expressed concern about this. Our colleague from North Dakota, the chairman of the Senate Budget Committee, Senator CONRAD, said when asked about this proposal:

> It's got many of the same problems I have with previous versions of the public option. That then ties you to Medicare levels of reimbursements for a whole new population.

He contended that the hospitals in his State would go bankrupt. His State of North Dakota is not unlike my State of South Dakota. Hospitals are not going to be able to make it if these reimbursement levels that are currently afforded them under Medicare are extended to a whole new population.

I hope this is a bad idea that is just being thrown out as one of these things that is being thrown at a wall and hoping it sticks in a desperate effort to get to 60 on the other side because this is a bad idea and the provider groups are weighing in heavily against it.

It is pretty clear it would be a disaster for health care delivery in rural areas of the country and, for that matter, Mayo Clinic and many of the providers that weighed in on this. It would literally make it more difficult for people to have access to health care and exacerbating the cost-shifting issue that already exists with regard to the private-payer market and make their costs and everybody else's costs go up more.

I want to shift gears for a moment because tomorrow Senator HUTCHISON and I will be offering a motion to commit. Basically, what it deals with is the whole tax component of this health care reform bill. In very simple terms—and I will demonstrate exactly why this is a relevant issue—if you look at the cost of this health care proposal, the Reid proposal before us, you can see what the costs are in the early years and then you can see how the costs explode in the outyears. There is a reason for that. The revenues kick in right away. The tax increases start coming in right away, but the spending proposals and many of the benefits that will go out under this bill don't occur until much later.

So what we have is a 10-year budgetary picture and cost for this program that completely understates what the true cost of the program is. If you look at this particular chart, look at the years 2010 to 2019, you can see how, particularly in the early years, it doesn't look like there is that much spending. In fact, the number in the first 10 years is $1.2 trillion in spending. However, if you look at the cost of this when it is fully implemented—take the year 2014 and extend it through the year 2023—you can see how the costs explode, and the total fully implemented cost over a 10-year period is $2.5 trillion.

There is a reason for that, as I said. A lot of budgetary gimmicks were used to understate the cost, particularly in the first 10 years, so people could say it costs only $1 trillion. In fact, as you can see, when it is fully implemented, it is $2.5 trillion. One of the major reasons for that is because the tax increases in the bill take effect 23 days from now—January 1 of the year 2010. That is when many of the tax increases in this legislation go into effect. But the spending and the benefits that are going to be distributed—the exchanges and the premiums, the premium subsidies, and that sort of thing, the tax credits—don't begin to kick in until the year 2014 or 1,484 days later. So for those 1,484 days—well, back out the 23 days from that—so for those 1,461 days, taxes are going to be assessed and levied against people in this country—on small businesses, families, and individuals—but you will not see any benefits for over 1,000 days, almost 1,500 days.

What the Hutchison-Thune motion to commit does is it aligns the tax increases, the fees—the taxes included in this proposal—with the benefits in terms of timeline so that the tax increases and the benefits occur at the same time. In other words, we would delay the tax increases in this bill until such time as the benefits package and structure would kick in so that they are in sync.

Right now, there is essentially 4 years—at least 4 years—of tax revenues coming in, tax increases being borne by people all across this country, including businesses. Incidentally, there is a lot of discussion now about job creation and the need to grow the economy. The worst thing you can do to small businesses, when you are trying

to create jobs, is to levy new taxes on them. But that is what this bill does. And, by the way, in that first 4 years, almost $72 billion of taxes will be collected. I say the first 4 years, I think that is through the year 2014. But you have all these taxes that kick in on January 1 of 2010—less than 23 days from now—and then actually you have this amount of time—as I said, almost 1,500 days—before the benefits begin to pay out.

So all we are saying in our motion to commit is let's align the tax increases and the benefits structure so you don't have this period of 4 years where people are paying taxes and receiving literally no benefits under this health care reform bill.

The advantage that has is that it accurately reflects the cost of this program in the first 10 years, rather than understating it because of the revenues that kick in immediately and the benefits that don't kick in until much later. It is very straightforward, very simple, very understandable. Tax increases that are designed to kick in on January 1 of this next year would not kick in until such time as the benefits kick in. So the fees, the taxes, and the tax increases in this bill are all aligned and sync'd up, so to speak, with when the spending under the bill begins.

Of course, what that does is give us a more accurate reflection of the overall cost of the bill. And many of these tax increases which will kick in 3 weeks from now, or a little over 3 weeks from now, on January 1 of next year, are going to be distributed across a wide range of businesses, but most will be passed on to consumers across this country. In fact, the CBO, in a letter to Senator EVAN BAYH on November 30 of this year, said essentially that all these fees and taxes in the bill—and there are fees on medical devices, there are fees on prescription drugs, there are fees on health care plans—all these fees would tend to raise insurance premiums. In testimony in front of the Finance Committee, the CBO, when this question was posed during the deliberations at the Finance Committee level as to what all these fees would do to insurance premiums, they said, roughly, it would increase premiums dollar for dollar.

So we have the taxes and fees that will kick in immediately, and that will have an upward impact on premiums so that people across the country will begin to see those premium increases take effect. The tax increases, of course, are taking effect on medical device manufacturers and on prescription drugs, and there is a whole other range of taxes in here—there is the tax on high-cost insurance plans, there is a health insurer fee, there is a Botox tax, which starts January 1 of 2010, and you can kind of go down the list. There are limits on FSAs, flexible spending accounts, which is something people use to put aside money so they can buy a high-deductible plan and have dollars available to deal with the incidental health care costs they have. So the taxes are going to go up on those. You can go through this whole list of taxes, all of which, as I said, are going to go into effect in the near term, but none of the benefits kick in until many years later.

Unfortunately for the American public, they are going to see the premium increases that will come as these taxes are imposed on all these various sectors of the health care economy and which will all be passed on to consumers in the form of higher premiums. So the American consumer—the American public, the taxpayers of this country—are going to see the costs immediately and won't see the benefits for 5 years. That is not fair. It is not the right way to set policy here in Washington, DC. It is much more transparent if we have these dates of the tax increases and the fees and the taxes in this bill sync'd up—synchronized, aligned—with the benefits when they begin so that everything starts at the same time.

So the motion to commit is, again, simply a motion to commit this back to the Finance Committee, and to create a level playing field where the revenues that are raised under the bill don't begin to kick in until the benefits start to kick in and the spending starts to kick in. That will give us the true picture, the actual picture of the cost which, as I said before, is $2.5 trillion over 10 years when it is fully implemented, and not the $1 trillion, or under $1 trillion that is being used by the other side. You have to look at the full picture over a 10-year period, when it is fully implemented. Obviously, that gives you a very different perspective about the overall true cost of this particular proposal.

The basic contours of this bill we have in front of us have not changed, nor do we expect them to change. They will tweak around with this government plan. There was already a vote on the issue of abortion, which I happen to believe taxpayer funds should not be used to finance. We have had that vote. There will be some other votes on individual aspects. But some of those things are not going to affect the fundamental core elements of this plan, which have stayed the same throughout the entire process. And those core elements are a massive expansion of Federal spending—$2.5 trillion over 10 years when it is fully implemented—massive cuts to Medicare—about $1 trillion over 10 years, when fully implemented, affecting hospitals, nursing homes, home health agencies, hospices, and beneficiaries of Medicare Advantage, of which there are about 11 million across the country—and it is also financed with increases in taxes, which I have mentioned. Those are the basic components of this bill. Seventy new government programs are called for. All the new spending, all the new bureaucracy, all the new taxes, and all the Medicare cuts, those things have not changed since this bill first started being debated several months ago.

That is where we are today. That is why I believe this is such a bad proposal for the future of this country. Because even after all that, if you look at the impact it has on premiums, according to the Congressional Budget Office, 90 percent of Americans end up the same or worse off. When I say the same, I mean year over year increases in their insurance premiums that are double the rate of inflation. So if you are buying in the small-group market today, or the large-group market, according to the Congressional Budget Office, you are going to see your insurance premiums continue to go up over time. If you buy in the individual market, you are going to see them continue to go up, but way more—a 10- to 13-percent increase in premiums for people who buy in the individual marketplace, above and beyond the rate of inflation that will impact people in the large- and small-group markets.

So the bottom line is, if you are looking for reform, if you are the average American citizen out there, the person I represent in South Dakota, who is hearing about health care reform, to them it means a couple of things. It means affordable access to health insurance for people across this country; and something that most of us—at least here on our side—think ought to be a part of this, and that is measures or proposals that actually bend the cost curve down rather than up. But what we have seen consistently throughout the course of this debate, with all the spending and all the tax increases and all the Medicare cuts, is no positive impact on premiums. The best that 90 percent of Americans can hope for is to maintain the status quo—stay where you are—which is double your increases year over year, double the rate of inflation in your health insurance premiums or, worse yet, increases of 10 to 13 percent above and beyond that. That is what 90 percent of Americans are looking at as a result of the health care reform proposal that is currently before the Senate.

There is a better way, and we believe the way to get this right is to start over and to actually focus on solutions that will drive down the cost of health insurance, that will bend that cost curve down, such as interstate competition, allowing pooling for small businesses, medical malpractice reform. We have a whole series of things that we think represent the consensus view of the people in this country. There is common ground we can all stand on. But regrettably, we have not been included in any of the discussions, nor have any of our ideas been a part of those discussions. Rather, they have chosen to pursue this course of a big spending program, with the higher taxes, and the Medicare cuts and the higher premiums.

I truly hope there will be support, as this process moves forward and we get onto the critical votes ahead of us, for a more rational step-by-step approach, doing this right, getting away from

this huge massive expansion of the Federal Government here in Washington, DC, and seriously focusing on solutions that actually do bend the cost curve down, that don't rely on these huge cuts to Medicare, that don't rely on these huge tax increases, but that actually find savings. And they can be achieved in the market by putting policies in place that will constrain costs and put downward pressure on the prices most people pay for health insurance in this country. It can be done. But it is going to require some boldness on the part of some of our colleagues on the other side.

I think our side is pretty well united. This is a bad policy, a bad prescription, if you will, for America's future. But we are going to need some help from a courageous Democrat or two to make sure this massive expansion of the Federal Government is defeated and that we can go back, start over, do this in a step-by-step way—the right way—and in a way that actually does lower costs for people in this country. I certainly think that is what my constituents in South Dakota expect, and I think that is what most Americans expect. They deserve to have health care reform that gives them that outcome—lower cost and access to affordable health care.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. Mr. President, I ask for 10 minutes to be allotted to me under the minority time.

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

Mr. BROWNBACK. Mr. President, in the past few months this body has been forced to stand aside as Senator REID and a few others crafted a 2,000-page bill behind closed doors, the one we are on right now. Unfortunately, the product that was resolved at the closed-door meetings—at least the one we have now, I don't know about a future one—still raises taxes by $½ trillion. Probably under any new bill that comes out you are going to have taxes going up $½ trillion, cut Medicare by $½ trillion, raise premiums on American families, fail to bend the cost curve down, and expand government's encroachment further and further into people's health care decisions.

What I want to go through is a series of charts about how inflation is going to end up being the tax collector's best friend in this overall plan and how the tax of inflation is going to be one of the key features of how the overall bill is paid for.

I hope most people remember when we had inflation. A lot of people maybe don't remember when we had significant inflation. It is a cruel tax. It is a very cruel tax on people on fixed income, a very cruel tax on people in low-income status because constantly the dollars you have stay pretty stable, and everything you are buying goes up. So inflation kills you. It kills you in the pocketbook and is one of the things we have to be concerned about, particularly with the amount of money that is out in the money supply today and the likelihood of this moving forward and how it is built in to pay for this huge expansion that we can't afford in this bill.

I am joining my colleagues today in speaking against the $500 billion in new taxes that are in the Democrats' proposal to levy on the American people and the job-creating small businesses this is going to be put on, in an attempt to pay for this big 2,000-page bill.

This monstrous bill is flawed economic policy. I will develop that point for you as well. It fails to lower health care premiums, fails to bend the cost curve down, and will further cripple the struggling economy with massive and burdensome tax increases.

This careless legislation reminds me of a cautionary tale that is still being played out in another part of the world. That is what happened in the early 1990s in Japan. Japan, a surging economic giant at the time, suffered a severe economic recession in the early 1990s, of which the effects are still lingering even today in Japan.

During Japan's ''lost decade,'' from 1991 to 2003, their gross national product grew a paltry 1.4 percent annually, creating a decade of stagflation—that is where you have a stagnant overall growth but inflation in the economy—and limited economic growth. Most economists believe that Japan's economic recession would not have lasted nearly as long as it did had it not been for one fatal error that the Japanese government made. In the late 1990s, as their economy was recovering and appearing to be pulling out of its economic slump—so the economy is just getting going, starting to pull out of the economic slump—the Japanese government made a catastrophic decision to raise taxes. The result was that this one decision aborted the strong recovery the Japanese economy was starting to experience and plunged it back further into an economic downturn that lasted for many more years, the hangover from which is still on them today.

What are we doing here today, discussing a $2.5 trillion government entitlement expansion that raises taxes $½ trillion, plays budget gimmicks with our $12 trillion deficit and raises health premiums and costs for all Americans in the middle of the country's economic recession? What are we even talking about, why are we doing it? That is what I get from the people back home. They say why are you talking about this while are we in this recession? Why are you talking about this with the health care situation the way it is, to raise the cost, raise the insurance premiums, cutting Medicare when Medicare needs more, not money taken out of it? Now is not the time, this is not the bill, and this is not the way the American people want to see their health care reformed. What the American people want is for this body to lower health care costs and induce an economic recovery that creates jobs, not kills them, and grows the American economy, not thwarts it.

The way to do that is not to raise taxes, as is evidenced by what happened in Japan. Increased mandates, increased regulations, and increased taxes are a recipe for disaster. It is a recipe that kills jobs. In fact, President Obama's chief economic advisor, Dr. Christina Romer, stated earlier this year that as many as 5.5 million jobs could be lost due to the Democrats' new tax proposal in this 2000-page government takeover of health care. Nothing can be worse at a time when the Nation is already experiencing a 10-percent unemployment, a 26-year high. This bill will impose $28 billion in new taxes on employers that will ultimately be paid by American workers in the form of reduced wages and lost jobs.

Under this burdensome legislation employees will face stunted wages and the loss of their benefits as their employers attempt to find ways to fund these newly imposed mandates. As small businesses struggle to keep their doors open, tough decisions will have to be made on whether to raise prices, cut wages, or let go workers in order to find the funds necessary to comply with the Federal mandates imposed in this bill.

Furthermore, this bill will kill jobs by penalizing small businesses who are looking to grow—and small businesses are the growth engine for the country. In this bill, firms with more than 50 workers that did not offer coverage would have to pay a penalty or a tax to the Federal Government for each full-time worker if any of their workers obtain subsidized coverage through the government-run exchange.

What businessman would decide to hire that 50th employee, knowing full well if he did that the government would penalize his business and slam him with a new costly tax? So now people try to stay under this limit rather than constantly looking to grow the business.

Furthermore, under certain circumstances, firms with relatively few employees and relatively low average wages would be eligible for tax credits to cover portions of their health insurance premiums. That is relatively few would be eligible.

I ask, what employer would decide to increase the number of employees or increase the amount of their wages if they stand to lose government handouts, supports, subsidies, or face an increased tax burden? They simply will not be willing to do it.

One of the most disturbing aspects of this legislation is the use of inflation

to fund it—the use of inflation, a hidden tax increase on working families, to fund it.

I am the ranking member on the Joint Economic Committee and we look at these aspects a great deal. The use of inflation is built into the base of this to fund it. We know the consumer, the individual taxpayer, pays all taxes. No matter how the government claims to assess those taxes, they are paid by individuals.

I have a couple of examples I want to show. First, I want to talk about: High-cost Plans Tax Hits the Middle Class. Let me talk about that. This is the tax on the so-called Cadillac health insurance plans.

We know that insurance policies and benefit plans will be altered to avoid that tax. In other words, if you get an insurance plan that is up above a certain level you get taxed on that higher end, that so-called Cadillac plan. So in all probability most groups will not provide this high-quality health care because they say you are going to get taxed on it.

Benefits that taxpayers with insurance currently receive on a pretax basis—right now they get it so the company is paying for it, is pretax to the individual—will gradually shift to after-tax benefits resulting in higher payroll and income taxes. So now that you have cut this Cadillac plan to get underneath it being taxed, and then the company says OK, we will pay you in wages or we will do this somewhat differently. Then you have to go around and supplement or have a lower quality of health insurance. You are going to have to pay for it with after-tax dollars. That will result in more taxes, but you don't get more benefits from this. This is a big tax hit on the middle class of people who are going to have to pay this as their higher income or their higher based insurance plans are taxed.

Here is what the Joint Committee on Taxation said about the distribution impact of the high-cost tax plans: Despite the President's promises the majority claims—91 percent of taxpayers will be affected by this tax earning under $200,000. The tax will hit married filers more severely than singles; 62 percent of the high-cost plans tax impact will fall on married filers compared to 25 percent on single filers. Why are we building the marriage penalty back into the insurance? We worked a long time in this body to get rid of key portions of the marriage penalty, saying we should not tax marriage, we should support this institution. It is being built back into this plan.

This bill also imposes an additional Medicare tax on wage and salary—or certain types of business incomes of single taxpayers with incomes above $200,000 and married taxpayers with incomes of more than $250,000. Right off the bat there is a new marriage penalty. People living together but unmarried making $150,000 each won't pay the tax. Two married people paying the same amount will. What is right about that?

Making matters worse, the thresholds are not indexed for inflation—no indexing for inflation. Inflation is a cruel tax and unfortunately in this situation it is not only going to be inflation, but you are going to be taxed, then, as you get inflated into these categories. From 2013 to 2019, the number of returns of people earning under $200,000 in today's dollars will rise from 75,000 to 345,000 under the current trajectory on inflation. We are making the tax man's best friend inflation. That is wrong. So you are going to move 75,000 to 345,000 for new tax revenue. Married couples will be hit hard, as I mentioned earlier. Then you are looking at inflation: 2013, 2015, 2017, 2019—the number of people growing into this taxable category affected by this Medicare tax that will increase in 2009 dollars from $75,000 to $345,000.

If you want to think about this, think about when the alternative minimum tax was first put in place. The alternative minimum tax was supposed to be on very wealthy individuals. That was all it was going to be on. But it was not indexed for inflation. Now you get whole swatches of people hit by it and this body regularly tries to change that or deal with it on a 1-year basis because it was not indexed for inflation. What you build into the base of this bill is, if you want to pay for the bill, you want inflation. So you get inflation and it hurts people on fixed incomes and you get more people taxed than you started off with. You didn't tell them about it at the outset.

This plan clearly should be indexed for inflation. We know that should take place. Yet this is where a major part of the money for the bill comes from—inflation. Is that something the Federal Government should be banking on, that we will get inflation to pay for this health care bill? I don't think the American public wants to see that taking place.

To put this in context, let's not just look at returns under $200,000, let's look at all returns and how this tax will spread. According to the Census Bureau estimates, between 2013 and 2019, the working-age population of the country will grow by 1.6 percent. Joint Tax estimates that the number of returns that will be affected by this tax will grow by 52.6 percent and revenue collected as a result of the tax will grow by more than 54 percent. Over time, the Reid bill Medicare tax isn't just for the wealthy. Comparing the increase in taxes with growth in the working-age population, this is how many more people will be impacted. Inflation becomes the tax man's key friend.

During Japan's lost decade, from 1991 to 2003, their gross national product grew a paltry 1.4 percent annually, creating a decade of stagflation and limited economic growth. It was because of policies such as this where you have inflation, where you have tax increases put in place. These are the things that caused that to take place. It should not be done.

I will just add as a final note, when I am talking with people back home, all the time they raise this health care bill. They talk about it constantly. If they are small businesspeople, they are talking about not doing anything until the political environment is more stable in their estimation, about how much taxes we are talking about, about how much regulation we will be talking about.

You have what is going on with a climate change debate and regulations in Copenhagen. That tells a lot of people in my area who are energy users and producers, don't do anything until this stabilizes. When you talk about tax increases or inflation being a part of this proposal, you have a bunch of people saying: Don't do anything. Just stay on the sideline. That is a prescription for no job growth. That is a prescription for killing jobs. You want people out there investing and creating jobs and opportunities. You want them to see a stable political environment where they are not worried about increasing taxes, not worried about increasing regulation but, rather, saying: This is a stable environment in which we can invest and grow. That is not what they are doing today. That is repeating the lesson the Japanese learned of raising taxes when you are coming out of a recession. It is harmful. It is the wrong economic strategy. It should not be a part of this bill.

I yield the floor.

Mr. ENZI. Mr. President, I voted to support Senator MCCAIN's motion to commit the bill back to the Finance Committee to protect all seniors from the Medicare cuts in this bill.

Section 3201(g) of the Reid bill shields Florida from the sweeping payment reductions to Medicare Advantage plans. Democratic Senators from Florida, New York, Oregon and Pennsylvania have also reportedly sought carve outs to protect seniors in their States from these cuts.

It is unfair to protect only seniors in Florida from these cuts. President Obama said if you like what you have, you can keep it. I believe that principle should apply to all Medicare beneficiaries.

At least some of my Democratic colleagues are honest about what they are doing. The New York Times yesterday quoted the Senator from Florida as saying, ''It would be intolerable to ask senior citizens to give up substantial health benefits they are enjoying under Medicare . . . I am offering an amendment to shield seniors from those benefit cuts.''

Bloomberg News also quoted that same Senator as saying, ''We're trying to grandfather in seniors so that they don't lose the benefits they have.''

Now, I disagree with these sweetheart deals. But I understand the motivation behind them. We should not be

taking benefits away from Medicare beneficiaries.

What I don't understand is how other Democrats can deny that the Reid bill cuts Medicare benefits. I have heard my Democratic colleagues repeatedly argue that there no cuts of any ''guaranteed benefits'' in the Reid bill.

I was not familiar with the term ''guaranteed benefits,'' so I asked my staff to review the Medicare statute. They searched through the entire Social Security Act, which governs Medicare, and could not find that term anywhere. That is because the term doesn't exist. The other side just made it up.

Medicare Advantage plans provide extra benefits to beneficiaries who enroll in these plans. These are the benefits that will be cut under the Reid bill. Clearly the Senator from Florida understands the value of these benefits. That is why he and other Democrats are fighting tooth and nail to undo the cuts in their States.

At the same time, other Democratic Senators continue to argue that Medicare Advantage is neither Medicare nor an advantage.

That is false. Medicare Advantage is Part C of Medicare. If you go to the Web site of the Department of Health and Human Services, it says Medicare Advantage is part of Medicare.

As to the ''advantage'' part, Medicare Advantage does provide extra benefits, and seniors place great value on them. It's that simple. That is why the Senator from Florida and others are trying to get carve outs for seniors in their States.

Under the Reid bill, seniors will lose vision benefits. Apparently, the other side does not think vision care is an advantage.

The Reid bill will cut dental benefits for seniors. These are also apparently not an advantage for seniors.

The Reid bill will cut hearing benefits for seniors. These are apparently not an advantage for seniors.

The Reid bill will cut home care for seniors with chronic illnesses. The other side thinks these benefits are not an advantage.

The Reid bill will cut disease management programs for seniors. These benefits are also apparently not an advantage.

The Reid bill will cut nurse help hotlines for seniors. The majority apparently does not believe this is an advantage.

The Reid bill will end reduced cost sharing for primary care physician visits. This is apparently not an advantage for seniors.

The Reid bill will eliminate reduced premiums for Part B. This is apparently not an advantage for seniors.

The Reid bill will eliminate reduced cost sharing for breast cancer screening. This is apparently not an advantage for seniors.

The Reid bill will eliminate reduced cost sharing for prostate cancer screening. This is apparently not an advantage for seniors.

Most disturbing of all, the Reid bill will cut seniors' protections against catastrophic costs under Medicare Advantage. The other side says they want to keep medical bills from driving folks into bankruptcy. At the same time, they are eliminating Medicare Advantage benefits that actually protect Medicare beneficiaries from catastrophic medical costs.

How is catastrophic coverage not an advantage to seniors? It seems to me few things could be more advantageous than not losing your life savings because of medical bills.

It is obvious to anyone who listened to the list I just read that these are real benefits. Furthermore, it should be equally clear that the Reid bill will take these benefits away from millions of Medicare beneficiaries.

Anyone who doubts what affect the Reid bill will have on Medicare beneficiaries should look at the last time that Congress made cuts like this. The impact was severe.

Congress enacted the Balanced Budget Act of 1997, which included similar types of cuts. Once it took effect, nearly one out of every four of the plans, then known as Medicare+Choice, pulled out of the program.

According to an article in the Fort Lauderdale Sun Sentinel, when the Prudential Medicare+Choice plan withdrew from Florida, nearly 12,000 seniors in Broward, Palm Beach and Miami-Dade lost their coverage of prescription drugs, eyeglasses, hearing aids or other benefits.

You can bet seniors in Broward, Palm Beach and Broward counties haven't forgotten these cuts, losing their plans, sometimes their doctors, and certainly those benefits.

According to the Baton Rouge Advocate, over 50,000 Louisiana seniors lost the extra benefits that had been provided by Medicare+Choice plans. The cuts were so disruptive and confusing that State Insurance Commissioner Jim Brown had to air public service announcements. You can bet Louisiana seniors remember those cuts.

After these cuts went into effect, the Chicago Daily Herald reported that the Senior Health Insurance Program run by the Illinois Department of Insurance was ''deluged with phone calls from senior citizens affected by the move of some health maintenance organizations to drop Medicare.''

By that time, United Healthcare had decided to no longer offer Medicare+Choice plans in DuPage, Kane, Lake and Will counties. This affected 12,000 seniors in these Chicago suburbs.

By 2000, the Daily Herald reported that Aetna and Humana were also pulling out, dropping coverage for 2,794 beneficiaries in Lake County and 6,180 Aetna enrollees in Cook, Lake, Kane and DuPage counties. All of these beneficiaries lost the extra benefits they had previously received from their plans.

Brian Carey, director of Senior Services for Schaumburg Township, was quoted as saying, ''It's just thrown so many people into, in some cases, a complete state of panic.''

By 2002, the Chicago Tribune quoted CMS administrator Tom Scully as saying there were no—that's zero—Medicare plans serving Chicago and its suburbs.

If the Reid bill is passed, we will again see millions of Medicare beneficiaries lose the benefits they currently receive from Medicare Advantage.

Medicare beneficiaries understand this program provides real advantages to those who enroll in the program. They do not want to lose these benefits.

I hope that all of my colleagues support the McCain amendment and ensure that these seniors continue to receive these benefits.

Mr. JOHNSON. Mr. President, today I rise to recognize the overwhelming need for health care reform. Earlier this year I asked South Dakotans to share their personal health care stories with me, the good and the bad, so that I could share these with my colleagues and ensure that the people of South Dakota have a voice in this national debate. Thousands have responded to my request and through their stories I have gained immeasurable insight into the challenges my constituents face in our current health care system. The experiences of these hard working families, business leaders, patient advocates, and health care providers poignantly demonstrate the urgent need for health care reform.

David, a farmer in Madison, SD, was forced to sell his land when a heart attack left him with $60,000 in medical bills. His wife Patty wrote to me to tell me his story. As a farmer, David couldn't afford to buy private health insurance in the individual market but didn't qualify for public programs. Insurance companies refused him coverage after his heart attack because he now had a serious preexisting condition. Last year he suffered a second heart attack and accrued another $100,000 in medical bills. Struggling to pay this debt, Patty and David exhausted all their resources. David feels he has no hope of finding insurance coverage for his heart health, the very condition that requires treatment the most. Patty and David live in fear of a serious illness knowing that, like many families, adequate health insurance is beyond their reach.

The situation Patty and David find themselves in is not unique. A recent study by the Access Project found that 44 percent of ranchers and farmers in South Dakota get their health insurance on the nongroup market, where they pay on average $10,395 for coverage. For the past few decades, premium rates have been rapidly outpacing increases in incomes. According to the study, almost half of those surveyed spent over 10 percent of their income on health care. Like Patty and David, one in four of the farmers and

ranchers surveyed had to dip into savings, retirement funds, or take loans against their farms or ranches to cover health care costs.

Managing heart disease requires regular checkups and treatments to manage the disease, improve overall health and prevent future complications. Without access to these services, Patty fears what will happen to their family and their farm in the event David suffers another heart attack.

There are several provisions in the Patient Protection and Affordable Care Act to benefit Americans like Patty and David. It will extend access to affordable and meaningful health insurance for all Americans. The bill stands up on behalf of the American people and puts an end to insurance industry abuses that have denied coverage to hardworking Americans when they need it most. According to the non-partisan Congressional Budget Office, the Senate reform proposal will extend coverage to 31 million more Americans when fully enacted.

Immediately after enactment, a new program will be created to provide affordable coverage to Americans with preexisting conditions who have been denied the coverage they need. People like David will be guaranteed health insurance coverage after years of struggling without this basic security.

In addition, this legislation will create health insurance exchanges in every State through which those limited to the individual market will have access to affordable and meaningful coverage. The exchange will provide easy-to-understand information on various health insurance plans, help people find the right coverage to meet their needs, and provide tax credits to significantly reduce the cost of purchasing that coverage. No matter what plan you have, every American will have the added security of knowing that your insurance company will no longer be able to deny coverage for preexisting conditions and won't be able to drop your coverage if you get sick. Patty, David, and all Americans deserve this basic security.

The PRESIDING OFFICER. The Senator from Montana.

MORNING BUSINESS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

CLIMATE CHANGE

Mr. CARDIN. Mr. President, we live in a world that is being poisoned by greenhouse gases of our own making. If we do not act, we face irreversible, catastrophic climate change. My grandchildren face a world where there will be not enough food, water, or fuel, a world that is less diverse, less beautiful, less secure. As I speak today, we are witnessing a critical moment in our fight against global warming both at home and abroad.

This past Monday, the Environmental Protection Agency acted by releasing its final determination that ''greenhouse gases threaten the public health and welfare of the American people.'' This was an action required by law and ordered by the Supreme Court. This finding will require EPA regulate greenhouse gas emissions under the Clean Air Act.

Monday's endangerment finding is a critical step in our country's efforts to stop global warming, which not only poses a threat to public health and welfare but to our national security. I am proud of the strong science-based actions taken by this administration to live up to its Clean Air Act obligations to protect our health. But I strongly believe that the best way for our country to solve the problem of greenhouse gas emissions is through comprehensive legislation enacted in the Congress of the United States. Legislation that invests in clean energy and new, high-tech infrastructure will bring us to long-sought goals: energy independence, good jobs for our citizens, and a healthy planet for our children and grandchildren.

We are now closer to that kind of legislation than we have ever been. The House has passed a bill that puts a limit on the pollution in our air. It dedicates funding to develop new domestic sources of clean energy. It invests in a new infrastructure that is less dependent on foreign fuels and creates American jobs. And we need those jobs. Here in the Senate, we have improved on our colleagues' work. Senate legislation makes additional investments in clean transportation. It provides additional oversight and accountability and support for developing countries. It ensures we do not add one penny to our national deficit. This legislation is consistent with the budget of our country to try to help reduce the deficit and yet make us energy independent, create jobs, and be sensitive to our environment.

But because climate change is a global problem, we need a global solution. This past Monday was also an important day in the international effort. The international community began a 2-week meeting in Copenhagen, Denmark, to work on an international agreement to address climate change.

The international community has set the right objectives to make the meeting a success: a political agreement that promises both immediate action and contains the structure for a future formal treaty.

The agreement reached in Copenhagen should include the following points: specific near-term greenhouse gas emission reduction targets—a critical part—the support the developed countries will provide to the developing world to adapt to a changing industrial economy and a changing climate—we have a responsibility to help the developing world—the core elements that will make up the final treaty; and a timeline for reaching that agreement within the next year. We cannot put this off. It is critical we act timely.

The administration has taken several very important actions over the past few weeks to help us secure a global agreement in Copenhagen. EPA's endangerment finding sends an important signal to the world about the United States commitment to take decisive action.

Similarly, the President's announcement that the United States will commit to an emissions reduction in the range of 17 percent below 2005 levels by 2020 and his pledge to contribute the fair share of the United States of $10 billion a year in financial support for the developing world by 2012 demonstrate that we are prepared to be serious partners in the fight against climate change.

That is the type of action we want to see, not only in the United States but in other countries that are major emitters.

Many of my colleagues, however, have legitimate concerns that if the United States enacts strong carbon standards, carbon-intense imports will have an unfair advantage in our market. We need to make sure we accomplish our goals internationally and also have a level playing field.

To address this fear, I believe it is critical that our international negotiators include in Copenhagen strong verification and compliance procedures that will make it clear that every state has a responsibility to take action to reduce greenhouse gases.

I have seen too many international agreements that include the highest ambitions for labor, environmental, and human rights protections that fail to achieve those goals in the absence of any consequences for violations of those principles.

The groundwork for achieving a final international agreement in Copenhagen must ensure that major emitting Nations take on clearly defined emissions reductions targets, adopt standardized systems to measure, report, and verify actions and commitments, and it must provide for consequences if countries fail to meet those commitments. Inclusion of these principles in the Copenhagen agreement allows us to pursue these critical components in any final agreement, and sends an important signal that all party countries are committed to real emissions reductions.

I am proud that the Senate Foreign Relations Committee climate change bill introduced by Senator KERRY last week includes language I authored that makes clear our expectations that any international agreement should include strong verification and compliance mechanisms, along with emission reduction targets, and a strong commitment to provide assistance to the developing world.

I will be watching the negotiations and hope it will produce the kind of agreement I have discussed here today. But regardless of what Copenhagen brings, I will continue to advocate for domestic legislation that invests in clean, domestic energy, and frees us from energy policies that undermine our national security and our economy by being dependent upon imported oil.

I will advocate for legislation that invests in the industries of tomorrow to stem the loss of clean energy jobs—jobs that stem from American inventions and ideas—to countries overseas. I will advocate for legislation that provides significant investment in clean fuels and public transit, so we seize an opportunity to build the infrastructure of tomorrow and change the way we move people and goods around this country. Right now, the transportation sector represents 30 percent of our greenhouse gas emissions and 70 percent of our oil use. If we could only double the number of transit riders every day, we could reduce our dependence on foreign oil by 40 percent. That is equivalent to the amount of oil we import every year from Saudi Arabia.

That kind of legislation is good for our country and good for Maryland. But we must remember that even after Copenhagen, any deals we reach, any papers we sign, are still but the foundation. The work must continue with earnest followthrough, dedicated to truly changing the way we work and live and move around this Earth.

OSCE MINISTERIAL MEETING

Mr. CARDIN. Mr. President, last week the Organization for Security and Cooperation in Europe, OSCE, held its annual Ministerial Meeting in Athens. As always, the OSCE Parliamentary Assembly was strongly represented there. Today, in my capacity as Chairman of the Commission on Security and Cooperation in Europe, I would like to offer a few reflections on the outcome of the meeting, and what this might mean for the future of European security, in which the U.S. has a vital stake.

Each year, a different country serves as the OSCE's ''Chairman in Office.'' This year, Greece was the Chairman-in-Office and this year's Ministerial Council meeting subsequently took place in Athens. In recent years discord and paralysis have increasingly begun to overwhelm the cooperation and consensus that once characterized the OSCE. The Greeks thus began their chairmanship facing a difficult challenge.

At last year's meeting in Helsinki under Finland's able chairmanship, the Ministers decided that the OSCE should look for ways to overcome this gridlock and to give the organization a new impetus. Greece took this task to heart and launched the ''Corfu Process'' to do just that. This effort has already borne fruit. In Athens, the ministers resolved to continue to try to reaffirm, review, and reinvigorate security in the OSCE region by continuing this process.

The Ministers also agreed on decisions that addressed such fundamental and persistent problems as hate crimes, tolerance and nondiscrimination, nonproliferation, terrorism, and the ''protracted conflict'' in Nagorno-Karabakh. One of these decisions, on countering transnational threats, was sponsored by the U.S. and Russia, the first such joint effort in several years. I hope this is a positive portent for the future.

The Ministers were not able to agree on how to tackle some other equally important and pressing problems. These included the protracted conflicts in Georgia and Moldova, OSCE assistance to Afghanistan, and the Conventional Forces in Europe Treaty. Clearly, much work remains to be done in putting the OSCE fully back on track.

I would be remiss if I concluded my remarks without commending the Greek chairmanship for its untiring and ultimately successful efforts during the course of this year. The chairmanship rekindled the trust and confidence among the participating states that had steadily eroded over the past decade. Greece has clearly set the stage for a brighter and more productive future for the organization, and my colleagues on the Helsinki Commission, and I would like to congratulate the Greek chairmanship on this significant accomplishment.

We would also like to wish Kazakhstan, the first Central Asian nation to hold this office, every success in its historic chairmanship in 2010 and to offer them our full support. Indeed, in our view the Kazakh chairmanship is already off to a promising start, for in Athens, at the initiative of the Kazakhs, the Ministers decided to hold a high-level conference on tolerance next year. This proved to be a timely decision, coming as it did just as Switzerland voted to ban the construction of Muslim minarets, and the president of the Swiss Christian Peoples Party called for a ban on Muslim and Jewish cemeteries. These actions reminded us that not even countries that have played a leading role in establishing international human rights standards are immune from the tendencies to discriminate against immigrants and minorities and to place limits on the free expression of religious beliefs.

It is very important for the OSCE to combat these troublesome trends. It is also important that all the organization's participating states reaffirm, and commit themselves to upholding, the rights of all religious communities to create places of worship and to rest in line with their own traditions. I very much hope the OSCE's conference on tolerance next year will advance this effort.

Finally, let me say that we look forward with great interest to the forthcoming discussions of Kazakhstan's proposal to hold a meeting of heads of state and government during its chairmanship. Should it happen, this would be the first such ''summit'' under OSCE auspices, something that was previously a regular occurrence. In Athens, in acceding to this proposal, the United States expressed the view that it is open to considering such a meeting if, but only if, such a summit can produce results of substance. I think this is the correct approach, and it is one I fully support.

EDUCATION TAX INCENTIVES

Mr. GRASSLEY. Mr. President, yesterday I offered legislation to make permanent a number of education-related tax relief measures. My legislation, S. 2851, also improves and makes permanent helpful provisions for 529 plans and the American opportunity tax credit for education.

At the first hearing I held when I became chairman of the Finance Committee in 2001, I made clear that education tax policy was a priority of mine. As chairman, I was able to remove the 60-payment limit for deducting student loan interest and I was able to increase the income limits for that deduction. This was not the only time I fought hard to allow students to deduct their student loan interest. In 1997 I was able to reinstate the student loan interest deduction that Congress had eliminated from our tax laws. However, the 60-payment limit on the deductibility of student loan interest remained. I ensured that the 2001 tax relief bill took care of that problem. Other incentives for education that I was able to enact into law in 2001 included raising the amount that can be contributed to an education saving account from $500 to $2,000; making distributions from prepaid college savings plans and tuition plans tax-free; and making permanent the tax-free treatment of employer-provided educational assistance. These tax policies and many others, including those for school renovations, repairs and construction, have proven their value to Iowa students in dollars and cents, year after year. The tax relief has delivered measureable educational assistance to Iowans and students and families nationwide, making education more affordable and accessible.

One drawback of enacting these provisions in the 2001 tax relief bill, however, is that there was a sunset provision attached to that entire piece of legislation. All of the tax relief needs to be made permanent. Especially the education-related tax provisions. And that is what my bill today does. My bill makes these provisions permanent.

It is no coincidence that I introduced my education tax bill on the day the President of the United States talked about jobs. Our economy demands well-educated workers. The popularity of education tax incentives is good news for workers who find themselves unemployed or who want to go back to school to advance, or even change,

their careers. Congress is willing to consider permanent tax relief for companies to buy machinery. Why isn't Congress willing to make an investment in people? That's what tax relief for education is. An investment in our future. It is just as important as job-creating tax incentives for businesses. Some will say we can't afford this, but we really can't afford to lose billions of dollars of help for Americans working hard to educate their kids.

Education has made this country great. We should not let this opportunity pass us by. We should not let these education-related tax provisions expire. We should also continue to help make education affordable for families and students. This makes education accessible for all. I look forward to working with my colleagues on passing this bill.

PENDING NOMINATIONS

Mr. LEAHY. Mr. President, last week, I challenged Senate Republicans to do as well as Senate Democrats did in December 2001 when we proceeded to confirm 10 of President Bush's Federal judicial nominees. Regrettably my plea has been ignored. Since the confirmation of Judge Jacqueline Nguyen last Tuesday to fill a vacancy on the Federal bench for the Central District of California; Republican objections and delay have prevented progress on any of the nine judicial nominees pending on the Senate Executive Calendar. Judge Nguyen was herself delayed almost 6 weeks, from October 15 until she was at last confirmed on December 1. When Republicans finally agreed to allow a vote, she was confirmed unanimously, 97 to zero. Why the 6-week delay? Why the stalling? That question was not answered. In fact, during the time reserved for debate on this nomination no Republican spoke a word about it.

I know how hard pressed the Federal judges in Los Angeles are, and only wish we followed the action on Judge Nguyen's nomination by proceeding, as well, to the confirmation of another nominee for a vacancy on that court. Dolly Gee's nomination to the Central District of California remains pending before the Senate. She was reported by voice vote and without dissent from the Senate Judiciary Committee on October 15, as well. Once confirmed, she will be able to go to work helping to eliminate the backlog and delays in that court.

I was glad we were finally allowed to proceed with Judge Nguyen's nomination, but urged at that time that Senate Republicans allow votes on the other nominations as well. That has not happened. I noted that we had shown what we can do when we want to make progress. The Senate confirmed Judge Christina Reiss of Vermont and Judge Abdul Kallon of Alabama before the Thanksgiving recess, and 17 days after their hearing. That prompt action by the Senate demonstrates what we can do working together in good faith. It should not take weeks for the Judiciary Committee to report nominations, and additional weeks and months before Senate Republicans allow nominations to be considered by the Senate.

There remain nine judicial nominations that have been given hearings and favorable consideration by the Senate Judiciary Committee but that remain stalled before the Senate. They are: Beverly Martin of Georgia, nominated to the Eleventh Circuit; Joseph Greenaway of New Jersey, nominated to the Third Circuit; Edward Chen, nominated to the Northern District of California; Dolly Gee, nominated to the Central District of California; Richard Seeborg, nominated to the Northern District of California; Barbara Keenan of Virginia, nominated to the Fourth Circuit; Jane Stranch of Tennessee, nominated to the Sixth Circuit; Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; and Louis Butler, nominated to Western District of Wisconsin. These nine nominees all await final action by the Senate. Some have been waiting since being reported by the Senate Judiciary Committee as long as 12 weeks ago.

Acting on these nominations, we can confirm 10 nominees this month. That is what we did in December 2001 when a Democratic Senate majority proceeded to confirm 10 of President Bush's nominees, and ended that year having confirmed 28 new judges nominated by a President of the other party. We achieved those results with a controversial and confrontational Republican President after a mid-year change to a Democratic majority in the Senate. We did so in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the PATRIOT Act for 6 weeks.

It is now December 9 and the Republican minority has consented to allow votes on only nine of President Obama's nominations to fill district and circuit court vacancies. We confirmed a tenth, Judge David Hamilton, after invoking cloture to overcome a Republican leadership-led filibuster. In comparison, by this date in 2001, we had confirmed 21 of President Bush's nominations, including six to fill circuit court vacancies. We will certainly fall well short of the total of 28 judicial confirmations our Democratic Senate majority worked to confirm in President Bush's first year in office.

This year we have witnessed unprecedented delays in the consideration of qualified and noncontroversial nominations. We have had to waste weeks seeking time agreements in order to consider nominations that were then confirmed unanimously. Judge Nguyen is the most recent example. We have seen nominees strongly supported by their home state Senators, both Republican and Democratic, delayed for months and unsuccessfully filibustered. I have been concerned that these actions by the Republican leadership signal a return to their practices in the 1990s, which resulted in more than doubling circuit court vacancies and led to the pocket filibuster of more than 60 of President Clinton's nominees. The crisis they created eventually led even to public criticism of their actions by Chief Justice Rehnquist during those years.

I hope that instead of withholding consent and threatening filibusters of President Obama's judicial nominees, Senate Republicans will treat the nominees of President Obama fairly. I made sure that we treated President Bush's nominees more fairly than President Clinton's nominees had been treated. In the 17 months that I served as chairman of the Senate Judiciary Committee during President Bush's first term, the Senate confirmed 100 of his judicial nominations.

I want to continue that progress, but we need Republican cooperation to do so. I urge them to turn away from their partisanship and begin to work with the President and the Senate majority leader.

Unlike his predecessor, President Obama has reached out, reached across the aisle to work with Republican Senators in making judicial nominations. The nomination of Judge Hamilton, which the Republican leadership filibustered, was supported by the most senior Republican in the U.S. Senate, my respected friend from Indiana, Senator LUGAR. Other examples are the recently confirmed nominees to vacancies in Alabama supported by Senators SESSIONS and SHELBY, in South Dakota supported by Senator THUNE, and in Florida, supported by Senators MARTINEZ and LAMIEUX. Still others are the President's nomination to the 11th Circuit from Georgia, supported by Senators ISAKSON and CHAMBLISS, his nomination to the 6th Circuit from Tennessee, supported by Senator ALEXANDER, and his recent nominations to the 4th Circuit from North Carolina, supported by Senator BURR. President Obama has reached out and consulted with home State Senators from both sides of the aisle regarding his judicial nominees.

Instead of praising the President for consulting with Republican Senators, the Republican leadership has doubled back on what they demanded when a Republican was in the White House. No more do they talk about each nominee being entitled to an up-or-down vote. That position is abandoned and forgotten. Instead, they now seek to filibuster and delay judicial nominations. They have also walked back from their position at the start of this Congress, when they threatened to filibuster nominees on which home state Senators were not consulted. We saw with Judge Hamilton that they filibustered a nominee supported by Senator LUGAR.

When President Bush worked with Senators across the aisle, I praised him

and expedited consideration of his nominees. When President Obama reaches across the aisle, the Senate Republican leadership delays and obstructs his qualified nominees. I fear that Senate Republican delaying tactics will yield the lowest judicial confirmation total in modern history. If Senate Republicans continue their delaying tactics, the total could be as low as that during the 1996 session, during President Clinton's first term, when a Republican Senate majority would only allow 17 judicial confirmations, none for circuit courts.

Although there have been nearly 110 judicial vacancies this year on our Federal circuit and district courts around the country, only 10 vacancies have been filled. That is wrong. The American people deserve better. As I have noted, there are nine more qualified judicial nominations awaiting Senate action on the Senate Executive Calendar. In addition there are another four pending before the Senate Judiciary Committee that have been given hearings and could be reported to the Senate before Christmas. They will be available to be considered by the Senate once approved by the Judiciary Committee. The Senate should do better, and could if Senate Republicans would remove their holds and stop the delaying tactics.

During President Bush's last year in office, we reduced judicial vacancies to as low as 34, even though it was a Presidential election year. Judicial vacancies have now spiked. There are currently 97 vacancies on our Federal circuit and district courts, and 23 more have already been announced. This is approaching record levels. I know we can do better. Justice should not be delayed or denied to any American because of overburdened courts and the lack of Federal judges.

REMEMBERING ABE POLLIN

Ms. MIKULSKI. Mr. President, I rise to pay tribute to the life and legacy of my friend Abe Pollin. He was a businessman, community leader, philanthropist, familyman. He was someone who simply made our community and our Nation a better place.

Abe was a great man who did great things. But he did it without a lot of fanfare. He was a team owner who thought first about the community that supported his teams. He was an employer who didn't treat his athletes or his employees as commodities—but as members of his team.

Abe Pollin was also a developer. But he didn't just invest in buildings, he invested in communities. He built one of the first big apartment buildings in Bethesda, named after his beloved wife Irene, long before Bethesda became the vibrant downtown that it is today. He never lost faith in Washington—building the MCI Center, now the Verizon Center, in the mid 1990s—which led to the revival of downtown Washington.

Here in the DC Metro area, there are few community organizations that did not benefit from his advice, his philanthropy or his leadership. Abe made our region a better place, and will be greatly missed.

My thoughts and prayers are with the Pollin family—his wife Irene, who is a founding mother of the effort to empower women to fight heart disease, and his children and grandchildren. I will be forever grateful for the Pollin family's early support of a young city council woman from Baltimore who wanted to run for Congress. Abe Pollin was one of my earliest supporters, and his faith in me meant a great deal.

Last night, thousands of people gathered at the Verizon Center to celebrate Abe Pollin's life. His legacy is a community that is stronger, more vibrant—and simply a better place to live.

SOMALIA

Mr. BROWNBACK. Mr. President, I rise to speak about the recent suicide bombing in Somalia and the broader security situation in that region. While our attention is necessarily focused on the wars in Afghanistan and Iraq, this latest bombing is a stark reminder that we cannot take our eye off of the Horn of Africa.

Last week, Somalis had a reason to celebrate. The graduation of several medical students from a university in Mogadishu was a welcome glimmer of hope for the future. Unfortunately, a suicide bomber intruded, blew himself up, and killed more than 20 others, including three Ministers from the fledgling Somali transitional government. There is, seemingly, no end to the violence which has plagued Somalia for a generation.

Somalia continues to lack a truly functional government, and for several years, we have watched the slow but steady development of extremism there. Though we support the development of a moderate government for Somalia, success is far from assured. The transitional government lacks control of significant parts of the country and struggles to provide the most basic services to the Somali people.

The most significant challenge to the transitional government comes from extremist groups such as al-Shabab, a group of Islamist terrorists with deep roots in Somalia that came to prominence after the defeat of the Islamic Courts Union 3 years ago. As we have seen throughout the world, if there is a power vacuum, violent extremists will seek to fill it, and that is what is taking place in Somalia. Somalia cannot succeed while groups such as al-Shabab grow and thrive.

Al-Shabab's future depends in no small part on support from outside the country. Al-Shabab gets new recruits from all over the world, it is strengthening ties to al-Qaida and the global jihadist network, it receives support from regional actors such as Eritrea, who use al-Shabab as a proxy for its own interests. Al-Shabab will not be defeated while this outside support continues.

For this reason, I hope that our administration will work hard to support and pass a draft resolution now circulating at the United Nations Security Council. Uganda, one of the Council's current rotating members, has drafted a resolution that addresses Eritrean support for Somali extremist groups, including al-Shabab. The resolution, which follows strong warnings to Eritrea from the U.S. and the African Union not to support al-Shabab, would ban weapon sales to Asmara, prohibit technical, financial and other assistance related to military activities, and freeze the assets of Eritrean political and military leaders as well as restrict their travel.

Al-Shabab seeks to undermine any attempt to stabilize Somalia. A volatile Somalia jeopardizes the stability of the Horn of Africa region, which is itself important to security in Africa, the greater Middle East, and the rest of the world. Support for extremist groups such as al-Shabab is unacceptable, and as long as Eritrea provides arms to al-Shabab, there will be no chance for peace in Somalia. I hope that the Security Council can take up and pass this resolution soon, and I hope the United States will be a strong supporter of this effort. Somalia ought not be a safe haven for extremists or a playground for outside powers pursuing their own agendas. Though Somalia's future is far from clear, the Security Council should have no difficulty in agreeing on the need to take steps to cut al-Shabab's lifelines of outside support.

TRIBUTE TO VIDA CHAN LIN

Mr. ENSIGN. Mr. President, today I commemorate the beginning of an exciting chapter for the Las Vegas Asian Chamber of Commerce. For more than 20 years, this group of entrepreneurial southern Nevadans has worked together to provide resources and promote economic growth in the Asian community. Today, they will install the first woman to be president of their esteemed organization. Vida Chan Lin steps into this role—respected by her peers and energized by her passion for furthering the goals of the Las Vegas Asian Chamber of Commerce.

While this leadership role is a new opportunity for Ms. Lin, her lifetime of experience has prepared her to take on this role. As a child, she was exposed to running a business as she saw firsthand the daily challenges and joys in the restaurants her family owned. She then found great satisfaction in the insurance industry where she continued to exceed expectations and eventually start her own company.

Ms. Lin has always balanced her business drive and success with her commitment to community service. She has been an instrumental force behind the Las Vegas Asian Chamber of Commerce for many years. Her ability

to bring people together, develop innovative programming, and mentor young leaders has helped ensure the long-term success of the Asian Chamber well beyond just her tenure.

She has been recognized by countless organizations for her business acumen and her heartfelt commitment to public service. I am proud to congratulate Vida Lin on this special day, and I wish her great success in the coming term of her presidency.

ADDITIONAL STATEMENTS

RECOGNIZING WHITNEY WREATH

• Ms. SNOWE. Mr. President, one of the great symbols of the winter holiday season we are just beginning is the wreath. Between the beautiful green needles and the fragrant smell, wreaths are reminders of a simpler time. And nowhere is the wreath more emblematic than my home State of Maine. Indeed, Maine is the largest producer of balsam fir wreaths in America, owed in large part to the tree's prevalence in our State's landscape. Furthermore, sales of these stunning wreaths contribute millions of dollars to the Maine economy. In recognition of these critical facts, I rise to honor the Whitney Wreath company, a renowned small business headquartered in Washington County.

Whitney Wreath is in its 21st season of producing fragrant and vivid green wreaths for display during the winter holidays. The company was started in 1988 when David Whitney, the company's founder, sold handmade wreaths from the back of a pickup truck during his teenage years. Two decades later, Whitney Wreath is now America's largest mail-order wreath company, selling its products through its own Web site, as well as several other catalogues and outlets including QVC. Incredibly, its wreath sales are now in the hundreds of thousands each year. The company has nine facilities throughout the State, and is in the process of building a tenth to improve productivity. And this year, despite the turbulence in our Nation's economy and an uncertain employment picture, Whitney Wreath was able to hire 250 additional employees over last season because of a substantial new contract.

Decorated with a range of colorful and timely ornaments, such as pine cones, Maine blueberries, sleigh bells, and of course bright red bows, Whitney's wreaths are nothing short of spectacular. Made using fresh Maine balsam fir, the smell of a Whitney wreath is unmistakable, and an outstanding symbol of the season it represents. The company also manufactures a range of Christmas centerpieces and the unique Maine Kissing Ball, consisting of ''snow'' covered pine cones combined with brilliant red berries.

Whitney Wreath has been celebrated over the years for its commitment to quality wreaths. In 2007, the Small Business Administration honored the company with its Jeffrey H. Butland Family-Owned Business of the Year award because of the company's efforts to be involved in the community and provide critical employment opportunities to the citizens of Downeast Maine. The award also paid homage to David Whitney's other small businesses, Whitney's Blueberries and Whitney's Tool Shed.

Finally, in the spirit of the holiday season, it is fitting to acknowledge the magnanimous work Whitney Wreath is doing to support our Nation's breast cancer survivors. Last year, the company asked Facebook users to join the fight against breast cancer and for every 20 people who joined, Mr. Whitney pledged to bring special wreaths with pink ribbons to survivors of the disease. On December 22, 2008, after almost 500 people took his message to heart, David Whitney arrived at Cancer Care of Maine in Brewer with 30 special wreaths.

This year, Mr. Whitney has promised to donate 25 percent of every breast cancer awareness wreath purchased to the Susan G. Komen Breast Cancer Foundation. The company has also announced that it will donate 20 percent of the proceeds from the sales of its Original Christmas Wreaths to the National Autism Association. As we work to combat these terrible illnesses, I am proud to have caring and thoughtful individuals like David Whitney doing their own part to encourage and support those afflicted.

A downeast staple for nearly a quarter of a century, Whitney Wreath has become a leader in its field by combining attention to detail and concern for the community. I thank David Whitney and everyone at Whitney Wreath for all they do to lift our spirits during the holiday season, and wish them many more years of success.•

TRIBUTE TO KENNETH CHRISTOPHER SATTERLEE

• Mr. THUNE. Mr. President, today I recognize Kenneth Christopher Satterlee, an intern in my Washington DC, office, for all of the hard work he has done for me, my staff, and the State of South Dakota over the past several months.

Kenny is a graduate of La Jolla High School in San Diego, CA. Currently he is attending the American University, where he is majoring in history. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Kenny for all of the fine work he has done and wish him continued success in the years to come.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1319. An act to prevent the inadvertent disclosure of information on a computer through certain ''peer-to-peer'' file sharing programs without first providing notice and obtaining consent from an owner or authorized user of the computer.

H.R. 1854. An act to amend the Water Resources Development Act of 1992 to modify an environmental infrastructure project for Big Bear Lake, California.

H.R. 2134. An act to establish the Western Hemisphere Drug Policy Commission.

H.R. 2221. An act to protect consumers by requiring reasonable security policies and procedures to protect data containing personal information, and to provide for nationwide notice in the event of a security breach.

H.R. 2278. An act to direct the President to transmit to Congress a report on anti-American incitement to violence in the Middle East, and for other purposes.

H.R. 2711. An act to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties.

H.R. 3224. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland, and for other purposes.

H.R. 4165. An act to extend through December 31, 2010, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

H.R. 4217. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 199. Concurrent resolution recognizing the 10th Anniversary of the redesignation of Company E, 100th Battalion, 442d Infantry Regiment of the United States Army and the sacrifice of the soldiers of Company E and their families in support of the United States.

H. Con. Res. 206. Concurrent resolution commending the soldiers and civilian personnel stationed at Fort Gordon and their

families for their service and dedication to the United States and recognizing the contributions of Fort Gordon to Operation Iraqi Freedom and Operation Enduring Freedom and its role as a pivotal communications training installation.

H. Con. Res. 213. Concurrent resolution expressing the sense of Congress for and solidarity with the people of El Salvador as they persevere through the aftermath of torrential rains which caused devastating flooding and deadly mudslides.

H. Con. Res. 218. Concurrent resolution expressing sympathy for the 57 civilians who were killed in the southern Philippines on November 23, 2009.

ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 1422. An act to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1319. To prevent the inadvertent disclosure of information on a computer through the use of certain ''peer-to-peer'' file sharing programs without first providing notice and obtaining consent from an owner or authorized user of the computer; to the Committee on Commerce, Science, and Transportation.

H.R. 1854. An act to amend the Water Resources Development Act of 1992 to modify an environmental infrastructure project for Big Bear Lake, California; to the Committee on Energy and Natural Resources.

H.R. 2134. An act to establish the Western Hemisphere Drug Policy Commission; to the Committee on Foreign Relations.

H.R. 2221. An act to protect consumers by requiring reasonable security policies and procedures to protect data containing personal information, and to provide for nationwide notice in the event of a security breach; to the Committee on Commerce, Science, and Transportation.

H.R. 2278. An act to direct the President to transmit to Congress a report on anti-American incitement to violence in the Middle East, and for other purposes; to the Committee on Foreign Relations.

H.R. 2711. An act to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 196. Concurrent resolution making corrections in the enrollment of the bill H.R. 2647; to the Committee on Armed Services.

H. Con. Res. 199. Concurrent resolution recognizing the 10th Anniversary of the redesignation of Company E, 100th Battalion, 442d Infantry Regiment of the United States Army and the sacrifice of the soldiers of Company E and their families in support of the United States; to the Committee on Armed Services.

H. Con. Res. 206. Concurrent resolution commending the soldiers and civilian personnel stationed at Fort Gordon and their families for their service and dedication to the United States and recognizing the contributions of Fort Gordon to Operation Iraqi Freedom and Operation Enduring Freedom and its role as a pivotal communications training installation; to the Committee on Armed Services.

H. Con. Res. 213. Concurrent resolution expressing the sense of Congress for and solidarity with the people of El Salvador as they persevere through the aftermath of torrential rains which caused devastating flooding and deadly mudslides; to the Committee on Foreign Relations.

H. Con. Res. 218. Concurrent resolution expressing sympathy for the 57 civilians who were killed in the southern Philippines on November 23, 2009; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 9, 2009, she had presented to the President of the United States the following enrolled bill:

S. 1422. An act to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 574. A bill to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes (Rept. No. 111–102).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1288. A bill to authorize appropriations for grants to the States participating in the Emergency Management Assistance Compact, and for other purposes (Rept. No. 111–103).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 1261, a bill to repeal title II of the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002 to better protect the security, confidentiality, and integrity of personally identifiable information collected by States when issuing driver's licenses and identification documents, and for other purposes (Rept. No. 111–104).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BEGICH (for himself and Ms. SNOWE):

S. 2852. A bill to establish, within the National Oceanic and Atmospheric Administration, an integrated and comprehensive ocean, coastal, Great Lakes, and atmospheric research, prediction, and environmental information program to support renewable energy; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. GREGG, Mr. LIEBERMAN, Mr. CHAMBLISS, Mr. NELSON of Florida, Mr. ISAKSON, Mr. BAYH, Mr. VOINOVICH, Mrs. MCCASKILL, Mr. LEMIEUX, Mr. UDALL of Colorado, Mr. ALEXANDER, Mr. BENNET, Mr. CRAPO, Mr. NELSON of Nebraska, Mr. BROWNBACK, Ms. KLOBUCHAR, Mr. CORKER, Mr. WARNER, Mrs. HUTCHISON, Mrs. SHAHEEN, Mr. ENZI, Mr. DORGAN, Mr. BOND, Mr. BENNETT, Mr. ENSIGN, Mr. JOHANNS, Mrs. FEINSTEIN, Mr. MCCAIN, and Mr. CORNYN):

S. 2853. A bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to expand future prosperity growth for all Americans; to the Committee on the Budget .

By Mr. KOHL (for himself and Mr. HATCH):

S. 2854. A bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ:

S. 2855. A bill to reallocate a portion of the Troubled Asset Relief Program to increase lending to main street; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE (for herself and Mr. KIRK):

S. 2856. A bill to allow the United States-Canada Transboundary Resource Sharing Understanding to be considered an international agreement for the purposes of section 304(e)(4) of the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. HATCH, Ms. STABENOW, and Mr. LUGAR):

S. 2857. A bill to amend the Internal Revenue Code of 1986 to expand the qualifying advanced energy project credit; to the Committee on Finance .

By Mrs. BOXER (for herself, Mr. DURBIN, Mr. KERRY, and Mr. CASEY):

S. 2858. A bill to amend the Public Health Service Act to establish an Office of Mitochondrial Disease at the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself, Mr. ROCKEFELLER, Ms. SNOWE, Mr. NELSON of Florida, and Mr. KERRY):

S. 2859. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 2860. A bill to protect students from inappropriate seclusion and physical restraint, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 2861. A bill to amend the Trade Act of 1974 to establish an Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 2862. A bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO (for himself and Mr. LIEBERMAN):

S. Res. 373. A resolution designating the month of February 2010 as ''National Teen Dating Violence Awareness and Prevention Month''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. ROBERTS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 455, a bill to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army Five-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

S. 534

At the request of Mr. NELSON of Florida, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 534, a bill to amend title XVIII of the Social Security Act to reduce cost-sharing under part D of such title for certain non-institutionalized full-benefit dual eligible individuals.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 796, a bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

S. 841

At the request of Mr. KERRY, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1382

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1400

At the request of Ms. STABENOW, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1400, a bill to amend the Internal Revenue Code of 1986 to make permanent the depreciation classification of motorsports entertainment complexes.

S. 1524

At the request of Mr. KERRY, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1524, a bill to strengthen the capacity, transparency, and accountability of United States foreign assistance programs to effectively adapt and respond to new challenges of the 21st century, and for other purposes.

S. 1932

At the request of Mr. MCCAIN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 1932, a bill to amend the Elementary and Secondary Education Act of 1965 to allow members of the Armed Forces who served on active duty on or after September 11, 2001, to be eligible to participate in the Troops-to-Teachers Program, and for other purposes.

S. 2725

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2725, a bill to provide for fairness for the Federal judiciary.

S. 2794

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2794, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the donation of wild game meat.

S. 2843

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2843, a bill to provide for a program of research, development, demonstration, and commercial application in vehicle technologies at the Department of Energy.

S. RES. 339

At the request of Mr. SPECTER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. Res. 339, a resolution to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings.

S. RES. 362

At the request of Mr. SHELBY, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. Res. 362, a resolution expressing the sense of the Senate that the Secretary of the Treasury should direct the United States Executive Directors to the International Monetary Fund and the World Bank to use the voice and vote of the United States to oppose making any loans to the Government of Antigua and Barbuda until that Government cooperates with the United States and compensates the victims of the Stanford Financial Group fraud.

AMENDMENT NO. 2795

At the request of Mr. LEAHY, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of amendment No. 2795 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2798

At the request of Mr. INOUYE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of amendment No. 2798 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2807

At the request of Mr. CORNYN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2807 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2869

At the request of Mr. NELSON of Florida, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 2869 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2903

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 2903 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2909

At the request of Mr. NELSON of Florida, the names of the Senator from Massachusetts (Mr. KIRK), the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 2909 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2924

At the request of Mr. CASEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 2924 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2938

At the request of Mrs. GILLIBRAND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 2938 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2978

At the request of Mr. BEGICH, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of amendment No. 2978 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2991

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 2991 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2993

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 2993 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3004

At the request of Mrs. HAGAN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 3004 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3010

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3010 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3013

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3013 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3014

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3014 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3069

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of amendment No. 3069 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

STATEMENTS ON INTRODUCTED BILLS AND JOINT RESOLUTIONS

By Mr. BEGICH (for himself and Ms. SNOWE):

S. 2852. A bill to establish, within the National Oceanic and Atmospheric Administration, an integrated and comprehensive ocean, coastal, Great Lakes, and atmospheric research, prediction, and environmental information program to support renewable energy; to the Committee on Commerce, Science, and Transportation.

Mr. BEGICH. Mr. President, today, I, along with my colleague Senator SNOWE, are introducing legislation to establish a comprehensive ocean, coastal, Great Lakes, and atmospheric research program to support renewable energy. Renewable energy is the most rapidly growing U.S. energy sector. Increasing the use of renewable energy is dependent on baseline atmospheric and oceanic data. Improving NOAA's ability to provide the observations, forecasts, and climate information tailored to the needs of the renewable energy industry will promote growth of this energy sector. This bill would require NOAA to establish a comprehensive research, prediction, and environmental information program to support renewable energy. Specifically, the legislation would require NOAA to develop observation systems and models and collect baseline environmental data to support renewable energy development on land and in the marine environment; and provide best management practices to avoid adverse effects in the marine and coastal environment. The legislation would authorize $100 million annually for fiscal year 2010 through 2014 and allows for up to 50 percent of funds to be available to educational institutions or states to carry out activities in support of the program. As we work as a Nation to decrease our dependency on foreign oil, to encourage scientific advancement, technological innovation and job creation, the Renewable Energy Environmental Research Act of 2009 will be an important component in advancing progress in those areas. I urge my colleagues to support this legislation to support critical research in support of advancing renewable energy development.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Renewable Energy Environmental Research Act of 2009''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish an integrated and comprehensive ocean, coastal, Great Lakes, and atmospheric research, prediction, and environmental information program to support renewable energy.

SEC. 3. RENEWABLE ENERGY RESEARCH PLAN.

(a) IN GENERAL.—The Administrator shall develop a plan—

(1) to define requirements for a comprehensive and integrated ocean, coastal, Great Lakes, and atmosphere science program to support renewable energy development in the United States based on the public hearings, public comments, and a review of scientific and industry information;

(2) to identify and describe current climate, weather, and water data programs, products, services, and authorities within NOAA relevant to renewable energy development;

(3) to provide targeted research, data, monitoring, observation, and other information, products, and services concerning climate, weather, and water in support of renewable energy and ''smart grid'' technology, including research to accurately quantify the downstream micro-climate impacts of wind-power turbines;

(4) to provide research, data, monitoring, and other information, products, and services to inform renewable energy decisions concerning coastal and marine habitats, living marine resources and the ecosystems on which they depend and coastal and marine planning; and

(5) to reduce duplication and leverage the resources of existing NOAA programs through coordination with—

(A) other offices and programs within NOAA, including the atmospheric, ocean, and coastal observation systems;

(B) Federal, State, tribal, and local observation systems; and

(C) other entities, including the private sector organizations and institutions of higher education; and

(6) to facilitate public-private cooperation, including identification and assessment of current private sector capabilities.

(b) PUBLIC HEARINGS.—In developing the plan, the Administrator shall provide public notice and opportunity for 1 or more public hearings and shall seek comments from Federal and State agencies, tribes, local governments, representatives of the private sector, and other parties interested in renewable energy observations, data, and use in order to improve NOAA climate, weather, and water observation data products and services to more effectively support renewable energy development.

SEC. 4. ESTABLISHMENT OF RESEARCH, PREDICTION, AND ENVIRONMENTAL INFORMATION PROGRAM.

(a) IN GENERAL.—Within 18 months after the date of enactment of this Act, the Administrator shall establish a program to develop and implement an integrated and comprehensive ocean, coastal, Great Lakes and atmosphere research and operations program, based on the plan required by section 3, to support renewable energy development in the United States.

(b) PROGRAM COMPONENTS.—At a minimum, the program shall include—

(1) improvements in coordinated climate, weather, and water research, monitoring, and observations to support—

(A) renewable energy development; and

(B) the understanding and mitigation of the impact of renewable energy development on living marine resources, including protected species and the marine and coastal environment;

(2) coordinated weather, water, and climate prediction capability focused on renewable energy and ''smart grid'' technology to provide information and decision services in support of renewable energy development;

(3) support for the transition to, and reliable delivery of, sustained operational weather, water, and climate products from research, observation, and prediction outputs;

(4) means of identifying biological and ecological effects of marine renewable energy development on living marine resources, the marine and coastal environment, marine-dependent industries, and coastal communities;

(5) baseline ecological characterization, including research, data collection, and mapping, of the coastal and marine environment and living marine resources for marine renewable energy development;

(6) avoidance, minimization, and mitigation strategies to address the potential impacts of marine renewable energy on the marine, coastal, and Great Lakes environment, including developing effective monitoring protocols, use of adaptive management, informed engineering design and operating parameters, and the establishment of protocols for minimizing the environmental impacts of testing, developing, and deploying marine renewable energy devices;

(7) support for the development of marine special area management plan by states as defined by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) that would support renewable energy development consistent with natural resource protection and other coastal-dependent economic growth;

(8) comprehensive digital mapping, modeling, and other geospatial information and services to support planning for renewable energy and stewardship of ecosystem and living marine ecosystems, including protected species, in ocean and coastal areas;

(9) a coordinated approach for examining and quantifying the micro-climate impacts of wind-power farms on soil transpiration and drying; and

(10) provision for outreach to the public and private sector about program research, information, and products, including making non-proprietary information and best management practices developed under this program available to the public.

(c) USE IN AGENCY DECISIONS.—The program established under subsection (b) shall be designed to collect, synthesize, and distribute data in a manner that can be used by marine resource managers responsible for making decisions about marine renewable energy projects. The Army Corps of Engineers, Department of Commerce, Minerals Management Service, Federal Energy Regulatory Commission, and Department of Energy shall consider this information when making planning, siting, and permitting decisions for marine renewable energy.

(d) SUPPORT FOR PUBLIC-PRIVATE COOPERATION.—To the extent practicable, in implementing the program established under this section, the Administrator shall seek appropriate opportunities to facilitate and expand cooperation with private sector entities to develop and expand information services that serve the renewable energy industry.

SEC. 5. BIENNIAL REPORTS.

Not later than 2 years after the date of the enactment of this Act and every 2 years thereafter, the Administrator shall prepare and transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Natural Resources, and the House of Representatives Committee on Science and Technology on progress made in implementing this Act, including—

(1) a description of activities carried out under this Act;

(2) recommendations for priority activities under this Act for fiscal years beginning after the date on which the report is submitted; and

(3) funding levels for activities under this Act in those fiscal years

SEC. 6. LIBRARY.

Within 1 year after the date of the enactment of this Act, the Administrator, in consultation with relevant Federal agencies, shall establish a renewable energy information library and data portal. The library shall include, at a minimum—

(1) links to data and information products for use in renewable energy development;

(2) links to planning and decision support tools for use in renewable energy development;

(3) data about the baseline condition of ocean and coastal resources; and

(4) links to digital mapping and geospatial information, products, and services described in section 4(b).

SEC. 7. FEDERAL COORDINATION.

In carrying out activities under this Act, the Administrator shall coordinate with the Secretary of the Interior, the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Federal Energy Regulatory Commission, the Department in which the Coast Guard is operating, and the heads of other relevant Federal agencies.

SEC. 8. AGREEMENTS.

The Administrator may enter into and perform such contracts, leases, grants, cooperative agreements, or other agreements and transactions with any agency or instrumentality of the United States, or with any State, local, tribal, territorial or foreign government, or with any person, corporation, firm, partnership, educational institution, nonprofit organization, or international organization as may be necessary to carry out the purposes of this Act.

SEC. 9. AUTHORITY TO RECEIVE FUNDS.

The Administrator may accept, retain, and use funds received from any party pursuant to an agreement entered into under section 8 for activities furthering the purposes of this Act.

SEC. 10. USE OF OCEAN OBSERVING OFFSHORE INFRASTRUCTURE.

(a) IN GENERAL.—Any offshore exploration and production facility, at the discretion of the Administrator, may execute a memorandum of understanding authorizing the use of offshore platforms and infrastructure for the placement of meteorological and oceanographic observation sensors of a type to be designated by the Administrator in support of the Integrated Ocean Observing System.

(b) AVAILABILITY OF INFORMATION.—All information collected by such sensors will be managed by NOAA and be readily available for use in spill response as well as available to the National Weather Service, other NOAA programs, and the general public.

SEC. 11. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Under Secretary of Commerce for Oceans and Atmosphere in the Under Secretary's capacity as Administrator of NOAA.

(2) MARINE RENEWABLE ENERGY.—The term ''marine renewable energy'' means any form of renewable energy derived from the sea including wave energy, tidal energy, ocean current energy, offshore wind energy, salinity gradient energy, ocean thermal gradient energy, and ocean thermal energy conversion.

(3) NOAA.—The term ''NOAA'' means the National Oceanic and Atmospheric Administration.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IMPLEMENTATION AND EXECUTION.—There are authorized to be appropriated to the Administrator $100,000,000 for each of fiscal years 2010 through 2014 to carry out this Act.

(b) GRANTS TO EDUCATIONAL INSTITUTIONS AND COASTAL STATES.—Of the amounts appropriated pursuant to subsection (b), the Administrator shall make up to 50 percent available to educational institutions, and to States with coastal zone management programs approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), to carry out activities that support the program established under section 4.

SEC. 13. SAVINGS PROVISION.

Nothing in this Act shall be construed to supersede or modify the jurisdiction, responsibilities, or authority of any Federal or State agency under any provision of law in effect on the date of enactment of this Act.

By Mr. KOHL (for himself and Mr. HATCH):

S 2854. A bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce a bill with Senator HATCH that would provide tax credits for purchasers of hybrid and plug-in hybrid heavy duty trucks. Specifically, this bill would extend the existing heavy duty hybrid tax credit and create a tax credit for heavy duty plug-in hybrid trucks. The plug-in tax credit was included in the Senate passed stimulus bill, but was dropped in conference. Both tax credits would begin at $15,000 for those vehicles weighing up to 14,000 lbs and max out at $100,000

for vehicles weighing more than 33,000 lbs. The tax credits would expire in 2014.

The challenge for hybrid and plug-in hybrid technologies is cost. Advanced batteries and components are new and expensive technologies. In the medium and heavy duty sector, these costs are even higher and vehicle turnover is lower. The incremental cost of a heavy duty plug-in hybrid over 23,000 lbs can be as much as $85,000. We are introducing this bill to provide the needed incentives for manufacturers to develop and install hybrid and plug-in hybrid technology on heavy duty trucks.

This bill also includes a tax credit of up to $3,500 for trucks stops to install electrification units so that truckers could plug in their vehicles to operate necessary systems without idling the engine. Because the Department of Transportation mandates that truckers rest for 10 hours after driving for 11 hours, truckers idle at truck stops for several hours. With this tax credit, truckers would be able to operate the heater, air conditioner, television, and other appliances without running the engine, which saves fuel, reduces air pollution, and reduces engine wear. The tax credit would end in 2014.

In addition to reducing oil use in their drive cycles, electrification is an important technology for reducing idle costs and emissions. U.S. trucks idle an average of 1830 hours per year. The idling of commercial vehicles is estimated to consume more than 2 billion gallons of fuel annually, while producing unwanted emissions. By promoting onboard electricity options for powering vehicle functions while idling and by expanding off board options, through truck stop electrification, this legislation will reduce oil use and emissions from this sector even further.

This bill, which has the support of the Electric Drive Transportation Association, will help manufacturers reach the economies of scale by bringing down the costs of hybrid and plug-in hybrid technologies. The tax credits will promote the purchases of clean, efficient electric drive trucks and the installation of anti-idling equipment that will improve our environment and reduce our dependence on foreign oil.

By Mr. BINGAMAN (for himself Mr. HATCH, Ms. STABENOW, and Mr. LUGAR):

S. 2857. A bill to amend the Internal Revenue Code of 1986 to expand the qualifying advanced energy project credit; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, a recent report by the New America Foundation finds that ''the United States ran an overall green trade deficit of −$8.9 billion in 2008, including a deficit of −$6.4 billion in the critical category of renewable energy. . .'' To halt this trend and promote American leadership in clean technology manufacturing, I was pleased to see the Advanced Energy Manufacturing Tax Credit, codified as Section 48C of the Internal Revenue Code, established under the American Recovery and Reinvestment Act. Under Section 48C, qualifying projects receive a 30 percent tax credit for capital expenditures related to new, expanded, or re-equipped advanced energy manufacturing projects. But Section 48C was enacted subject to a $2.3 billion limitation in allocation authority—and we expect the full $2.3 billion soon to be exhausted. Because we cannot allow this credit to lapse, I rise today to introduce the American Clean Technology Manufacturing Leadership Act, which would add $2.5 billion in allocation authority to the Section 48C Advanced Energy Manufacturing Tax Credit program. I am pleased to be joined by Senator HATCH, Senator STABENOW, and Senator LUGAR in introducing this bill.

By establishing the Section 48C credit, Congress took a significant step—but we cannot slow down now. In the near- to mid-term, we can anticipate rapid growth in demand for renewable energy technologies, due to the long-term extension of the production tax credit and the commercial and residential investment tax credits; declining product costs; the anticipated enactment this Congress of a national renewable portfolio standard; and the anticipated implementation of a carbon control system. But without robust incentives, foreign-based manufacturers are poised to seize a large share of this domestic growth in the clean power market with products exported to the United States. As New America explains: ''If current trends continue, the green trade deficit can be expected to widen further as the administration's agenda increases domestic demand but without sufficient measures to increase domestic production. If the deficit continues to grow, the United States will forego the creation of millions of high-wage, high-skill green manufacturing jobs and lose its potential to be a global producer as well as a consumer of green technologies.''

The reality is that we need a level playing field to bring manufacturing jobs to the United States. For years, Germany, China, India, Malaysia, and the Philippines have offered incentives that have placed the United States at a competitive disadvantage. For instance, for solar photovoltaic manufacturers, Malaysia and the Philippines offer income tax holidays, 15 years in the case of Malaysia, and Germany offers up to 30 percent of investment costs for large enterprises and 40–50 percent for smaller enterprises.

The Section 48C Advanced Energy Manufacturing Tax Credit made an important stride in leveling that playing field. ARRA instructed Treasury and DOE to establish a selection procedure for allocating credits, thus ensuring that only the most promising projects receive a Federal investment. But the program is oversubscribed and we anticipate that by January 15, the full $2.3 billion authorized under ARRA will be allocated.

We cannot afford to have this credit lapse. There are additional qualified applications ready to be evaluated, and an existing selection infrastructure to make these awards quickly. To keep us on track, our bill would add an additional $2.5 billion in allocation authority—enough to leverage an additional $8.3 billion in investment in domestic manufacturing facilities.

Yesterday President Obama himself called for an expansion of this credit. Speaking at the Brookings Institution, the President said that the Treasury program has received a substantial response and warrants an expansion: ''It's a positive sign that many of these programs drew so many applicants for funding that a lot of strong proposals—proposals that will leverage private capital and create jobs quickly—did not make the cut,'' President Obama said. ''With additional resources, in areas like advanced manufacturing of wind turbines and solar panels, for instance, we can help turn good ideas into good private-sector jobs.''

We should move immediately to meet the President's call, by adding $2.5 billion in allocation authority. Allowing this credit to lapse would only cede high-paying jobs to other countries at a time when our unemployment rate hovers above 10 percent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Clean Technology Manufacturing Leadership Act''.

SEC. 2. EXPANSION OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) IN GENERAL.—Section 48C(d)(1)(B) of the Internal Revenue Code of 1986 is amended by striking ''$2,300,000,000'' and inserting ''$4,800,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to allocations for applications submitted after December 31, 2009.

By Mrs. BOXER (for himself, Mr. DURBIN, Mr. KERRY, and Mr. CASEY):

S. 2858. A bill to amend the Public Health Service Act to establish an Office of Mitochondrial Disease at the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, as we work to reform our health care system, it is crucial that we encourage the development of new treatments and cures for diseases by investing in health research and innovation. Today, I am proud to introduce the Brittany Wilkinson Mitochondrial Disease Research and Treatment Enhancement Act of 2009, which, for the first time,

would coordinate the federal investment in researching the cause of, and treatments and cures for, mitochondrial disease.

Known as the cell's ''powerhouse,'' mitochondria are specialized compartments within cells that help sustain life by producing 90 percent of the energy our cells and bodies need. Mitochondrial disease causes defects that reduce the ability of mitochondria to produce energy, which leads to cell dysfunction or death. When cells in our bodies begin to fail or die, then whole organ systems can fail.

Due to the essential nature of the function of mitochondria, mitochondrial dysfunction is suspected to be associated with a large number of diseases including, Parkinson's, autism, diabetes, cancer and many other afflictions. However, we cannot learn more about how these diseases are related until we invest enough resources in mitochondrial disease research.

First recognized in the 1960s, mitochondrial disease is relatively newly diagnosed, yet every 30 minutes a child is born who will develop a mitochondrial disease by age 10, and one recent study showed that one in every 200 people has a genetic mutation that may lead to mitochondrial disease.

Despite its prevalence, mitochondrial disease has no known treatment or cure, those afflicted with this disorder—many of them children—go untreated.

This legislation would create an Office of Mitochondrial Disease, within the National Institutes of Health, to develop a Mitochondrial Disease Research Plan, to promote and coordinate efforts to educate researchers and health providers about mitochondrial diseases and to award grants to increase research of mitochondrial disease.

In addition, this legislation would establish Mitochondrial Disease Centers of Excellence to promote basic and clinical research, facilitate training programs in mitochondrial disease, and develop and disseminate programs to provide continuing education in mitochondrial disease. This legislation also instructs the Director of the CDC to establish a national registry and a biorepository to help collect and share information about patients with mitochondrial disease.

The United Mitochondrial Disease Foundation, UMDF—the voice for the thousands of children, adults and their families who face this disease almost alone—greatly supports this bill because they know it is critical to research, understanding and future treatments for mitochondrial diseases.

Brittany Wilkinson, for whom this act is named, was herself a mitochondrial disease patient. Earlier this year I met this young woman when she visited my office as a UMDF Youth Ambassador; I was greatly impressed by her poise and dedication to her cause. Although Brittany had experienced medical problems since birth, she was not diagnosed with mitochondrial disease until the age of seven.

Though Brittany was in constant pain, spent months in the hospital and sometimes stopped breathing at night, she devoted her life to raising awareness about the disease she shared with so many others. As the first ever Youth Ambassador for the UMDF, Brittany helped fundraise, made phone calls and dictated letters—sometimes from her hospital bed.

In addition to her work as a Youth Ambassador, Brittany was also active in her local government, where she worked to pass ''Mitochondrial Disease Awareness Week'' resolutions in Clovis City and Frenso, California. On the state level, this year she was able to get a permanent resolution through the California Assembly to make the third full week in September every year ''Mitochondrial Disease Awareness Week''. I was devastated to hear that this September Brittany passed due to the effects of her debilitating illness.

Brittany Wilkinson worked tirelessly to advance public awareness of this devastating disease, now I urge my colleagues to join me in taking the next step by supporting this investment in mitochondrial disease research, for the thousands of families across our nation coping with mitochondrial disease.

By Mr. INOUYE (for himself, Mr. ROCKEFELLER, Ms. SNOWE, Mr. NELSON of Florida, and Mr. KERRY):

S. 2859. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, I am pleased to sponsor the Coral Reef Conservation Amendments Act of 2009. This bill reauthorizes and strengthens the Coral Reef Conservation Act of 2000, a program that I originally sponsored in the 106th Congress establishing the Coral Reef Conservation Program at the National Oceanic and Atmospheric Administration, NOAA.

Coral reefs are among the oldest and most economically and biologically important ecosystems in the world. They provide habitat for more than one million diverse aquatic species, a natural barrier for protection from coastal storms and erosion, and are a potential source of treatment for many of the world's diseases. In addition, reef-supported tourism is a $30 billion industry worldwide, and the commercial value of U.S. fisheries from coral reefs is more than $100 million. However, our coral reef ecosystems face many threats including pollution, climate change and coral bleaching, and overfishing to name a few. Coral reefs cover only one-tenth of one percent of the ocean floor, yet provide habitat for more than 25 percent of all marine species.

The original Coral Reef Conservation Act of 2000 recognized the need to preserve, sustain and restore the condition of these valuable coral reef ecosystems. It directed NOAA to develop a National Coral Reef Action Strategy, established a NOAA Coral Reef Conservation Program, and created a Coral Reef Conservation Fund to support public-private partnership projects. The Coral Reef Conservation Act of 2000 also authorized NOAA to provide emergency grants to address unforeseen and disaster-related impacts to coral reefs.

The Coral Reef Conservation Amendments Act of 2009 would strengthen NOAA's ability to comprehensively address threats to coral reefs and empower the agency with tools to ensure that damage to our coral reef ecosystems is prevented or effectively mitigated. It also establishes consistent practices for maintaining data, products, and information, and promotes the widespread availability and dissemination of that environmental information.

The bill allows the Secretary to further develop partnerships with foreign governments and international organizations as well as with Federal agencies, State and local governments, tribal organizations, educational institutions, nonprofit organizations, commercial organizations, and other public and private entities. These partnerships are critical not only to the understanding of our coral reef ecosystems, but also to their protection and restoration. Finally, the bill allows for any amount received by the United States as a result of illegal activity resulting in the destruction, take, loss, or injury of coral reefs to be used toward restoration efforts.

I would urge my colleagues to support this important legislation and I hope that we may pass this bill quickly to continue supporting NOAA's leadership role in coral reef conservation.

By Mr. DODD:

S. 2860. A bill to protect students from inappropriate seclusion and physical restraint, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, in 1998, the Hartford Courant ran an award-winning series of stories about the use of restraint and seclusion in hospitals, residential facilities, and group homes for individuals with psychiatric and developmental disabilities.

The Courant uncovered a hidden epidemic, confirming 142 deaths occurring during or after the use of restraint or seclusion.

One of those 142 was an 11-year-old boy from my home State of Connecticut. He was restrained face-down in a position that restricted his air flow. He died as a result.

In response, I led the charge to establish Federal standards to prevent the misuse of these practices. I helped pass The Children's Health Act of 2000, which included the Compassionate Care

Act that I originally drafted to put these standards in place in certain hospitals and residential facilities. We wanted to include schools in this legislation, but were unable to do so. Sadly, the need could not have been greater.

Over the past year, reports from the National Disability Rights Network, NDRN, the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion, APRAIS, the Council of Parent Attorneys and Advocates, Inc., COPAA, and the Government Accountability Office, GAO, have painted a picture disturbingly similar to the one the Hartford Courant discovered more than a decade ago.

The statistics are chilling—hundreds of incidents of physical injury, psychological trauma, even death—but the stories are devastating.

Here are some of the examples the GAO found in their report released on May 19, 2009.

A 14-year-old boy was restrained face-down by a teacher because he would not stay seated in class. The 230 lb. teacher sat on the 129 lb. boy, restricting his airflow and resulting in the boy's death.

A 4-year-old girl with cerebral palsy and autism was restrained in a wooden chair with leather straps for being ''uncooperative.''

In one school district, children with disabilities as young as 6 years old were allegedly placed in strangleholds, restrained for extended periods of time, confined to dark rooms, tethered to ropes, and prevented from using the restroom until they urinated on themselves.

To be clear, school personnel mean no harm, and my concern signifies no disrespect for the difficult job they do or the dangers they sometimes face.

But these tragic stories reflect inadequate training, and a lack of resources on the local level to implement effective interventions, such as school-wide positive behavioral supports.

Just as students have a right to learn in a safe environment, educators have a right to work in a safe environment. They should be provided with training and support to prevent injury to themselves and others.

In some States, like Connecticut, parents have successfully advocated for laws that provide these resources, as well as guidelines to ensure that they are used effectively.

But the patchwork of State laws and regulations is confusing.

According to the GAO study, 19 States have no law or regulations concerning restraint and seclusion in schools.

Some laws apply to only certain schools or situations.

Some apply to restraint but not seclusion.

Only 19 States require parental notification.

Only 17 States require staff training.

Only 8 specifically prohibit restraints that restrict air flow.

Furthermore, this patchwork is obviously inadequate; according to a report by COPPA, over 71 percent of the 185 incidents they identified occurred in schools with no positive behavioral interventions or supports.

Therefore, I rise today to introduce the Preventing Harmful Restraint and Seclusion in Schools Act, a bill that will address this void.

It will establish clear minimum standards for the use of restraint and seclusion in schools, closely based on the Children's Health Act of 2000. It will also provide resources to assist with policy implementation and provide school personnel with necessary tools, training, and support.

Finally, it will improve data collection, analysis, and identification of effective practices to prevent and reduce restraint and seclusion in schools, so we may better understand the scope of the problem and the effectiveness of our solutions.

Specifically, the legislation will prohibit the use of restraint and seclusion in schools unless the student's behavior imposes an immediate danger of physical injury and less restrictive interventions would be ineffective.

It will prohibit the use of mechanical, chemical, and physical restraints that restrict air flow to the lungs.

It will require adequate training and state certification of school personnel imposing restraint or seclusion, immediate parental notification when such an incident occurs, and debriefing to prevent future incidents.

As a condition of receiving federal education funding, states will be required to submit annual plans to the Secretary of Education which describe their restraint and seclusion policies, and certify that minimum standards are being met.

States will also be required to report annually the total number of incidents of restraint and seclusion, disaggregated by demographic and other categories.

In order to assist States, local educational agencies, and schools with implementing policies and procedures to meet the minimum standards, competitive grants will be provided. Grants will also assist with the implementation of school-wide positive behavioral supports to further prevent incidents of restraint and seclusion.

Finally, the Department of Education will conduct, and provide to Congress, a national assessment which analyzes data on restraint and seclusion and effective practices in preventing and reducing incidents. This will provide us with a more accurate picture of the extent of restraint and seclusion in schools and help direct additional future efforts to ensure that our children and those who educate them are safe.

I want to thank the many organizations representing individuals with disabilities, students, teachers, and schools that all came to the table with recommendations. I am also grateful to Secretary Duncan for his leadership on this issue. Finally, I want to thank my colleague and good friend Chairman GEORGE MILLER in the House of Representatives. Today, he's introducing companion legislation, and I look forward to working with him to make it law.

Every child has a right to be safe in the place where they go to learn and grow. Every educator deserves the training and support they need to do their jobs safely and effectively. This legislation will help to prevent tragedies in our schools. I am proud to introduce it today, and I urge my colleagues to join me.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 2861. A bill to amend the Trade Act of 1974 to establish an Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today with my colleague, Senate Small Business Committee Chair LANDRIEU, to introduce the Small Business Trade Representation Act of 2009. This bipartisan measure would once and for all establish an Assistant United States Trade Representative for Small Business, to ensure that small businesses are represented in trade negotiations and in U.S. trade policy.

I first introduced legislation in 2001, in the 107th Congress, to establish a United States Trade Representative for Small Business, in order to ensure that small business interests are reflected in U.S. trade policy and trade agreement negotiations. Since that time, we've heard excuse after excuse, from Administrations of both parties, about why we don't need an Assistant USTR for Small Business. Currently, less than one percent of all small businesses are exporting their goods and services to foreign customers. Until we see significant gains in small business participation in international trade, we must make it a priority across the Federal government—and especially in our trade policy—to help small businesses compete in the global marketplace.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, and as a senior member of both the Senate Finance and Commerce Committees, one of my top priorities is to ensure that small businesses get the promised benefits of our international trade relationships and are able to compete in the world economy.

While globalization has created opportunities for U.S. small businesses to sell their goods and services in new markets, not enough small businesses are taking advantage of these international prospects. In fact, according to the U.S. Department of Commerce, less than one percent of the approximately 27 million U.S. small businesses currently sell their products to foreign buyers. Small businesses are a vital source of economic growth and job creation, generating nearly ⅔ of net new jobs each year. Small businesses are essential to our economic recovery, and

we must help them take advantage of all potential opportunities, including those in foreign markets.

Small businesses can survive, diversify, and compete effectively in the international marketplace by developing an export business. But, as I mentioned, too few small businesses are expanding into international markets. This legislation will help ensure that small businesses are a priority in the U.S. government's trade policy and in future trade agreements.

We cannot overlook the impact of trade on small businesses. An investment in small business exporting assistance is an investment in our economy. I ask all of my Senate colleagues to support this vital legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Trade Representation Act of 2009''.

SEC. 2. ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SMALL BUSINESS.

(a) ESTABLISHMENT OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6)(A) There is established within the Office the position of Assistant United States Trade Representative for Small Business, who shall be appointed by the United States Trade Representative.

''(B) The Assistant United States Trade Representative for Small Business shall—

''(i) promote the trade interests of small-business concerns (as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662));

''(ii) advocate for the reduction of foreign trade barriers with respect to the trade issues of small-business concerns that are exporters;

''(iii) collaborate with the Administrator of the Small Business Administration with respect to the trade issues of small-business concerns;

''(iv) assist the United States Trade Representative in developing trade policies that increase opportunities for small-business concerns in foreign and domestic markets, including polices that reduce trade barriers for small-business concerns; and

''(v) perform such other duties as the United States Trade Representative may direct.

''(C) The Assistant United States Trade Representative for Small Business shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(b) CONFORMING REPEAL.—Section 2112 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3812) is repealed.

(c) TECHNICAL CORRECTIONS.—Section 141 of the Trade Act of 1974 (19 U.S.C. 2171), as amended by subsection (a), is further amended—

(1) in subsection (c), by moving paragraph (5) 2 ems to the left; and

(2) in subsection (e)—

(A) in paragraph (1), by striking ''5314'' and inserting ''5315''; and

(B) in paragraph (2), by striking ''the maximum rate of pay for grade GS–18 as provided in section 5332'' and inserting ''the maximum rate of pay for level IV of the Executive Schedule in section 5315''.

Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 2862. A bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today with my colleague, Senate Small Business Committee Chair LANDRIEU, to introduce the Small Business Export Enhancement and International Trade Act of 2009. This bipartisan measure would provide improved and expanded support for small businesses, through critical programs and reforms, to ensure that, as we emerge from this protracted recession, American small businesses are primed for success in the global marketplace and are able to create and sustain high-paying jobs.

I would like to thank Chair LANDRIEU for her efforts on this critical issue and for working with me and my staff to merge our respective bills into one bipartisan measure that will help small businesses stay competitive, help them grow, and speed the recovery of our economy as a whole.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, and as a senior member of both the Senate Finance and Commerce Committees, one of my top priorities is to ensure that small businesses get the promised benefits of our international trade relationships and are able to compete in the world economy.

While globalization has created opportunities for U.S. small businesses to sell their goods and services in new markets, not enough small businesses are taking advantage of these international prospects. In fact, according to the U.S. Department of Commerce, less than one percent of the approximately 27 million U.S. small businesses currently sell their products to foreign buyers. Small businesses are a vital source of economic growth and job creation, generating nearly ⅔ of net new jobs each year. Small businesses are essential to our economic recovery, and we must help them take advantage of all potential opportunities, including those in foreign markets.

Small businesses face particular challenges in exporting. It can be difficult for small exporting firms to secure the working capital needed to fulfill foreign purchase orders, for instance, because many lenders won't lend against export orders or export receivables. Small business owners may not know how to connect with foreign buyers, or may not have the time or resources necessary to understand other countries' rules and regulations.

Currently, Federal programs are grossly inadequate at helping small businesses overcome the challenges of exporting. The Small Business Export Enhancement and International Trade Act, which we are introducing today, gives small businesses the critical resources and assistance needed to explore potential export opportunities, or to expand their current export business.

Our bipartisan legislation includes provisions from bills I have introduced in past Congresses, since the 109th, to elevate the head of the Small Business Administration, SBA, office responsible for trade and export programs to the Associate Administrator-level, reporting directly to the administrator.

Further, it includes all of the key provisions from the small business trade bill that I introduced earlier this year, S. 1208, the Small Business Export Opportunity Development Act of 2009. These critical provisions would bolster the SBA's technical assistance programs and improve export financing programs to ensure that small businesses have access to the capital needed to support export sales. The legislation also increases the coordination among other federal agencies—the Department of Commerce, the Office of the U.S. Trade Representative, and the Export-Import Bank—to ensure that small businesses benefit from all the export assistance the Federal Government offers.

This legislation also includes a program I proposed earlier this year in S. 1208 to provide grants to help small businesses start or expand export activity, such as participation in foreign trade missions, foreign market sales trips, training workshops and payment of website translation fees. It also improves the SBA's network of international trade counselors and enhances the export assistance provided to small business clients through the Small Business Development Center network, which has over 1,000 locations nationwide.

Our bill increases the maximum size of SBA-guaranteed export working capital and international trade loans from a current level of $2 million to a new level of $5 million, consistent with the levels established in my bill, S. 1615, the Next Steps for a Main Street Recovery Act, which I introduced in August and the President called for last month. This bill also establishes a permanent Export Express program, a streamlined, expedited loan program to get capital to exporters quickly and efficiently, so they can focus on the terms of the sale and preparing their product for shipment. It also establishes a program to provide support for small businesses related to trade disputes and unfair international trade practices, which is critical for our entrepreneurs who have suffered from illegal activities by our trading partners.

Small businesses can survive, diversify, and compete effectively in the international marketplace by developing an export business. But, as I mentioned, too few small businesses are expanding into international markets. This legislation will help small

business owners take the crucial steps of finding international buyers for their goods and services and will enable small business owners to secure the financing needed to fill orders from foreign buyers.

This investment could yield tremendous returns for our economy. The United States spends just one-sixth of the international average on export promotion and assistance among developed countries in promoting small businesses exports. Every additional dollar spent on export promotion results in a 40-fold increase in exports, according to a World Bank study.

We cannot overlook the impact of trade on small businesses. An investment in small business exporting assistance is an investment in our economy. I ask all of my Senate colleagues to support this vital legislation.

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

S. 2862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Export Enhancement and International Trade Act of 2009''.

SEC. 2. DEFINITIONS.

(a) DEFINITIONS.—In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''Associate Administrator'' means the Associate Administrator for International Trade appointed under section 22(a)(2) of the Small Business Act, as amended by this Act;

(3) the term ''Export Assistance Center'' means a one-stop shop referred to in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

(4) the term ''rural small business concern'' means a small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986; and

(5) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(t) SMALL BUSINESS DEVELOPMENT CENTER.—In this Act, the term 'small business development center' means a small business development center described in section 21.

''(u) REGION OF THE ADMINISTRATION.—In this Act, the term 'region of the Administration' means the geographic area served by a regional office of the Administration established under section 4(a).''.

(2) CONFORMING AMENDMENT.—Section 4(b)(3)(B)(x) of the Small Business Act (15 U.S.C. 633(b)(3)(B)(x)) is amended by striking ''Administration district and region'' and inserting ''district and region of the Administration''.

SEC. 3. OFFICE OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking ''SEC. 22. (a) There'' and inserting the following:

''SEC. 22. OFFICE OF INTERNATIONAL TRADE.

''(a) ESTABLISHMENT.—

''(1) OFFICE.—There''; and

(2) in subsection (a)—

(A) in paragraph (1), as so designated, by striking the period and inserting ''for the primary purposes of increasing—

''(A) the number of small business concerns that export; and

''(B) the volume of exports by small business concerns.''; and

(B) by adding at the end the following:

''(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.''.

(b) AUTHORITY FOR ADDITIONAL ASSOCIATE ADMINISTRATOR.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) in the fifth sentence, by striking ''five Associate Administrators'' and inserting ''Associate Administrators''; and

(2) by adding at the end the following: ''One such Associate Administrator shall be the Associate Administrator for International Trade, who shall be the head of the Office of International Trade established under section 22.''.

(c) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following:

''(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

''(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

''(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

''(3) the Associate Administrator has direct supervision and control over—

''(A) the staff of the Office; and

''(B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.''.

(d) ROLE OF ASSOCIATE ADMINISTRATOR IN CARRYING OUT INTERNATIONAL TRADE POLICY.—Section 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1)) is amended in the matter preceding subparagraph (A)—

(1) by inserting ''the Administrator of'' before ''the Small Business Administration''; and

(2) by inserting ''through the Associate Administrator for International Trade, and'' before ''in cooperation with''.

(e) IMPLEMENTATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall appoint an Associate Administrator for International Trade under section 22(a) of the Small Business Act (15 U.S.C. 649(a)), as added by this section.

SEC. 4. DUTIES OF THE OFFICE OF INTERNATIONAL TRADE.

(a) AMENDMENTS TO SECTION 22.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator, working in close cooperation with the Secretary of Commerce, the United States Trade Representative, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, and other relevant Federal agencies, small business development centers engaged in export promotion efforts, Export Assistance Centers, regional and district offices of the Administration, the small business community, and relevant State and local export promotion programs, shall—

''(1) maintain a distribution network, using regional and district offices of the Administration, the small business development center network, networks of women's business centers, the Service Corps of Retired Executives authorized by section 8(b)(1), and Export Assistance Centers, for programs relating to—

''(A) trade promotion;

''(B) trade finance;

''(C) trade adjustment assistance;

''(D) trade remedy assistance; and

''(E) trade data collection;

''(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to small business concerns on exporting trends, market-specific growth, industry trends, and international prospects for exports;

''(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partners in the private sector; and

''(4) give preference in hiring or approving the transfer of any employee into the Office or to a position described in subsection (c)(9) to otherwise qualified applicants who are fluent in a language in addition to English, to—

''(A) accompany small business concerns on foreign trade missions; and

''(B) translate documents, interpret conversations, and facilitate multilingual transactions, including by providing referral lists for translation services, if required.'';

(2) in subsection (c)—

(A) by striking ''(c) The Office'' and inserting the following:

''(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator'';

(B) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(C) by inserting before paragraph (2), as so redesignated, the following:

''(1) establish annual goals for the Office relating to—

''(A) enhancing the exporting capability of small business concerns and small manufacturers;

''(B) facilitating technology transfers;

''(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently against foreign entities;

''(D) increasing the ability of small business concerns to access capital;

''(E) disseminating information concerning Federal, State, and private programs and initiatives; and

''(F) ensuring that the interests of small business concerns are adequately represented in trade negotiations;'';

(D) in paragraph (2), as so redesignated, by striking ''mechanism for'' and all that follows through ''(D) assisting'' and inserting the following: ''mechanism for—

''(A) identifying subsectors of the small business community with strong export potential;

''(B) identifying areas of demand in foreign markets;

''(C) prescreening foreign buyers for commercial and credit purposes; and

''(D) assisting'';

(E) in paragraph (3), as so redesignated, by striking ''assist small businesses in the formation and utilization of'' and inserting ''assist small business concerns in forming and using'';

(F) in paragraph (4), as so redesignated—

(i) by striking ''local'' and inserting ''district'';

(ii) by striking ''existing'';

(iii) by striking ''Small Business Development Center network'' and inserting ''small business development center network''; and

(iv) by striking ''Small Business Development Center Program'' and inserting ''small business development center program'';

(G) in paragraph (5), as so redesignated—

(i) in subparagraph (A), by striking ''Gross State Produce'' and inserting ''Gross State Product'';

(ii) in subparagraph (B), by striking ''SIC'' each place it appears and inserting ''North American Industry Classification System''; and

(iii) in subparagraph (C), by striking ''small businesses'' and inserting ''small business concerns'';

(H) in paragraph (6), as so redesignated, by striking the period at the end and inserting a semicolon;

(I) in paragraph (7), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by inserting ''concerns'' after ''small business''; and

(II) by striking ''current'' and inserting ''up to date'';

(ii) in subparagraph (A), by striking ''Administration's regional offices'' and inserting ''regional and district offices of the Administration'';

(iii) in subparagraph (B) by striking ''current'';

(iv) in subparagraph (C), by striking ''current''; and

(v) by striking ''small businesses'' each place that term appears and inserting ''small business concerns'';

(J) in paragraph (8), as so redesignated, by striking and at the end;

(K) in paragraph (9), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''full-time export development specialists to each Administration regional office and assigning''; and

(II) by striking ''person in each district office. Such specialists'' and inserting ''individual in each district office and providing each Administration regional office with a full-time export development specialist, who'';

(ii) in subparagraph (B)—

(I) by striking ''current''; and

(II) by striking ''with'' and inserting ''in'';

(iii) in subparagraph (D)—

(I) by striking ''Administration personnel involved in granting'' and inserting ''personnel of the Administration involved in making''; and

(II) by striking ''and'' at the end;

(iv) in subparagraph (E)—

(I) by striking ''small businesses' needs'' and inserting ''the needs of small business concerns''; and

(II) by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following:

''(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

''(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, small business development centers, women's business centers, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, and other relevant Federal agencies;''; and

(vi) by striking ''small businesses'' each place that term appears and inserting ''small business concerns''; and

(L) by adding at the end the following:

''(10) make available on the website of the Administration the name and contact information of each individual described in paragraph (9);

''(11) carry out a nationwide marketing effort using technology, online resources, training, and other strategies to promote exporting as a business development opportunity for small business concerns;

''(12) disseminate information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives authorized by section 8(b)(1), State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting; and

''(13) establish and carry out training programs for the staff of the regional and district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.'';

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (5) as clauses (i) through (v), respectively, and adjusting the margins accordingly;

(B) by striking ''(d) The Office'' and inserting the following:

''(d) EXPORT FINANCING PROGRAMS.—

''(1) IN GENERAL.—The Associate Administrator''; and

(C) by striking ''To accomplish this goal, the Office shall work'' and inserting the following:

''(2) TRADE FINANCE SPECIALIST.—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

''(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

''(B) work'';

(4) in subsection (e), by striking ''(e) The Office'' and inserting the following:

''(e) TRADE REMEDIES.—The Associate Administrator'';

(5) by amending subsection (f) to read as follows:

''(f) REPORTING REQUIREMENT.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

''(1) a description of the progress of the Office in implementing the requirements of this section;

''(2) a detailed account of the results of export growth activities of the Administration, including the activities of each district and regional office of the Administration, based on the performance measures described in subsection (i);

''(3) an estimate of the total number of jobs created or retained as a result of export assistance provided by the Administration and resource partners of the Administration;

''(4) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

''(5) a description of the participation by the Office in trade negotiations.'';

(6) in subsection (g), by striking ''(g) The Office'' and inserting the following:

''(g) STUDIES.—The Associate Administrator''; and

(7) by adding after subsection (h), as added by section 3 of this Act, the following:

''(i) EXPORT AND TRADE COUNSELING.—

''(1) DEFINITION.—In this subsection—

''(A) the term 'lead small business development center' means a small business development center that has received a grant from the Administration; and

''(B) the term 'lead women's business center' means a women's business center that has received a grant from the Administration.

''(2) CERTIFICATION PROGRAM.—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women's business centers in providing export assistance to small business concerns.

''(3) NUMBER OF CERTIFIED EMPLOYEES.—The Administrator shall ensure that the number of employees of each lead small business development center who are certified in providing export assistance is not less than the lesser of—

''(A) 5; or

''(B) 10 percent of the total number of employees of the lead small business development center.

''(4) REIMBURSEMENT FOR CERTIFICATION.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall reimburse a lead small business development center or a lead women's business center for costs relating to the certification of an employee of the lead small business center or lead women's business center in providing export assistance under the program established under paragraph (2).

''(B) LIMITATION.—The total amount reimbursed by the Administrator under subparagraph (A) may not exceed $350,000 in any fiscal year.

''(j) PERFORMANCE MEASURES.—

''(1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—

''(A) the number of small business concerns that—

''(i) receive assistance from the Administration;

''(ii) had not exported goods or services before receiving the assistance described in clause (i); and

''(iii) export goods or services;

''(B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;

''(C) export revenues by small business concerns assisted by programs of the Administration;

''(D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office;

''(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center; and

''(F) the number of small business concerns referred to the Export-Import Bank of the United States or to the Overseas Private Investment Corporation by the staff of the Office, an Export Assistance Center, or a small business development center.

''(2) JOINT PERFORMANCE MEASURES.—The Associate Administrator shall develop joint performance measures for the district offices of the Administration and the Export Assistance Centers that include the number of export loans made under—

''(A) section 7(a)(16);

''(B) the Export Working Capital Program established under section 7(a)(14);

''(C) the Preferred Lenders Program, as defined in section 7(a)(2)(C)(ii); and

''(D) the export express program established under section 7(a)(34).

''(3) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the performance measures developed under paragraph (1), that is consistent with systems used by the departments and agencies and the network.''.

(b) TRADE DISPUTES.—The Administrator shall carry out a comprehensive program to provide technical assistance, counseling, and reference materials to small business concerns relating to resources, procedures, and requirements for mechanisms to resolve international trade disputes or address unfair international trade practices under international trade agreements or Federal law, including—

(1) directing the district offices of the Administration to provide referrals, information, and other services to small business concerns relating to the mechanisms;

(2) entering agreements and partnerships with providers of legal services relating to the mechanisms, to ensure small business concerns may affordably use the mechanisms; and

(3) in consultation with the Director of the United States Patent and Trademark Office and the Register of Copyrights, designing counseling services and materials for small business concerns regarding intellectual property protection in other countries.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on any travel by the staff of the Office of International Trade of the Administration, during the period beginning on October 1, 2004, and ending on the date of enactment of the Act, including the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel.

SEC. 5. EXPORT ASSISTANCE CENTERS.

(a) EXPORT ASSISTANCE CENTERS.—Section 22 of the Small Business Act (15 U.S.C. 649), as amended by this Act, is amended by adding at the end the following:

''(k) EXPORT ASSISTANCE CENTERS.—

''(1) EXPORT FINANCE SPECIALISTS.—

''(A) MINIMUM NUMBER OF EXPORT FINANCE SPECIALISTS.—On and after January 1, 2010, the Administrator, in coordination with the Secretary of Commerce, shall ensure that the number of export finance specialists is not less than the number of such employees so assigned on January 1, 2003.

''(B) EXPORT FINANCE SPECIALISTS ASSIGNED TO EACH REGION OF THE ADMINISTRATION.—On and after the date that is 2 years after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that there are not fewer than 3 export finance specialists in each region of the Administration.

''(2) PLACEMENT OF EXPORT FINANCE SPECIALISTS.—

''(A) PRIORITY.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

''(i) had an Administration employee assigned to the Export Assistance Center before January 2003; and

''(ii) has not had an Administration employee assigned to the Export Assistance Center during the period beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

''(B) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to reassign or remove an export finance specialist who is assigned to an Export Assistance Center on the date of enactment of this subsection.

''(3) GOALS.—The Associate Administrator shall work with the Department of Commerce, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation to establish shared annual goals for the Export Assistance Centers.

''(4) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

''(l) DEFINITIONS.—In this section—

''(1) the term 'Associate Administrator' means the Associate Administrator for International Trade described in subsection (a)(2);

''(2) the term 'Export Assistance Center' means a one-stop shop for United States exporters established by the United States and Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

''(3) the term 'export finance specialist' means a full-time equivalent employee of the Office assigned to an Export Assistance Center to carry out the duties described in subsection (e); and

''(4) the term 'Office' means the Office of International Trade established under subsection (a)(1).''.

(b) STUDY AND REPORT ON FILLING GAPS IN HIGH-AND-LOW-EXPORT VOLUME AREAS.—

(1) STUDY AND REPORT.—Not later than 6 months after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall—

(A) conduct a study of—

(i) the volume of exports for each State;

(ii) the availability of export finance specialists in each State;

(iii) the number of exporters in each State that are small business concerns;

(iv) the percentage of exporters in each State that are small business concerns;

(v) the change, if any, in the number of exporters that are small business concerns in each State—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced;

(vi) the total value of the exports in each State by small business concerns;

(vii) the percentage of the total volume of exports in each State that is attributable to small business concerns; and

(viii) the change, if any, in the percentage of the total volume of exports in each State that is attributable to small business concerns—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced; and

(B) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(i) the results of the study under subparagraph (A);

(ii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the greatest volume of exports, based upon the most recent data available from the Department of Commerce;

(iii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the lowest volume of exports, based upon the most recent data available from the Department of Commerce; and

(iv) such additional information as the Administrator determines is appropriate.

(2) DEFINITION.—In this subsection, the term ''export finance specialist'' has the meaning given that term in section 22(l) of the Small Business Act, as added by this Act.

SEC. 6. INTERNATIONAL TRADE FINANCE PROGRAMS.

(a) LOAN LIMITS.—

(1) TOTAL AMOUNT OUTSTANDING.—Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended by striking ''$1,750,000, of which not more than $1,250,000'' and inserting ''$4,500,000 (or if the gross loan amount would exceed $5,000,000), of which not more than $4,000,000''.

(2) PARTICIPATION.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B), (D), and (E)'';

(B) in subparagraph (D), by striking ''Notwithstanding subparagraph (A), in'' and inserting ''In''; and

(C) by adding at the end the following:

''(E) PARTICIPATION IN INTERNATIONAL TRADE LOAN.—In an agreement to participate in a loan on a deferred basis under paragraph (16), the participation by the Administration may not exceed 90 percent.''.

(b) WORKING CAPITAL.—Section 7(a)(16)(A) of the Small Business Act (15 U.S.C. 636(a)(16)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''in—'' and inserting ''—'';

(2) in clause (i)—

(A) by inserting ''in'' after ''(i)''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''in'' after ''(ii)''; and

(B) by striking the period at the end and inserting '', including any debt that qualifies for refinancing under any other provision of this subsection; or''; and

(4) by adding at the end the following:

''(iii) by providing working capital.''.

(c) COLLATERAL.—Section 7(a)(16)(B) of the Small Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

(1) by striking ''Each loan'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), each loan''; and

(2) by adding at the end the following:

''(ii) EXCEPTION.—A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.''.

(d) EXPORT WORKING CAPITAL PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(D), by striking ''not exceed'' and inserting ''be''; and

(2) in paragraph (14)—

(A) by striking ''(A) The Administration'' and inserting the following: ''EXPORT WORKING CAPITAL PROGRAM.—

''(A) IN GENERAL.—The Administrator'';

(B) by striking ''(B) When considering'' and inserting the following:

''(C) CONSIDERATIONS.—When considering'';

(C) by striking ''(C) The Administration'' and inserting the following:

''(D) MARKETING.—The Administrator''; and

(D) by inserting after subparagraph (A) the following:

''(B) TERMS.—

''(i) LOAN AMOUNT.—The Administrator may not guarantee a loan under this paragraph of more than $5,000,000.

''(ii) FEES.—

''(I) IN GENERAL.—For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

''(II) UNTAPPED CREDIT.—The Administrator may not assess a fee on capital that is not accessed by the small business concern.''.

(e) PARTICIPATION IN PREFERRED LENDERS PROGRAM.—Section 7(a)(2)(C) of the Small Business Act (15 U.S.C. 636(a)(2)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

''(ii) EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.''.

(f) EXPORT EXPRESS PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking ''(32) INCREASED VETERAN'' and inserting ''(33) INCREASED VETERAN''; and

(2) by adding at the end the following:

''(34) EXPORT EXPRESS PROGRAM.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'export development activity' includes—

''(I) obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

''(II) participation in a trade show that takes place outside the United States;

''(III) translation of product brochures or catalogues for use in markets outside the United States;

''(IV) obtaining a general line of credit for export purposes;

''(V) performing a service contract from buyers located outside the United States;

''(VI) obtaining transaction-specific financing associated with completing export orders;

''(VII) purchasing real estate or equipment to be used in the production of goods or services for export;

''(VIII) providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

''(IX) acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

''(ii) the term 'express loan' means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

''(B) AUTHORITY.—The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

''(C) LEVEL OF PARTICIPATION.—

''(i) MAXIMUM AMOUNT.—The maximum amount of an express loan guaranteed under this paragraph shall be $500,000.

''(ii) PERCENTAGE.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

''(I) 90 percent of a loan that is not more than $350,000; and

''(II) 75 percent of a loan that is more than $350,000 and not more than $500,000.''.

(g) ANNUAL LISTING OF EXPORT FINANCE LENDERS.—Section 7(a)(16) of the Small Business Act (15 U.S.C. 636(a)(16)) is amended by adding at the end the following:

''(F) LIST OF EXPORT FINANCE LENDERS.—

''(i) PUBLICATION OF LIST REQUIRED.—The Administrator shall publish an annual list of the banks and participating lending institutions that, during the 1-year period ending on the date of publication of the list, have made loans guaranteed by the Administration under—

''(I) this paragraph;

''(II) paragraph (14); or

''(III) paragraph (34).

''(ii) AVAILABILITY OF LIST.—The Administrator shall—

''(I) post the list published under clause (i) on the website of the Administration; and

''(II) make the list published under clause (i) available, upon request, at each district office of the Administration.''.

(h) APPLICABILITY.—The amendments made by subsections (a) through (f) shall apply with respect to any loan made after the date of enactment of this Act.

SEC. 7. STATE TRADE AND EXPORT PROMOTION GRANT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''eligible small business concern'' means a small business concern that—

(A) has been in business for not less than the 1-year period ending on the date on which assistance is provided using a grant under this section;

(B) is operating profitably, based on operations in the United States;

(C) has demonstrated understanding of the costs associated with exporting and doing business with foreign purchasers, including the costs of freight forwarding, customs brokers, packing and shipping, as determined by the Associate Administrator;

(D) has in effect a strategic plan for exporting; and

(E) agrees to provide to the Associate Administrator such information and documentation as is necessary for the Associate Administrator to determine that the small business concern is in compliance with the internal revenue laws of the United States;

(2) the term ''program'' means the State Trade and Export Promotion Grant Program established under subsection (b);

(3) the term ''small business concern owned and controlled by women'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(4) the term ''socially and economically disadvantaged small business concern'' has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 6537(a)(4)(A)); and

(5) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(b) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a 3-year trade and export promotion pilot program to be known as the State Trade and Export Promotion Grant Program, to make grants to States to carry out export programs that assist eligible small business concerns in—

(1) participation in a foreign trade mission;

(2) a foreign market sales trip;

(3) a subscription to services provided by the Department of Commerce;

(4) the payment of website translation fees;

(5) the design of international marketing media;

(6) a trade show exhibition;

(7) participation in training workshops; or

(8) any other export initiative determined appropriate by the Associate Administrator.

(c) GRANTS.—

(1) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State that export or to increase the value of the exports by eligible small business concerns in the State.

(2) CONSIDERATIONS.—In making grants under this section, the Associate Administrator may give priority to an application by a State that proposes a program that—

(A) focuses on eligible small business concerns as part of an export promotion program;

(B) demonstrates success in promoting exports by—

(i) socially and economically disadvantaged small business concerns;

(ii) small business concerns owned or controlled by women; and

(iii) rural small business concerns;

(C) promotes exports from a State that is not 1 of the 10 States with the highest percentage of exporters that are small business concerns, based upon the latest data available from the Department of Commerce; and

(D) promotes new-to-market export opportunities to the People's Republic of China for eligible small business concerns in the United States.

(3) LIMITATIONS.—

(A) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

(B) PROPORTION OF AMOUNTS.—The total value of grants under the program made during a fiscal year to the 10 States with the highest percentage of exporters that are small business concerns, based upon the latest data available from the Department of Commerce, shall be not more than 50 percent of the amounts appropriated for the program for that fiscal year.

(4) APPLICATION.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

(d) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

(e) FEDERAL SHARE.—The Federal share of the cost of an export program carried out using a grant under the program shall be—

(1) for a State that has a high export volume, as determined by the Associate Administrator, not more than 65 percent; and

(2) for a State that does not have a high export volume, as determined by the Associate Administrator, not more than 75 percent.

(f) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of enactment of this Act, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report, which shall include—

(A) a description of the structure of and procedures for the program;

(B) a management plan for the program; and

(C) a description of the merit-based review process to be used in the program.

(2) ANNUAL REPORTS.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the program, which shall include—

(A) the number and amount of grants made under the program during the preceding year;

(B) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with grant; and

(C) the effect of each grant on exports by eligible small business concerns in the State receiving the grant.

(g) REVIEWS BY INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

(A) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

(B) the overall management and effectiveness of the program.

(2) REPORT.—Not later than September 30, 2012, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the review conducted under paragraph (1).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $15,000,000 for each of fiscal years 2010, 2011, and 2012.

(i) TERMINATION.—The authority to carry out the program shall terminate 3 years after the date on which the Associate Administrator establishes the program.

SEC. 8. RURAL EXPORT PROMOTION.

Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that contains—

(1) a description of each program of the Administration that promotes exports by rural small business concerns, including—

(A) the number of rural small business concerns served by the program;

(B) the change, if any, in the number of rural small business concerns as a result of participation in the program during the 10-year period ending on the date of enactment of this Act;

(C) the volume of exports by rural small business concerns that participate in the program; and

(D) the change, if any, in the volume of exports by rural small businesses that participate in the program during the 10-year period ending on the date of enactment of this Act;

(2) a description of the coordination between programs of the Administration and other Federal programs that promote exports by rural small business concerns;

(3) recommendations, if any, for improving the coordination described in paragraph (2);

(4) a description of any plan by the Administration to market the international trade financing programs of the Administration through lenders that—

(A) serve rural small business concerns; and

(B) are associated with financing programs of the Department of Agriculture;

(5) recommendations, if any, for improving coordination between the counseling programs and export financing programs of the Administration, in order to increase the volume of exports by rural small business concerns; and

(6) any additional information the Administrator determines is necessary.

SEC. 9. INTERNATIONAL TRADE COOPERATION BY SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) by striking ''(2) The Small Business Development Centers'' and inserting the following:

''(2) COOPERATION TO PROVIDE INTERNATIONAL TRADE SERVICES.—

''(A) INFORMATION AND SERVICES.—The small business development centers''; and

(2) in paragraph (2)—

(A) in subparagraph (A), as so designated, by inserting ''(including State trade agencies),'' after ''local agencies''; and

(B) by adding at the end the following:

''(B) COOPERATION WITH STATE TRADE AGENCIES AND EXPORT ASSISTANCE CENTERS.—A small business development center that counsels a small business concern on issues relating to international trade shall—

''(i) consult with State trade agencies and Export Assistance Centers to provide appropriate services to the small business concern; and

''(ii) as necessary, refer the small business concern to a State trade agency or an Export Assistance Center for further counseling or assistance.

''(C) DEFINITION.—In this paragraph, the term 'Export Assistance Center' has the same meaning as in section 22.''.

SEC. 10. SMALL BUSINESS TRADE POLICY.

(a) NOTIFICATION BY USTR.—Not later than 90 days before the United States Trade Representative begins a negotiation with regard to any trade agreement, the United States Trade Representative shall notify the Administrator of the date the negotiation will begin.

(b) RECOMMENDATIONS.—Not later than 30 days before the United States Trade Representative begins a negotiation with regard to any trade agreement, the Administrator shall present to the United States Trade Representative recommendations relating to the needs and concerns of small business concerns that are exporters.

Ms. LANDRIEU. Mr. President, as chair of the Committee on Small Business and Entrepreneurship, I am pleased to join the committee's ranking member, OLYMPIA SNOWE of Maine, in introducing the Small Business Export Enhancement and International Trade Act of 2009. Building upon legislation that I have introduced in the last three Congresses, including, S. 1196 the Small Business International Trade Enhancements Act of 2009 that I introduced in June of this year, this bipartisan legislation will ensure that small businesses seeking to export their goods and services will have access to the resources they need to successfully expand into foreign markets. With health premiums increasing more each year and cash registers at home not ringing like they used to, exporting has become a practical solution for small firms. Expanding opportunities for small business trade is not only vital to the financial security of our entrepreneurs, it is vital to the recovery of our economy.

Last year, $70 billion in exports maintained or created 600,000 high-paying American jobs. By creating jobs, as well as lessening the trade deficit, an increase in small business exporting will lead us out of this recession and make our nation better able to compete in the global marketplace. Furthermore, any investments we make in export programs will essentially pay for themselves. Every dollar invested in export programs increases exports by 40 percent, a World Bank study found.

In my home State of Louisiana, we have experienced firsthand the benefit of expanding and investing in export opportunities. With over 40 ports and an extensive rail system, Louisiana has long been a top destination for companies seeking to export their goods and services, particularly exporters. Despite the devastation caused by Hurricanes Katrina and Rita, Louisiana has experienced a tremendous growth in trade activity during the last five years, largely due to increased exports. For example, in 2008 alone, Louisiana exported nearly $41.9 billion dollars worth of goods and services, representing a 38-percent increase from 2007, more than triple the national export growth rate for that year.

However, while most of our Nation's exporters—about 97 percent—are small businesses, most of our small businesses are not exporting. In fact, small businesses make up just more than a quarter of the country's export volume—trade remains dominated by larger businesses. This is also true in Louisiana where, despite tremendous growth in exports in recent years, small businesses represent 85 percent of exporting companies, but account for only 30 percent of the export volume. What is holding our entrepreneurs back?

As chair of the Committee on Small Business and Entrepreneurship, I have heard from small exporters across the country. I held a roundtable on June 11—''Entrepreneurial Development: Investing in Small Businesses to Strengthen our Economy''—to hear from small business and exporting leaders. I also held a field hearing in New Orleans on June 30—''Keeping America Competitive: Federal Programs that Promote Small Business Exporting''—at which United States Trade Representative, Ambassador Ron Kirk, U.S. Small Business Administration, SBA, Administrator Karen Mills, U.S. Export-Import Bank Chairman and President Fred Hochberg and several small exporters testified. At these events, small exporters told me that the programs and services at the Small Business Administration, SBA, and other Federal agencies are helpful—but they are not doing everything they could and should do. Better coordination and improvements to the programs are needed.

Like many small businesses, one of the biggest hurdles faced by small exporters is access to capital. The current economic conditions exacerbate this problem for small firms. The SBA

offers several loan programs to help small exporters, but years of neglect under the previous administration have sometimes rendered these valuable tools both unattractive and impractical for borrowers and lenders alike.

One of these programs is the International Trade Loan, ITL, program. This program allows exporters to borrow up to $2 million with $1.75 million guaranteed by the SBA. Exporters can then use this money to help develop and expand overseas markets, upgrade equipment and facilities or provide an infusion of capital if they are being hurt by import competition.

While the original goal of this program is on target with the needs of larger exporters, it has not evolved to meet the financing needs of small exporters in an ever-changing global economy. The volume of loans made through this program has dropped by more than 90 percent since 2003. The SBA's other signature trade financing product—the Export Working Capital Program—has also seen a significant drop in its loan volume, declining by more than 31 percent over the same period.

With a few small but significant changes to these programs, the SBA will once again be able to provide a user friendly and attractive financing option that makes sense for both borrowers and lenders. For example, one of the biggest problems with the ITL program is a discrepancy between the loan cap and the guarantee, forcing borrowers to take out a second loan to take full advantage of the guarantee. Additionally, ITL's can only be used to acquire fixed assets, rather than working capital, a common need for exporters. ITL's also do not have the same collateral or refinancing terms as SBA 7(a) loans.

The provisions in this legislation, and previous versions of the legislation that I have introduced in the last three Congresses, address these concerns. The bill raises the loan guarantee to $4.5 million and the loan cap to $5 million, makes working capital an eligible use of proceeds, and extends the 7(a) program's terms for collateral and refinancing. The end result is a more relevant and more practical tool for small exporters.

By making these simple changes and requiring the agency to publish an annual list of all participating banks and lending institutions, the SBA's export finance programs will once again provide small exporters with the practical and modern financing options small businesses need and deserve. These programs, however, are only useful if a small business owner can identify which loan products are right for them. Local lenders that specialize in export financing can help get these products into the hands of the small exporters that need them the most, but they are not always the most effective ones to do so.

The SBA has 18 finance specialists posted at one-stop assistance centers throughout the country operated by the Department of Commerce. These specialists, at a minimal cost, have facilitated more than $10 billion in exports in the last 10 years, helping to create 140,000 new and higher paying jobs. Unfortunately, this program suffered staff cuts under the previous administration. Legislation that I introduced earlier this year, S. 1196, as well as other version of this legislation that I have introduced in previous Congresses, would restore the staffing levels to what they were in 2002, establishing a floor of 22 export finance specialists with priority staffing going to those centers who have been without a finance specialist since 2003. I am pleased that Ranking Member SNOWE has included language from my legislation establishing a minimum staffing level for the program and I applaud her efforts to expand the program at a realistic rate by requiring that no fewer than three export finance specialists are assigned to each SBA region within two years of enactment. I am also pleased that the bill includes language that I proposed, requiring the SBA to conduct a reoccurring, biannual study on the availability of export finance specialists in high and low export volume areas. This will ensure that future assignment of SBA personnel and resources are allocated to the areas with the greatest need.

With more than 20 federal agencies involved in export and trade promotion, small exporters often don't know where to turn for help, or even that help—like the local finance specialists—even exist. This legislation would help bring small business trade to the forefront in two ways:

First, it gives the SBA's Office of International Trade, OIT, more resources and a higher profile within the Agency, making it directly accountable to the Administrator instead of part of the Office of Capital Access, OCA, where it is currently housed. It also requires that OIT make numerous internal improvements by requiring the office to: maintain a trade information distribution network in partnership with other Federal agencies and SBA resource partners; properly staff and clarify the role of existing OIT positions in both regional and district offices; provide more coordinated training between employees of the office and lenders, small exporters and other resource partners; develop a comprehensive trade dispute technical assistance program; and finally, to develop targeted annual goals and performance metrics. OIT is doing an adequate job now, but with these proposed changes, the office would have the potential to become a more robust partner and visible advocate for small exporters seeking assistance from the SBA. I have long advocated for these simple yet important changes and I am pleased they made it into the final legislation.

In addition to improving the coordination and advocacy among Federal agencies and making needed changes to existing SBA resources, this bill seeks to increase the number of small businesses involved in exporting by using State resources more effectively. It does this by creating the State Trade and Export Promotion, STEP, program, a 3-year pilot grant program modeled after the SBA's successful SBIR-FAST program. Unlike existing Federal programs which tend to focus their resources in States that already possess a high percentage of small exporters or a large export volume, STEP seeks to reach small businesses in States with minimal export assistance resources to target businesses that typically do not export their goods and services. I have worked closely with the small business community in Louisiana and I believe that this program will have a tremendous impact not only in my State, but also nationally.

Finally, this legislation requires the SBA to report back to the committee on their efforts to promote exports to small businesses located in rural areas. With the technology that we posses today, there is no reason why a small business located in a rural or traditionally nonexporting area shouldn't have access to the same opportunities available to those located in urban, or high-export areas. Creating access to exporting opportunities for rural small businesses could lead to the creation of new jobs and increased development in these communities, especially in Louisiana. I am pleased this language was included in this bill.

The Small Business Export Enhancement and International Trade Act of 2009 is an important first step toward ensuring that small firms will have more opportunities to grow. By increasing exporting opportunities for small businesses, we will help them expand into international markets, create new and higher-paying jobs and strengthen the economy. I have heard from some of the members of my committee and I know how important this issue is to many of them, especially Ranking Member SNOWE whom I have worked closely with these past months to develop this comprehensive, bipartisan bill. I thank Senator SNOWE for her attention to this issue and strong willingness to make the changes our small exporters so desperately need.

The 111th Congress will be the third consecutive Congress that I have introduced or cosponsored legislation to help our small exporters. I introduced a version of this legislation in the 109th Congress as S.3663, in the 110th Congress as S. 738 and earlier this year as S. 1196. In these previous Congresses we have had some success in moving the provisions through committee, but as with other SBA reauthorization legislation, it stalled in the full Senate. As the new chair of the Committee on Small Business and Entrepreneurship this Congress, I have made increasing small business export opportunities one of the committee's top priorities and will continue to do so in the future. I am pleased to join Ranking

Member SNOWE in introducing this legislation and will continue to work closely with her and other members of the committee in the coming months to bring this legislation to the President's desk.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 373—DESIGNATING THE MONTH OF FEBRUARY 2010 AS ''NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION MONTH''

Mr. CRAPO (for himself and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 373

Whereas dating, domestic, and sexual violence affect women regardless of their age, and teens and young women are especially vulnerable;

Whereas, approximately 1 in 3 adolescent girls in the United States is a victim of physical, emotional, or verbal abuse from a dating partner, a figure that far exceeds victimization rates for other types of violence affecting youth;

Whereas nationwide, 1 in 10 high school students (9.9 percent) has been hit, slapped, or physically hurt on purpose by a boyfriend or girlfriend;

Whereas more than 1 in 4 teenagers have been in a relationship where a partner is verbally abusive;

Whereas 20 percent of teen girls exposed to physical dating violence did not attend school because the teen girls felt unsafe either at school, or on the way to or from school, on 1 or more occasions in a 30-day period;

Whereas violent relationships in adolescence can have serious ramifications for victims by putting the victims at higher risk for substance abuse, eating disorders, risky sexual behavior, suicide, and adult revictimization;

Whereas being physically and sexually abused leaves teen girls up to 6 times more likely to become pregnant and more than 2 times as likely to report a sexually transmitted disease;

Whereas nearly 3 in 4 children ages 11 to 14 (referred to in this preamble as ''tweens''), say that dating relationships usually begin at age 14 or younger and about 72 percent of eighth and ninth graders report ''dating'';

Whereas 1 in 5 tweens say their friends are victims of dating violence and nearly ½ of tweens who are in relationships know friends who are verbally abused;

Whereas more than 3 times as many tweens (20 percent) as parents of tweens (6 percent) admit that parents know little or nothing about the dating relationships of tweens;

Whereas teen dating abuse most often takes place in the home of 1 of the partners;

Whereas a majority of parents surveyed believe they have had a conversation with their teen about what it means to be in a healthy relationship, but the majority of teens surveyed said that they have not had a conversation about dating abuse with a parent in the past year;

Whereas digital abuse and ''sexting'' is becoming a new frontier for teen dating abuse;

Whereas 1 in 4 teens in a relationship say they have been called names, harassed, or put down by their partner through cellphones and texting;

Whereas 3 in 10 young people have sent or received nude pictures of other young people on their cell or online, and 61 percent who have ''sexted'' report being pressured to do so at least once;

Whereas targets of digital abuse are almost 3 times as likely to contemplate suicide as those who haven not encountered such abuse (8 percent vs. 3 percent), and targets of digital abuse are nearly 3 times more likely to have considered dropping out of school;

Whereas the severity of violence among intimate partners has been shown to be greater in cases where the pattern of violence has been established in adolescence;

Whereas primary prevention programs are a key part of addressing teen dating violence and many successful community examples include education, community outreach, and social marketing campaigns that also understand the cultural appropriateness of programs;

Whereas skilled assessment and intervention programs are also necessary for youth victims and abusers; and

Whereas the establishment of National Teen Dating Violence Awareness and Prevention Month will benefit schools, communities, and families regardless of socioeconomic status, race, or sex: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of February 2010, as ''National Teen Dating Violence Awareness and Prevention Month'';

(2) supports communities to empower teens to develop healthier relationships; and

(3) calls upon the people of the United States, including youth and parents, schools, law enforcement, State and local officials, and interested groups to observe National Teen Dating Violence Awareness and Prevention Month with appropriate programs and activities that promote awareness and prevention of the crime of teen dating violence in their communities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3079. Mr. ROBERTS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table.

SA 3080. Mr. ENSIGN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3081. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3082. Mr. BURR (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3083. Mr. BURR submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3084. Mr. AKAKA (for himself, Mr. INOUYE, Mrs. LINCOLN, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3085. Mrs. LINCOLN (for herself, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H .R. 3590, supra; which was ordered to lie on the table.

SA 3086. Ms. CANTWELL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3087. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3088. Ms. COLLINS (for herself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3089. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3090. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3091. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3092. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3093. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3094. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3095. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3096. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3097. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3098. Mr. CASEY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 2786

proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3099. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3100. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3101. Mr. FRANKEN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3102. Mr. DURBIN (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3103. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3104. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3105. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3106. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3107. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3108. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3109. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3110. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3111. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3112. Ms. CANTWELL (for herself, Ms. SNOWE, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3113. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 3114. Mr. GRASSLEY (for himself, Mr. COBURN, Mr. BROWNBACK, Mr. CHAMBLISS, Mr. ISAKSON, Ms. MURKOWSKI, Mr. BUNNING, Mr. BENNETT, Mr. LEMIEUX, Mr. BARRASSO, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H .R. 3590, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3079. Mr. ROBERTS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1997, strike line 1 and all that follows through page 1998, line 12.

SA 3080. Mr. ENSIGN (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, after line 24, add the following:

(l) PUBLIC REPORTING OF PATIENT WAIT TIMES.—

(1) IN GENERAL.—A qualified health plan offered through the Exchange, including the community health insurance option under section 1323 and any other health insurance option established under this Act, shall collect and make available on an Internet website a description of—

(A) the average waiting times (between diagnosis and treatment), listed by individual hospital and health care provider, for specific health care items or services covered under the plan or option, including—

(i) general surgery;

(ii) cancer surgery;

(iii) cardiac procedures;

(iv) ophthalmic surgery;

(v) orthopedic surgery; and

(vi) diagnostic scans; and

(B) the average waiting times that patients are in an emergency room being diagnosed, receiving treatment, or waiting for admission to a hospital bed under the plan or option.

(2) ANNUAL UPDATES.—A qualified health plan offered through the Exchange, including the community health insurance option under section 1323 and any other health insurance option established under this Act, shall annually update the information made available under paragraph (1).

SA 3081. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 271, between lines 15 and 16, insert the following:

For purposes of this section, the term ''social security number'' means a social security number issued to an individual by the Social Security Administration. Such term shall not include a taxpayer identification number or TIN issued by the Internal Revenue Service.

SA 3082. Mr. BURR (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1999, strike lines 1 through 20 and insert the following:

SEC. 9005. LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS UNDER CAFETERIA PLANS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (l), respectively, and

(2) by inserting after subsection (h) the following new subsection:

''(i) LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—For purposes of this section, if a benefit is provided under a cafeteria plan through employer contributions to a health flexible spending arrangement, such benefit shall not be treated as a qualified benefit unless the cafeteria plan provides that an employee may not elect for any taxable year to have salary reduction contributions in excess of $5,000 made to such arrangement.

''(2) ADJUSTMENT FOR MEDICAL INFLATION.—In the case of any taxable year beginning after December 31, 2010, the dollar amount in paragraph (1) shall be increased by the medical care cost adjustment of such amount (within the meaning of section 213(d)(10)(B)(ii)) for the calendar year in which such taxable year begins. If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(b) MODIFICATION OF REIMBURSEMENT RULES.—Section 106 of the Internal Revenue Code of 1986, as amended by section 9003, is amended by striking subsection (f).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2009.

(2) REIMBURSEMENT.—The amendment made by subsection (b) shall apply in the same manner as the amendment made by section 9003(c).

SEC. 9006. LIMITATION ON DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS UNDER CAFETERIA PLANS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986, as amended by section 9005, is amended by inserting after subsection (i) the following new subsection:

''(j) INDEXING OF LIMITATION ON DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of this section, if a benefit is provided under a cafeteria plan through employer contributions to a dependent care flexible spending arrangement in a taxable year beginning after calendar year 2010, the dollar amount of the limitation under section 129(2)(A) which applies to such flexible spending arrangement shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SA 3083. Mr. BURR submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V, insert the following:

SEC. ___. DEFINITION OF ECONOMIC HARDSHIP.

(a) IN GENERAL.—Section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(ii), by striking ''or'' after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

''(i) the annual earnings of an individual earning the minimum wage under section 6 of the Fair Labor Standards Act of 1938; or

''(ii) 150 percent of the poverty line, as defined under section 673(2) of the Community Services Block Grant Act, applicable to such borrower's family size; or''; and

(2) in paragraph (2), by striking ''(1)(B)'' and inserting ''(1)(C)''.

(b) FUNDING.—The Secretary of Health and Human Services shall transfer to the Secretary of Education, from amounts appropriated to the Prevention and Public Health Fund under section 4002, amounts necessary to carry out the amendments made by this section.

SA 3084. Mr. AKAKA (for himself, Mr. INOUYE, Mrs. LINCOLN, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 14 and 15, insert the following:

SEC. 2008. MEDICAID ELIGIBILITY FOR CITIZENS OF FREELY ASSOCIATED STATES.

(a) IN GENERAL.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

''(G) MEDICAID EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the program defined in paragraph (3)(C) (relating to medicaid), paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with—

''(i) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, approved by Congress in the Compact of Free Association Amendments Act of 2003;

''(ii) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands, approved by Congress in the Compact of Free Association Amendments Act of 2003; or

''(iii) section 141 of the Compact of Free Association between the Government of the United States and the Government of Palau, approved by Congress in Public Law 99–658 (100 Stat. 3672).''.

(b) QUALIFIED ALIEN.—Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

(1) in paragraph (6), by striking ''or'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(8) an individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in section 402(b)(2)(G).''.

(c) CONFORMING AMENDMENTS.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

(1) in subsection (f), in the matter preceding paragraph (1), by striking ''subsection (g)'' and inserting ''subsections (g) and (h)''; and

(2) by adding at the end the following:

''(h) The limitations of subsections (f) and (g) shall not apply with respect to medical assistance provided to an individual described in section 431(b)(8) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and apply to benefits and assistance provided on or after that date.

SA 3085. Mrs. LINCOLN (for herself, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 2074, after line 25, add the following:

SEC. 9024. INCREASE IN SMALL BUSINESS TAX CREDIT AVERAGE ANNUAL WAGE THRESHOLD.

(a) IN GENERAL.—Subparagraph (B) of section 45R(d)(3)(B) of the Internal Revenue Code of 1986, as added by section 1421(a), is amended by striking ''$20,000'' both places it appears and inserting ''$25,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 1421.

SA 3086. Ms. CANTWELL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 492, between lines 15 and 16, insert the following:

SEC. 2407. INCENTIVES FOR STATES TO OFFER HOME AND COMMUNITY-BASED SERVICES AS A LONG-TERM CARE ALTERNATIVE TO NURSING HOMES.

(a) STATE BALANCING INCENTIVE PAYMENTS PROGRAM.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), in the case of a balancing incentive payment State, as defined in subsection (b), that meets the conditions described in subsection (c), during the balancing incentive period, the Federal medical assistance percentage determined for the State under section 1905(b) of such Act and increased under section 1902(gg)(5) shall be increased by the applicable percentage points determined under subsection (d) with respect to eligible medical assistance expenditures described in subsection (e).

(b) BALANCING INCENTIVE PAYMENT STATE.—A balancing incentive payment State is a State—

(1) in which less than 50 percent of the total expenditures for medical assistance under the State Medicaid program for a fiscal year for long-term services and supports (as defined by the Secretary under subsection (f))(1)) are for non-institutionally-based long-term services and supports described in subsection (f)(1)(B);

(2) that submits an application and meets the conditions described in subsection (c); and

(3) that is selected by the Secretary to participate in the State balancing incentive payment program established under this section.

(c) CONDITIONS.—The conditions described in this subsection are the following:

(1) APPLICATION.—The State submits an application to the Secretary that includes, in addition to such other information as the Secretary shall require—

(A) a proposed budget that details the State's plan to expand and diversify medical assistance for non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program during the balancing incentive period and achieve the target spending percentage applicable to the State under paragraph

(2), including through structural changes to how the State furnishes such assistance, such as through the establishment of a ''no wrong door - single entry point system'', optional presumptive eligibility, case management services, and the use of core standardized assessment instruments, and that includes a description of the new or expanded offerings of such services that the State will provide and the projected costs of such services; and

(B) in the case of a State that proposes to expand the provision of home and community-based services under its State Medicaid program through a State plan amendment under section 1915(i) of the Social Security Act, at the option of the State, an election to increase the income eligibility for such services from 150 percent of the poverty line to such higher percentage as the State may establish for such purpose, not to exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act (42 U.S.C. 1382(b)(1)).

(2) TARGET SPENDING PERCENTAGES.—

(A) In the case of a balancing incentive payment State in which less than 25 percent of the total expenditures for home and community-based services under the State Medicaid program for fiscal year 2009 are for such services, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 25 percent of the total expenditures for home and community-based services under the State Medicaid program are for such services.

(B) In the case of any other balancing incentive payment State, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 50 percent of the total expenditures for home and community-based services under the State Medicaid program are for such services.

(3) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—The State does not apply eligibility standards, methodologies, or procedures for determining eligibility for medical assistance for non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program that are more restrictive than the eligibility standards, methodologies, or procedures in effect for such purposes on December 31, 2010.

(4) USE OF ADDITIONAL FUNDS.—The State agrees to use the additional Federal funds paid to the State as a result of this section only for purposes of providing new or expanded offerings of non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program.

(5) STRUCTURAL CHANGES.—The State agrees to make, not later than the end of the 6-month period that begins on the date the State submits an application under this section, the following changes:

(A) ''NO WRONG DOOR''—SINGLE ENTRY POINT SYSTEM.—Development of a statewide system to enable consumers to access all long-term services and supports through an agency, organization, coordinated network, or portal, in accordance with such standards as the State shall establish and that shall provide information regarding the availability of such services, how to apply for such services, and referral services for services and supports otherwise available in the community ; and determinations of financial and functional eligibility for such services and supports, or assistance with assessment processes for financial and functional eligibility.

(B) CONFLICT-FREE CASE MANAGEMENT SERVICES.—Conflict-free case management services to develop a service plan, arrange for services and supports, support the beneficiary (and, if appropriate, the beneficiary's caregivers) in directing the provision of services and supports, for the beneficiary, and conduct ongoing monitoring to assure that services and supports are delivered to meet the beneficiary's needs and achieve intended outcomes.

(C) CORE STANDARDIZED ASSESSMENT INSTRUMENTS.—Development of core standardized assessment instruments for determining eligibility for non-institutionally-based long-term services and supports described in subsection (f)(1)(B), which shall be used in a uniform manner throughout the State, to determine a beneficiary's needs for training, support services, medical care, transportation, and other services, and develop an individual service plan to address such needs.

(6) DATA COLLECTION.—The State agrees to collect from providers of services and through such other means as the State determines appropriate the following data:

(A) SERVICES DATA.—Services data from providers of non-institutionally-based long-term services and supports described in subsection (f)(1)(B) on a per-beneficiary basis and in accordance with such standardized coding procedures as the State shall establish in consultation with the Secretary.

(B) QUALITY DATA.—Quality data on a selected set of core quality measures agreed upon by the Secretary and the State that are linked to population-specific outcomes measures and accessible to providers.

(C) OUTCOMES MEASURES.—Outcomes measures data on a selected set of core population-specific outcomes measures agreed upon by the Secretary and the State that are accessible to providers and include—

(i) measures of beneficiary and family caregiver experience with providers;

(ii) measures of beneficiary and family caregiver satisfaction with services; and

(iii) measures for achieving desired outcomes appropriate to a specific beneficiary, including employment, participation in community life, health stability, and prevention of loss in function.

(d) APPLICABLE PERCENTAGE POINTS INCREASE IN FMAP.—The applicable percentage points increase is—

(1) in the case of a balancing incentive payment State subject to the target spending percentage described in subsection (c)(2)(A), 5 percentage points; and

(2) in the case of any other balancing incentive payment State, 2 percentage points.

(e) ELIGIBLE MEDICAL ASSISTANCE EXPENDITURES.—

(1) IN GENERAL.—Subject to paragraph (2), medical assistance described in this subsection is medical assistance for non-institutionally-based long-term services and supports described in subsection (f)(1)(B) that is provided by a balancing incentive payment State under its State Medicaid program during the balancing incentive payment period.

(2) LIMITATION ON PAYMENTS.—In no case may the aggregate amount of payments made by the Secretary to balancing incentive payment States under this section during the balancing incentive period exceed $3,000,000,000.

(f) DEFINITIONS.—In this section:

(1) LONG-TERM SERVICES AND SUPPORTS DEFINED.—The term ''long-term services and supports'' has the meaning given that term by Secretary and may include any of the following (as defined with for purposes of State Medicaid programs under title XIX of the Social Security Act):

(A) INSTITUTIONALLY-BASED LONG-TERM SERVICES AND SUPPORTS.—Services provided in an institution, including the following:

(i) Nursing facility services.

(ii) Services in an intermediate care facility for the mentally retarded described in subsection (a)(15) of section 1905 of such Act.

(B) NON-INSTITUTIONALLY-BASED LONG-TERM SERVICES AND SUPPORTS.—Services not provided in an institution, including the following:

(i) Home and community-based services provided under subsection (c), (d), or (i), of section 1915 of such Act or under a waiver under section 1115 of such Act.

(ii) Home health care services.

(iii) Personal care services.

(iv) Services described in subsection (a)(26) of section 1905 of such Act (relating to PACE program services).

(v) Self-directed personal assistance services described in section 1915(j) of such Act.

(2) BALANCING INCENTIVE PERIOD.—The term ''balancing incentive period'' means the period that begins on October 1, 2011, and ends on September 30, 2015.

(3) POVERTY LINE.—The term ''poverty line'' has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(4) STATE MEDICAID PROGRAM.—The term ''State Medicaid program'' means the State program for medical assistance provided under a State plan under title XIX of the Social Security Act and under any waiver approved with respect to such State plan.

SA 3087. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. REQUIRING MEMBERS OF CONGRESS TO ACCEPT THE SAME CHOICES FOR HEALTH INSURANCE COVERAGE AS THOSE GIVEN TO AMERICAN CITIZENS WITH INCOME AT OR BELOW 133 PERCENT OF THE POVERTY LINE.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has stated that health care reform legislation should ensure all Americans have choices of affordable, quality health insurance coverage.

(2) Americans have overwhelmingly voiced their desire to receive the same types of choices for health insurance coverage that Members of Congress receive.

(3) This Act and the amendments made by this Act are estimated to place nearly half of the newly insured in a government program without the choices of private coverage that individuals with income above 133 percent of the poverty line receive.

(4) This Act provides legal immigrants with income at or below 133 percent of the poverty line with a choice of private coverage while American citizens with income at or below 133 percent of the poverty line have no choice of private coverage.

(b) MEMBERS OF CONGRESS REQUIRED TO HAVE COVERAGE UNDER MEDICAID.—

(1) IN GENERAL.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, ensure that, on and after January 1, 2014, notwithstanding chapter 89 of title 5, United States Code, title XIX of the Social Security Act, or any provision of this Act—

(A) each Member of Congress shall be eligible for medical assistance under the Medicaid plan of the State in which the Member resides; and

(B) any employer contribution under chapter 89 of title 5 of such Code on behalf of the

Member may be paid only to the State agency responsible for administering the Medicaid plan in which the Member enrolls and not to the offeror of a plan offered through the Federal employees health benefit program under such chapter.

(2) PAYMENTS BY FEDERAL GOVERNMENT.—The Secretary of Health and Human Services, in consultation with the Director of the Office of Personnel Management, shall establish procedures under which the employer contributions that would otherwise be made on behalf of a Member of Congress if the Member were enrolled in a plan offered through the Federal employees health benefit program may be made directly to the State agencies described in paragraph (1)(B).

(3) INELIGIBLE FOR FEHBP.—Effective January 1, 2014, no Member of Congress shall be eligible to obtain health insurance coverage under the program chapter 89 of title 5, United States Code.

(4) DEFINITION.—In this section, the term ''Member of Congress'' means any member of the House of Representatives or the Senate.

SA 3088. Ms. COLLINS (for herself and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1265, between lines 8 and 9, insert the following:

SEC. 4307. ASSESSMENT OF MEDICARE COST-INTENSIVE DISEASES AND CONDITIONS.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct an assessment of the diseases and conditions that are the most cost-intensive for the Medicare program under title XVIII of the Social Security Act and, to the extent possible, assess the diseases and conditions that could become cost-intensive for the Medicare program in the future.

(2) REPORT.—Not later than January 1, 2011, the Secretary shall transmit a report to the Committees on Energy and Commerce, Ways and Means, and Appropriations of the House of Representatives and the Committees on Health, Education, Labor and Pensions, Finance, and Appropriations of the Senate on the assessment conducted under paragraph (1). Such report shall—

(A) include the assessment of current and future trends of cost-intensive diseases and conditions described in such paragraph;

(B) address whether current research priorities are appropriately addressing current and future cost-intensive conditions so identified;

(C) include the input of relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration; and

(D) include recommendations concerning research in the Department of Health and Human Services that should be funded to improve the prevention, treatment, or cure of such cost-intensive diseases and conditions.

(b) UPDATES OF ASSESSMENT.—Not later than January 1, 2013, and biennially thereafter, the Secretary shall—

(1) review and update the assessment and recommendations described in subsection (a)(1); and

(2) submit a report described in subsection (a)(2) to the Committees specified in subsection (a)(2) on such updated assessment and recommendations.

(c) CMS MEDICARE COST-INTENSIVE RESEARCH FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''CMS Medicare Cost-Intensive Research Fund'', in this subsection referred to as the ''Fund''. The Administrator of the Centers for Medicare & Medicaid Services shall administer the Fund. The Fund shall consist of such amounts as may be appropriated or credited to such Fund for the purposes described in paragraph (2). The Administrator shall not transfer appropriations to or from other relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration.

(2) PURPOSES OF FUND.—From amounts in the Fund, the Administrator of the Centers for Medicare & Medicaid Services shall make available, without further appropriation, grants, contracts, and other funding mechanisms, as recommended by the reports under this subsection, to facilitate research into the prevention, treatment, or cure of cost-intensive diseases and conditions under the Medicare program.

SA 3089. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRESERVATION OF MEDICARE.

Notwithstanding any other provision of this Act (or an amendment made by this Act), the amendments made by title III to expand Medicare eligibility under title XVIII of the Social Security Act shall not take effect until the Secretary certifies to Congress that premiums assessed for coverage under non-Federal health insurance coverage will not increase in any manner to compensate for lower premiums assessed under the Medicare program.

SA 3090. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 102, strike line 19 and all that follows through line 6 on page 108, and insert the following:

(a) NO DEFINITION BY SECRETARY OF ESSENTIAL HEALTH BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act (or any amendment made by this Act), in no case shall the Secretary define the benefit categories required for essential health benefits or specify the covered treatments, items, and services within such categories through regulations or other guidance.

(2) AUTHORITY BY STATES.—Nothing in this section shall be construed to limit the ability of States to define benefit categories or specific covered treatments, items, and services within such categories.

(b) RULE OF CONSTRUCTION.—Nothing in this

SA 3091. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 348, strike line 16 and all that follows through line 17 on page 357.

SA 3092. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1323, insert the following:

(i) LIMITATION.—Notwithstanding any other provision of this section, the Secretary shall ensure that no coverage is offered under this section until such time as the Secretary certifies that premiums assessed for qualified health plans will not increase in any manner to compensate for lower premiums assessed under the coverage described under this section.

SA 3093. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON NEW ENTITLEMENT SPENDING.

Notwithstanding any other provision of this Act (or an amendment made by this Act), no entitlement program established under this Act (or amendments) shall be implemented until the Secretary of the Treasury certifies to Congress that total Federal mandatory spending will not exceed total Federal outlays for the first 5 years of the implementation of this Act.

SA 3094. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain

other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON NEW ENTITLEMENT SPENDING.

Notwithstanding any other provision of this Act (or an amendment made by this Act), no entitlement program established under this Act (or amendments) shall be implemented until the Secretary of the Treasury certifies to Congress that total Federal revenues exceed total Federal outlays.

SA 3095. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON ENTITLEMENT SPENDING.

(a) CERTIFICATION.—Notwithstanding any other provision of this Act, this Act (and the amendments made by this Act) shall not take effect until the Secretary of the Treasury certifies to Congress that entitlement spending for the Medicare, Medicaid, and Social Security programs under titles XVIII, XIX, or II of the Social Security Act, and spending under other new entitlement programs provided for in this Act will not exceed 10 percent of the Gross Domestic Product (as estimated by the Secretary of Commerce) between fiscal years 2014 and 2019.

(b) TERMINATION.—If the Secretary of the Treasury at any time determines that the spending referred to in subsection (a) exceeds 10 percent of the Gross Domestic Program during any of fiscal years 2014 through 2019, new entitlement spending programs provided for under this Act shall not be implemented.

SA 3096. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMPLEMENTATION OF MANDATORY SPENDING PROGRAMS.

(a) IN GENERAL.—If Federal mandatory spending (minus interest expense) exceeds 50 percent of Federal outlays in a fiscal year, it shall not be in order in the Senate or the House of Representatives to consider any legislation resulting in new mandatory spending for such fiscal year or any fiscal year thereafter until such spending is less than 50 percent of such outlays for a fiscal year.

(b) WAIVER.—This section may be waived or suspended in the Senate or House of Representatives only by an affirmative vote of 3/5 of the members, duly chosen and sworn.

(c) APPEAL.—An affirmative vote of 3/5 of the members of the Senate or House of Representatives, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 3097. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—MEDICAL LIABILITY REFORM

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Medical Liability Reform Act of 2009''.

SEC. ___2. FINDINGS.

Congress makes the following findings:

(1) Medical liability laws create a significant portion of the overall costs of health care, and contribute to Americans' lack of access to health care.

(2) A 2006 study by PriceWaterhouse Coopers found that medical liability laws and the practice of defensive medicine contribute to 10 percent of all health care costs.

(3) The non-partisan Congressional Budget Office estimated that the Federal Government could directly save about $5,600,000,000 by enacting certain medical liability reforms, and that total health care spending could be reduced even further if these reforms reduced the practice of defensive medicine.

(4) According to economists Daniel P. Kessler and Mark B. McClellan, defensive medicine alone costs Americans more than $100,000,000,000 every year.

(5) Medicaid and Medicare costs must be lowered to keep these crucial programs solvent.

(6) In part because of the costs of medical liability, 40 percent of physicians refuse to see new Medicaid patients.

(7) Reform of the medical liability laws has been proven to increase access to doctors and specialists while lowering health care costs.

(8) In 2003, Texas adopted medical liability reforms that placed a cap on non-economic damages in medical liability cases and combated junk science by raising the standards of qualification for expert witnesses.

(9) After Texas passed this reform, premiums for medical malpractice liability insurance fell by 27 percent on average, and in some cases, by more than 50 percent.

(10) Because the Texas reforms led to more affordable health insurance premiums, more than 400,000 additional Texans are covered by health insurance than if reform had not passed.

(11) Because of the Texas reforms, Texas saw an overall growth rate of 31 percent in the number of new physicians.

(12) The growth rate in the number of physicians in Texas was particularly pronounced in long-underserved geographic areas such as the rural and border regions, and in key specialties such as obstetrics, neurosurgery, and orthopedic surgery.

(13) Arizona adopted medical liability reforms that deterred frivolous litigation by requiring expert opinion testimony at the threshold of medical liability suits and by raising the standards of qualification for expert witnesses.

(14) The health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(15) The health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

SEC. ___3. DEFINITIONS.

In this title:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(4) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(5) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care institution, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(6) HEALTH CARE INSTITUTION.—The term ''health care institution'' means any entity licensed under Federal or State law to provide health care services (including but not

limited to ambulatory surgical centers, assisted living facilities, emergency medical services providers, hospices, hospitals and hospital systems, nursing homes, or other entities licensed to provide such services).

(7) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider or health care institution, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term ''health care provider'' means any person (including but not limited to a physician (as defined by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)), registered nurse, dentist, podiatrist, pharmacist, chiropractor, or optometrist) required by State or Federal law to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(B) TREATMENT OF CERTAIN PROFESSIONAL ASSOCIATIONS.—For purposes of this title, a professional association that is organized under State law by an individual physician or group of physicians, a partnership or limited liability partnership formed by a group of physicians, a nonprofit health corporation certified under State law, or a company formed by a group of physicians under State law shall be treated as a health care provider under subparagraph (A).

(11) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(12) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. ___4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this title shall limit the recovery by a claimant of the full amount of the available economic damages, notwithstanding the limitation contained in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—

(1) HEALTH CARE PROVIDERS.—In any health care lawsuit where final judgment is rendered against a health care provider, the amount of noneconomic damages recovered from the provider, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties other than a health care institution against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(2) HEALTH CARE INSTITUTIONS.—

(A) SINGLE INSTITUTION.—In any health care lawsuit where final judgment is rendered against a single health care institution, the amount of noneconomic damages recovered from the institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(B) MULTIPLE INSTITUTIONS.—In any health care lawsuit where final judgment is rendered against more than one health care institution, the amount of noneconomic damages recovered from each institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence, except that the total amount recovered from all such institutions in such lawsuit shall not exceed $500,000.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit—

(1) an award for future noneconomic damages shall not be discounted to present value;

(2) the jury shall not be informed about the maximum award for noneconomic damages under subsection (b);

(3) an award for noneconomic damages in excess of the limitations provided for in subsection (b) shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law; and

(4) if separate awards are rendered for past and future noneconomic damages and the combined awards exceed the limitations described in subsection (b), the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. ___5. ENSURING RELIABLE EXPERT TESTIMONY.

(a) EXPERT WITNESS QUALIFICATIONS.—

(1) IN GENERAL.—In any health care lawsuit, an individual shall not give expert testimony on the appropriate standard of practice or care involved unless the individual is licensed as a health professional in 1 or more States and the individual meets the following criteria:

(A) If the party against whom or on whose behalf the testimony is to be offered is or claims to be a specialist, the expert witness shall specialize at the time of the occurrence that is the basis for the lawsuit in the same specialty or claimed specialty as the party against whom or on whose behalf the testimony is to be offered. If the party against whom or on whose behalf the testimony is to be offered is or claims to be a specialist who is board certified, the expert witness shall be a specialist who is board certified in that specialty or claimed specialty.

(B) During the 1-year period immediately preceding the occurrence of the action that gave rise to the lawsuit, the expert witness shall have devoted a majority of the individual's professional time to one or more of the following:

(i) The active clinical practice of the same health profession as the defendant and, if the defendant is or claims to be a specialist, in the same specialty or claimed specialty.

(ii) The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant and, if the defendant is or claims to be a specialist, in an accredited health professional school or accredited residency or clinical research program in the same specialty or claimed specialty.

(C) If the defendant is a general practitioner, the expert witness shall have devoted a majority of the witness's professional time in the 1-year period preceding the occurrence of the action giving rise to the lawsuit to one or more of the following:

(i) Active clinical practice as a general practitioner.

(ii) Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant.

(2) HEALTH CARE INSTITUTIONS.—If the defendant in a health care lawsuit is a health care institution that employs a health professional against whom or on whose behalf the testimony is offered, the provisions of paragraph (1) apply as if the health professional were the party or defendant against whom or on whose behalf the testimony is offered.

(3) POWER OF COURT.—Nothing in this subsection shall limit the power of the trial court in a health care lawsuit to disqualify an expert witness on grounds other than the qualifications set forth under this subsection.

(4) LIMITATION.—An expert witness in a health care lawsuit shall not be permitted to testify if the fee of the witness is in any way contingent on the outcome of the lawsuit.

(b) PRELIMINARY EXPERT OPINION TESTIMONY AGAINST HEALTH CARE PROFESSIONALS.—

(1) CERTIFICATION.—In any health care lawsuit, the claimant (or its attorney) shall certify in a written statement that is filed and served with the claim whether or not expert opinion testimony is necessary to prove the health care professional's standard of care or liability for the claim.

(2) PRELIMINARY EXPERT OPINION.—

(A) IN GENERAL.—If the claimant in any health care lawsuit certifies that expert opinion testimony is necessary as required under paragraph (1), the claimant shall serve a preliminary expert opinion affidavit. The claimant may provide affidavits from as many experts as the claimant determines to be necessary.

(B) REQUIREMENTS.—A preliminary expert opinion affidavit under subparagraph (A)

shall contain at least the following information:

(i) The expert's qualifications to express an opinion on the health care professionals standard of care or liability for the claim.

(ii) The factual basis for each claim against a health care professional.

(iii) The health care professional's acts, errors or omissions that the expert considers to be a violation of the applicable standard of care resulting in liability.

(iv) The manner in which the health care professional's acts, errors, or omissions caused or contributed to the damages or other relief sought by the claimant.

(3) DISPUTES.—If the claimant in any health care lawsuit or its attorney certifies that expert testimony is not required for the claim and the defendant disputes that certification in good faith, the defendant may apply by motion to the court for an order requiring the claimant to obtain and serve a preliminary expert opinion affidavit under this subsection, and such motion may be granted by the court.

(4) DISMISSALS.—The court in a health care lawsuit, on its own motion or the motion of the defendant, shall dismiss the claim against the defendant without prejudice if the claimant fails to file and serve a preliminary expert opinion affidavit after the claimant (or its attorney) has certified that an affidavit is necessary or the court has ordered the claimant to file and serve an affidavit.

SEC. ___6. EFFECT ON OTHER LAWS.

(a) GENERAL VACCINE INJURY.—

(1) IN GENERAL.—To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this title shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this title in conflict with a rule of law of such title XXI shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this title or otherwise applicable law (as determined under this title) will apply to such aspect of such action.

(b) SMALLPOX VACCINE INJURY.—

(1) IN GENERAL.—To the extent that part C of title II of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a smallpox vaccine-related injury or death—

(A) this title shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this title in conflict with a rule of law of such part C shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a smallpox vaccine-related injury or death to which a Federal rule of law under part C of title II of the Public Health Service Act does not apply, then this title or otherwise applicable law (as determined under this title) will apply to such aspect of such action.

(c) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this title shall be deemed to affect any defense available, or any limitation on liability that applies to, a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. ___7. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this title shall preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this title. The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, to the extent that such chapter provides for a greater amount of damages than provided in this title.

(b) PREEMPTION OF CERTAIN STATE LAWS.—No provision of this title shall be construed to preempt any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this title, notwithstanding section ___4(a).

(c) PROTECTION OF STATE'S RIGHTS AND OTHER LAWS.—

(1) IN GENERAL.—Any issue that is not governed by a provision of law established by or under this title (including the State standards of negligence) shall be governed by otherwise applicable Federal or State law.

(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(A) preempt or supersede any Federal or State law that imposes greater procedural or substantive protections for a health care provider or health care institution from liability, loss, or damages than those provided by this title;

(B) preempt or supercede any State law that permits and provides for the enforcement of any arbitration agreement related to a health care liability claim whether enacted prior to or after the date of enactment of this Act;

(C) create a cause of action that is not otherwise available under Federal or State law; or

(D) affect the scope of preemption of any other Federal law.

SEC. ___8. APPLICABILITY; EFFECTIVE DATE.

This title shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act.

SA 3098. Mr. CASEY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—SUPPORT FOR PREGNANT AND PARENTING TEENS AND WOMEN

SEC. __001. DEFINITIONS.

In this title:

(1) ACCOMPANIMENT.—The term ''accompaniment'' means assisting, representing, and accompanying a woman in seeking judicial relief for child support, child custody, restraining orders, and restitution for harm to persons and property, and in filing criminal charges, and may include the payment of court costs and reasonable attorney and witness fees associated therewith.

(2) ELIGIBLE INSTITUTION OF HIGHER EDUCATION.—The term ''eligible institution of higher education'' means an institution of higher education (as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that has established and operates, or agrees to establish and operate upon the receipt of a grant under this title, a pregnant and parenting student services office.

(3) COMMUNITY SERVICE CENTER.—The term ''community service center'' means a nonprofit organization that provides social services to residents of a specific geographical area via direct service or by contract with a local governmental agency.

(4) HIGH SCHOOL.—The term ''high school'' means any public or private school that operates grades 10 through 12, inclusive, grades 9 through 12, inclusive or grades 7 through 12, inclusive.

(5) INTERVENTION SERVICES.—The term ''intervention services'' means, with respect to domestic violence, sexual violence, sexual assault, or stalking, 24-hour telephone hotline services for police protection and referral to shelters.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) STATE.—The term ''State'' includes the District of Columbia, any commonwealth, possession, or other territory of the United States, and any Indian tribe or reservation.

(8) SUPPORTIVE SOCIAL SERVICES.—The term ''supportive social services'' means transitional and permanent housing, vocational counseling, and individual and group counseling aimed at preventing domestic violence, sexual violence, sexual assault, or stalking.

(9) VIOLENCE.—The term ''violence'' means actual violence and the risk or threat of violence.

SEC. __002. ESTABLISHMENT OF PREGNANCY ASSISTANCE FUND.

(a) IN GENERAL.—The Secretary, in collaboration and coordination with the Secretary of Education (as appropriate), shall establish a Pregnancy Assistance Fund to be administered by the Secretary, for the purpose of awarding competitive grants to States to assist pregnant and parenting teens and women.

(b) USE OF FUND.—A State may apply for a grant under subsection (a) to carry out any activities provided for in section __003.

(c) APPLICATIONS.—To be eligible to receive a grant under subsection (a), a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the purposes for which the grant is being requested and the designation of a State agency for receipt and administration of funding received under this title.

SEC. __003. PERMISSIBLE USES OF FUND.

(a) IN GENERAL.—A State shall use amounts received under a grant under section __001 for the purposes described in this section to assist pregnant and parenting teens and women.

(b) INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—A State may use amounts received under a grant under section __001 to make funding available to eligible institutions of higher education to enable the eligible institutions to establish, maintain, or operate pregnant and parenting student services. Such funding shall be used to supplement, not supplant, existing funding for such services.

(2) APPLICATION.—An eligible institution of higher education that desires to receive funding under this subsection shall submit an application to the designated State agency at such time, in such manner, and containing such information as the State agency may require.

(3) MATCHING REQUIREMENT.—An eligible institution of higher education that receives

funding under this subsection shall contribute to the conduct of the pregnant and parenting student services office supported by the funding an amount from non-Federal funds equal to 25 percent of the amount of the funding provided. The non-Federal share may be in cash or in-kind, fairly evaluated, including services, facilities, supplies, or equipment.

(4) USE OF FUNDS FOR ASSISTING PREGNANT AND PARENTING COLLEGE STUDENTS.—An eligible institution of higher education that receives funding under this subsection shall use such funds to establish, maintain or operate pregnant and parenting student services and may use such funding for the following programs and activities:

(A) Conduct a needs assessment on campus and within the local community—

(i) to assess pregnancy and parenting resources, located on the campus or within the local community, that are available to meet the needs described in subparagraph (B); and

(ii) to set goals for—

(I) improving such resources for pregnant, parenting, and prospective parenting students; and

(II) improving access to such resources.

(B) Annually assess the performance of the eligible institution in meeting the following needs of students enrolled in the eligible institution who are pregnant or are parents:

(i) The inclusion of maternity coverage and the availability of riders for additional family members in student health care.

(ii) Family housing.

(iii) Child care.

(iv) Flexible or alternative academic scheduling, such as telecommuting programs, to enable pregnant or parenting students to continue their education or stay in school.

(v) Education to improve parenting skills for mothers and fathers and to strengthen marriages.

(vi) Maternity and baby clothing, baby food (including formula), baby furniture, and similar items to assist parents and prospective parents in meeting the material needs of their children.

(vii) Post-partum counseling.

(C) Identify public and private service providers, located on the campus of the eligible institution or within the local community, that are qualified to meet the needs described in subparagraph (B), and establishes programs with qualified providers to meet such needs.

(D) Assist pregnant and parenting students, fathers or spouses in locating and obtaining services that meet the needs described in subparagraph (B).

(E) If appropriate, provide referrals for prenatal care and delivery, infant or foster care, or adoption, to a student who requests such information. An office shall make such referrals only to service providers that serve the following types of individuals:

(i) Parents.

(ii) Prospective parents awaiting adoption.

(iii) Women who are pregnant and plan on parenting or placing the child for adoption.

(iv) Parenting or prospective parenting couples.

(5) REPORTING.—

(A) ANNUAL REPORT BY INSTITUTIONS.—

(i) IN GENERAL.—For each fiscal year that an eligible institution of higher education receives funds under this subsection, the eligible institution shall prepare and submit to the State, by the date determined by the State, a report that—

(I) itemizes the pregnant and parenting student services office's expenditures for the fiscal year;

(II) contains a review and evaluation of the performance of the office in fulfilling the requirements of this section, using the specific performance criteria or standards established under subparagraph (B)(i); and

(III) describes the achievement of the office in meeting the needs listed in paragraph (4)(B) of the students served by the eligible institution, and the frequency of use of the office by such students.

(ii) PERFORMANCE CRITERIA.—Not later than 180 days before the date the annual report described in clause (i) is submitted, the State—

(I) shall identify the specific performance criteria or standards that shall be used to prepare the report; and

(II) may establish the form or format of the report.

(B) REPORT BY STATE.—The State shall annually prepare and submit a report on the findings under this subsection, including the number of eligible institutions of higher education that were awarded funds and the number of students served by each pregnant and parenting student services office receiving funds under this section, to the Secretary.

(c) SUPPORT FOR PREGNANT AND PARENTING TEENS.—A State may use amounts received under a grant under section __001 to make funding available to eligible high schools and community service centers to establish, maintain or operate pregnant and parenting services in the same general manner and in accordance with all conditions and requirements described in subsection (b), except that paragraph (3) of such subsection shall not apply for purposes of this subsection.

(d) IMPROVING SERVICES FOR PREGNANT WOMEN WHO ARE VICTIMS OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, SEXUAL ASSAULT, AND STALKING.—

(1) IN GENERAL.—A State may use amounts received under a grant under section __001 to make funding available to its State Attorney General to assist Statewide offices in providing—

(A) intervention services, accompaniment, and supportive social services for eligible pregnant women who are victims of domestic violence, sexual violence, sexual assault, or stalking.

(B) technical assistance and training (as described in subsection (c)) relating to violence against eligible pregnant women to be made available to the following:

(i) Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts.

(ii) Professionals working in legal, social service, and health care settings.

(iii) Nonprofit organizations.

(iv) Faith-based organizations.

(2) ELIGIBILITY.—To be eligible for a grant under paragraph (1), a State Attorney General shall submit an application to the designated State agency at such time, in such manner, and containing such information, as specified by the State.

(3) TECHNICAL ASSISTANCE AND TRAINING DESCRIBED.—For purposes of paragraph (1)(B), technical assistance and training is—

(A) the identification of eligible pregnant women experiencing domestic violence, sexual violence, sexual assault, or stalking;

(B) the assessment of the immediate and short-term safety of such a pregnant woman, the evaluation of the impact of the violence or stalking on the pregnant woman's health, and the assistance of the pregnant woman in developing a plan aimed at preventing further domestic violence, sexual violence, sexual assault, or stalking, as appropriate;

(C) the maintenance of complete medical or forensic records that include the documentation of any examination, treatment given, and referrals made, recording the location and nature of the pregnant woman's injuries, and the establishment of mechanisms to ensure the privacy and confidentiality of those medical records; and

(D) the identification and referral of the pregnant woman to appropriate public and private nonprofit entities that provide intervention services, accompaniment, and supportive social services.

(4) ELIGIBLE PREGNANT WOMAN.—In this subsection, the term ''eligible pregnant woman'' means any woman who is pregnant on the date on which such woman becomes a victim of domestic violence, sexual violence, sexual assault, or stalking or who was pregnant during the one-year period before such date.

(e) PUBLIC AWARENESS AND EDUCATION.—A State may use amounts received under a grant under section __001 to make funding available to increase public awareness and education concerning any services available to pregnant and parenting teens and women under this title, or any other resources available to pregnant and parenting women in keeping with the intent and purposes of this title. The State shall be responsible for setting guidelines or limits as to how much of funding may be utilized for public awareness and education in any funding award.

SEC. __004. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated, $25,000,000 for each of fiscal years 2010 through 2019, to carry out this title.

SA 3099. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

Subtitle ___—Expansion of Adoption Credit and Adoption Assistance Programs

SEC. __01. EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) INCREASE IN DOLLAR LIMITATION.—

(1) ADOPTION CREDIT.—

(A) IN GENERAL.—Paragraph (1) of section 23(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking ''$10,000'' and inserting ''$15,000''.

(B) CHILD WITH SPECIAL NEEDS.—Paragraph (3) of section 23(a) of such Code (relating to $10,000 credit for adoption of child with special needs regardless of expenses) is amended—

(i) in the text by striking ''$10,000'' and inserting ''$15,000'', and

(ii) in the heading by striking ''$10,000'' and inserting ''$15,000''.

(C) CONFORMING AMENDMENT TO INFLATION ADJUSTMENT.—Subsection (h) of section 23 of such Code (relating to adjustments for inflation) is amended to read as follows:

''(h) ADJUSTMENTS FOR INFLATION.—

''(1) DOLLAR LIMITATIONS.—In the case of a taxable year beginning after December 31, 2009, each of the dollar amounts in subsections (a)(3) and (b)(1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

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

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

''(2) INCOME LIMITATION.—In the case of a taxable year beginning after December 31, 2002, the dollar amount in subsection (b)(2)(A)(i) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

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

(2) ADOPTION ASSISTANCE PROGRAMS.—

(A) IN GENERAL.—Paragraph (1) of section 137(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking ''$10,000'' and inserting ''$15,000''.

(B) CHILD WITH SPECIAL NEEDS.—Paragraph (2) of section 137(a) of such Code (relating to $10,000 exclusion for adoption of child with special needs regardless of expenses) is amended—

(i) in the text by striking ''$10,000'' and inserting ''$15,000'', and

(ii) in the heading by striking ''$10,000'' and inserting ''$15,000''.

(C) CONFORMING AMENDMENT TO INFLATION ADJUSTMENT.—Subsection (f) of section 137 of such Code (relating to adjustments for inflation) is amended to read as follows:

''(f) ADJUSTMENTS FOR INFLATION.—

''(1) DOLLAR LIMITATIONS.—In the case of a taxable year beginning after December 31, 2009, each of the dollar amounts in subsections (a)(2) and (b)(1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

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

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

''(2) INCOME LIMITATION.—In the case of a taxable year beginning after December 31, 2002, the dollar amount in subsection (b)(2)(A) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph thereof.

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

(b) CREDIT MADE REFUNDABLE.—

(1) CREDIT MOVED TO SUBPART RELATING TO REFUNDABLE CREDITS.—The Internal Revenue Code of 1986 is amended—

(A) by redesignating section 23, as amended by subsection (a), as section 36B, and

(B) by moving section 36B (as so redesignated) from subpart A of part IV of subchapter A of chapter 1 to the location immediately before section 37 in subpart C of part IV of subchapter A of chapter 1.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(3)(B) of such Code is amended by striking ''23,''.

(B) Section 25(e)(1)(C) of such Code is amended by striking ''23,'' both places it appears.

(C) Section 25A(i)(5)(B) of such Code is amended by striking ''23, 25D,'' and inserting ''25D''.

(D) Section 25B(g)(2) of such Code is amended by striking ''23,''.

(E) Section 26(a)(1) of such Code is amended by striking ''23,''.

(F) Section 30(c)(2)(B)(ii) of such Code is amended by striking ''23, 25D,'' and inserting ''25D''.

(G) Section 30B(g)(2)(B)(ii) of such Code is amended by striking ''23,''.

(H) Section 30D(c)(2)(B)(ii) of such Code is amended by striking ''sections 23 and'' and inserting ''section''.

(I) Section 36B of such Code, as so redesignated, is amended—

(i) by striking paragraph (4) of subsection (b), and

(ii) by striking subsection (c).

(J) Section 137 of such Code is amended—

(i) by striking ''section 23(d)'' in subsection (d) and inserting ''section 36B(d)'', and

(ii) by striking ''section 23'' in subsection (e) and inserting ''section 36B''.

(K) Section 904(i) of such Code is amended by striking ''23,''.

(L) Section 1016(a)(26) is amended by striking ''23(g)'' and inserting ''36B(g)''.

(M) Section 1400C(d) of such Code is amended by striking ''23,''.

(N) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code of 1986 is amended by striking the item relating to section 23.

(O) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''36B,'' after ''36A,''.

(P) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 36A the following new item:

''Sec. 36B. Adoption expenses.''.

(c) EXTENSION OF CREDIT AND ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Section 36B of the Internal Revenue Code of 1986, as redesignated by subsection (b), is amended by adding at the end the following new subsection:

''(i) TERMINATION.—This section shall not apply to expenses paid or incurred in taxable years beginning after December 31, 2019.''.

(2) IN GENERAL.—Section 137 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) TERMINATION.—This section shall not apply to expenses paid or incurred in taxable years beginning after December 31, 2019.''.

(3) SUNSET FOR MODIFICATIONS MADE BY EGTRRA TO ADOPTION CREDIT REMOVED.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the amendments made by section 202 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SA 3100. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 128, between lines 6 and 7, insert the following:

(e) EDUCATED HEALTH CARE CONSUMERS.—The term ''educated health care consumer'' means an individual who is knowledgeable about the health care system, and has background or experience in making informed decisions regarding health, medical, and scientific matters.

On page 142, line 15, insert ''educated'' before ''health care''.

On page 192, line 23, insert ''educated'' before ''health care''.

SA 3101. Mr. FRANKEN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 692, between lines 14 and 15, insert the following:

SEC. 3009. RULE OF CONSTRUCTION.

Nothing in the provisions of, or amendments made by, this Act shall be construed as prohibiting the application of value-based purchasing reforms under the Medicare program under title XVIII of the Social Security Act under such provisions or amendments to items and services furnished to individuals eligible for benefits under the Medicare program as a result of any expansion of such eligibility under the provisions of, or amendments made by, this Act.

SA 3102. Mr. DURBIN (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 816, after line 20, insert the following:

SEC. 3115. EXTENDED MONTHS OF COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT PATIENTS AND OTHER RENAL DIALYSIS PROVISIONS.

(a) PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM FOR KIDNEY TRANSPLANT RECIPIENTS.—

(1) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS.—

(A) KIDNEY TRANSPLANT RECIPIENTS.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426–1(b)(2)) is amended by inserting ''(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))'' before '', with the thirty-sixth month''.

(B) APPLICATION.—Section 1836 of such Act (42 U.S.C. 1395o) is amended—

(i) by striking ''Every individual who'' and inserting ''(a) IN GENERAL.—Every individual who''; and

(ii) by adding at the end the following new subsection:

''(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

''(1) IN GENERAL.—In the case of an individual whose eligibility for benefits under this title has ended on or after January 1, 2012, except for the coverage of immunosuppressive drugs by reason of section 226A(b)(2), the following rules shall apply:

''(A) The individual shall be deemed to be enrolled under this part for purposes of receiving coverage of such drugs.

''(B) The individual shall be responsible for providing for payment of the portion of the

premium under section 1839 which is not covered under the Medicare savings program (as defined in section 1144(c)(7)) in order to receive such coverage.

''(C) The provision of such drugs shall be subject to the application of—

''(i) the deductible under section 1833(b); and

''(ii) the coinsurance amount applicable for such drugs (as determined under this part).

''(D) If the individual is an inpatient of a hospital or other entity, the individual is entitled to receive coverage of such drugs under this part.

''(2) ESTABLISHMENT OF PROCEDURES IN ORDER TO IMPLEMENT COVERAGE.—The Secretary shall establish procedures for—

''(A) identifying individuals that are entitled to coverage of immunosuppressive drugs by reason of section 226A(b)(2); and

''(B) distinguishing such individuals from individuals that are enrolled under this part for the complete package of benefits under this part.''.

(C) TECHNICAL AMENDMENT TO CORRECT DUPLICATE SUBSECTION DESIGNATION.—Subsection (c) of section 226A of such Act (42 U.S.C. 426–1), as added by section 201(a)(3)(D)(ii) of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1497), is redesignated as subsection (d).

(2) EXTENSION OF SECONDARY PAYER REQUIREMENTS FOR ESRD BENEFICIARIES.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following new sentence: ''With regard to immunosuppressive drugs furnished on or after the date of the enactment of the Patient Protection and Affordable Care Act, this subparagraph shall be applied without regard to any time limitation.''.

(b) MEDICARE COVERAGE FOR ESRD PATIENTS.—Section 1881 of the Social Security Act is amended—

(1) in subsection (b)(14)(B)(iii), by inserting '', including oral drugs that are not the oral equivalent of an intravenous drug (such as oral phosphate binders and calcimimetics),'' after ''other drugs and biologicals'';

(2) in subsection (b)(14)(E)(ii)—

(A) in the first sentence—

(i) by striking ''a one-time election to be excluded from the phase-in'' and inserting ''an election, with respect to 2011, 2012, or 2013, to be excluded from the phase-in (or the remainder of the phase-in)''; and

(ii) by adding before the period at the end the following: ''for such year and for each subsequent year during the phase-in described in clause (i)''; and

(B) in the second sentence—

(i) by striking ''January 1, 2011'' and inserting ''the first date of such year''; and

(ii) by inserting ''and at a time'' after ''form and manner''; and

(3) in subsection (h)(4)(E), by striking ''lesser'' and inserting ''greater''.

SA 3103. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1783, between lines 2 and 3, insert the following:

SEC. 6412. MANDATORY REPORTING OF FRAUD BY MEDICARE ADVANTAGE PLANS, PRESCRIPTION DRUG PLANS, AND PROVIDERS OF SERVICES AND SUPPLIERS.

(a) MANDATORY REPORTING BY MEDICARE ADVANTAGE PLANS AND PRESCRIPTION DRUG PLANS.—Section 1857(d) of the Social Security Act (42 U.S.C. 1395w–27(d)) is amended by adding at the end the following new paragraph:

''(7) REPORTING OF PROBABLE FRAUD.—

''(A) IN GENERAL.—Each Medicare Advantage organization and, in accordance with section 1860D–12(b)(3)(C), each PDP sponsor of a prescription drug plan shall, in accordance with regulations established by the Secretary under subparagraph (B)—

''(i) self-report to the Secretary and to the appropriate law enforcement or oversight agency any matter for which the organization or sponsor has liability and for which the organization or sponsor has identified, from any source, credible evidence of fraud related to the program under this part or part D; and

''(ii) report to the Secretary and to the appropriate law enforcement or oversight agency any matter for which the organization or sponsor has identified, from any source, credible evidence of fraud by subcontractors or others related to the program under this part or part D.

''(B) REGULATIONS.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish regulations to carry out this paragraph.''.

(b) MANDATORY REPORTING BY PROVIDERS OF SERVICES AND SUPPLIERS.—Section 1866(j)(7)(B) of the Social Security Act, as inserted by section 6401, is amended by adding at the end the following sentence: ''Such core elements shall include, to the extent determined appropriate by the Secretary, internal monitoring and auditing of, and responding to, identified deficiencies. Such response shall include reporting to the Secretary and to the appropriate law enforcement or oversight agency credible evidence of fraud related to the program under this title, title XIX, or title XXI.''.

(c) PROMPT AND APPROPRIATE ACTION BY THE SECRETARY.—The Secretary shall take prompt and appropriate action to forward information on fraud reported under sections 1857(d)(7) and 1866(j)(7)(B) of the Social Security Act, as added by subsection (a) and amended by subsection (b), respectively, to the appropriate agencies.

(d) ANNUAL REPORT TO CONGRESS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall submit to Congress an annual report on actions taken by the Secretary to address fraud during the preceding year. The report shall include an analysis of trends and conditions giving rise to fraud and general actions taken to address such trends and conditions, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

SA 3104. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 426, line 14, insert '', in cases where eligibility for medical assistance under this title is not established pursuant to otherwise applicable procedures under the Patient Protection and Affordable Care Act, including section 1413 of such Act,'' after ''shall not''.

SA 3105. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1395, strike line 11 and all that follows through ''**SEC. 778.**'' on line 15 and insert the following:

SEC. 5314. FELLOWSHIP TRAINING IN PUBLIC HEALTH.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317G the following:

''SEC. 317G–1.

SA 3106. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 301, after line 25, add the following:

SEC. 1413A. ASSURANCE OF EFFECTIVE IMPLEMENTATION OF STREAMLINED ENROLLMENT PROCEDURES.

(a) AMENDMENTS TO SECTION 1413.—Section 1413 of this Act is amended—

(1) in subsection (a), by striking the second sentence and inserting ''Such system shall ensure that if an individual applying to an Exchange, to a State Medicaid program under title XIX of the Social Security Act, or to a State children's health insurance program (CHIP) under title XXI of such Act, is found to be ineligible for the program to which the individual applied, the individual shall be screened for eligibility for all other potentially applicable such programs and shall be enrolled in the program for which the individual qualifies.'';

(2) in subsection (b)(1), by adding at the end the following:

''(D) RELEVANCE.—The forms described in subparagraphs (A) and (B) shall not require the applicant to answer any questions that are irrelevant to establishing eligibility for applicable State health subsidy programs. The Secretary shall establish procedures that avoid any need for such requirements, which shall include determining the amounts expended for medical assistance that are described in subsection (y)(1) of section 1905 of the Social Security Act (as added by section 2001(a)(3) of this Act) through the use of the post-enrollment procedures described in section 1903(u)(1)(C) of the Social Security Act.'';

(3) in subsection (c)(2)(B)(ii)(II), by striking ''by requesting'' and inserting ''notwithstanding section 1411(b), by requesting'';

(4) in subsection (c)(2)(C), by inserting ''is'' before ''consistent''; and

(5) in subsection (e)(1), by striking ''enrollment in qualified health plans offered through an Exchange, including the'' and inserting ''determination of eligibility for''.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Subparagraph (H) of section 1902(e)(14) of the Social Security Act (as added by section 2002 of this Act), is amended, in the matter preceding clause (i), by striking ''shall not be construed'' and inserting ''shall not, in cases where eligibility for medical assistance under this title is not established pursuant to otherwise applicable procedures under the Patient Protection and Affordable Care Act, including section 1413 of such Act, be construed''.

SA 3107. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1413 and insert the following:

SEC. 1413. STREAMLINING OF PROCEDURES FOR ENROLLMENT THROUGH AN EXCHANGE AND STATE MEDICAID, CHIP, AND HEALTH SUBSIDY PROGRAMS.

(a) IN GENERAL.—The Secretary shall establish a system meeting the requirements of this section under which residents of each State may apply for enrollment in, receive a determination of eligibility for participation in, and continue participation in, applicable State health subsidy programs. Such system shall ensure that if an individual applying to an Exchange, to a State Medicaid program under title XIX of the Social Security Act, or to a State children's health insurance program (CHIP) under title XXI of such Act, is found to be ineligible for the program to which the individual applied, the individual shall be screened for eligibility for all other potentially applicable such programs and shall be enrolled in the program for which the individual qualifies.

(b) REQUIREMENTS RELATING TO FORMS AND NOTICE.—

(1) REQUIREMENTS RELATING TO FORMS.—

(A) IN GENERAL.—The Secretary shall develop and provide to each State a single, streamlined form that—

(i) may be used to apply for all applicable State health subsidy programs within the State;

(ii) may be filed online, in person, by mail, or by telephone;

(iii) may be filed with an Exchange or with State officials operating one of the other applicable State health subsidy programs; and

(iv) is structured to maximize an applicant's ability to complete the form satisfactorily, taking into account the characteristics of individuals who qualify for applicable State health subsidy programs.

(B) STATE AUTHORITY TO ESTABLISH FORM.—A State may develop and use its own single, streamlined form as an alternative to the form developed under subparagraph (A) if the alternative form is consistent with standards promulgated by the Secretary under this section.

(C) SUPPLEMENTAL ELIGIBILITY FORMS.—The Secretary may allow a State to use a supplemental or alternative form in the case of individuals who apply for eligibility that is not determined on the basis of the household income (as defined in section 36B of the Internal Revenue Code of 1986).

(D) RELEVANCE.—The forms described in subparagraphs (A) and (B) shall not require the applicant to answer any questions that are irrelevant to establishing eligibility for applicable State health subsidy programs. The Secretary shall establish procedures that avoid any need for such requirements, which shall include determining the amounts expended for medical assistance that are described in subsection (y)(1) of section 1905 of the Social Security Act (as added by section 2001(a)(3) of this Act) through the use of the post-enrollment procedures described in section 1903(u)(1)(C) of the Social Security Act.

(2) NOTICE.—The Secretary shall provide that an applicant filing a form under paragraph (1) shall receive notice of eligibility for an applicable State health subsidy program without any need to provide additional information or paperwork unless such information or paperwork is specifically required by law when information provided on the form is inconsistent with data used for the electronic verification under paragraph (3) or is otherwise insufficient to determine eligibility.

(c) REQUIREMENTS RELATING TO ELIGIBILITY BASED ON DATA EXCHANGES.—

(1) DEVELOPMENT OF SECURE INTERFACES.—Each State shall develop for all applicable State health subsidy programs a secure, electronic interface allowing an exchange of data (including information contained in the application forms described in subsection (b)) that allows a determination of eligibility for all such programs based on a single application. Such interface shall be compatible with the method established for data verification under section 1411(c)(4).

(2) DATA MATCHING PROGRAM.—Each applicable State health subsidy program shall participate in a data matching arrangement for determining eligibility for participation in the program under paragraph (3) that—

(A) provides access to data described in paragraph (3);

(B) applies only to individuals who—

(i) receive assistance from an applicable State health subsidy program; or

(ii) apply for such assistance—

(I) by filing a form described in subsection (b); or

(II) notwithstanding section 1411(b), by requesting a determination of eligibility and authorizing disclosure of the information described in paragraph (3) to applicable State health coverage subsidy programs for purposes of determining and establishing eligibility; and

(C) is consistent with standards promulgated by the Secretary, including the privacy and data security safeguards described in section 1942 of the Social Security Act or that are otherwise applicable to such programs.

(3) DETERMINATION OF ELIGIBILITY.—

(A) IN GENERAL.—Each applicable State health subsidy program shall, to the maximum extent practicable—

(i) establish, verify, and update eligibility for participation in the program using the data matching arrangement under paragraph (2); and

(ii) determine such eligibility on the basis of reliable, third party data, including information described in sections 1137, 453(i), and 1942(a) of the Social Security Act, obtained through such arrangement.

(B) EXCEPTION.—This paragraph shall not apply in circumstances with respect to which the Secretary determines that the administrative and other costs of use of the data matching arrangement under paragraph (2) outweigh its expected gains in accuracy, efficiency, and program participation.

(4) SECRETARIAL STANDARDS.—The Secretary shall, after consultation with persons in possession of the data to be matched and representatives of applicable State health subsidy programs, promulgate standards governing the timing, contents, and procedures for data matching described in this subsection. Such standards shall take into account administrative and other costs and the value of data matching to the establishment, verification, and updating of eligibility for applicable State health subsidy programs.

(d) ADMINISTRATIVE AUTHORITY.—

(1) AGREEMENTS.—Subject to section 1411 and section 6103(l)(21) of the Internal Revenue Code of 1986 and any other requirement providing safeguards of privacy and data integrity, the Secretary may establish model agreements, and enter into agreements, for the sharing of data under this section.

(2) AUTHORITY OF EXCHANGE TO CONTRACT OUT.—Nothing in this section shall be construed to—

(A) prohibit contractual arrangements through which a State medicaid agency determines eligibility for all applicable State health subsidy programs, but only if such agency complies with the Secretary's requirements ensuring reduced administrative costs, eligibility errors, and disruptions in coverage; or

(B) change any requirement under title XIX that eligibility for participation in a State's medicaid program must be determined by a public agency.

(e) APPLICABLE STATE HEALTH SUBSIDY PROGRAM.—In this section, the term ''applicable State health subsidy program'' means—

(1) the program under this title for the determination of eligibility for premium tax credits under section 36B of the Internal Revenue Code of 1986 and cost-sharing reductions under section 1402;

(2) a State medicaid program under title XIX of the Social Security Act;

(3) a State children's health insurance program (CHIP) under title XXI of such Act; and

(4) a State program under section 1331 establishing qualified basic health plans.

SA 3108. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 816, after line 20, insert the following:

SEC. 3115. IMPROVING CARE PLANNING FOR MEDICARE HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1814(a)(2) of the Social Security Act (42 U.S.C. 1395f(a)(2)), in the matter preceding subparagraph (A), is amended—

(1) by inserting ''(as those terms are defined in section 1861(aa)(5))'' after ''clinical nurse specialist''; and

(2) by inserting '', or in the case of services described in subparagraph (C), a physician, or a nurse practitioner or clinical nurse specialist who is working in collaboration with a physician in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician'' after ''collaboration with a physician''.

(b) CONFORMING AMENDMENTS.—(1) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)), as amended by section 3108(a)(2) and section 6407, is amended—

(A) in paragraph (2)(C), by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'' each place it appears;

(B) in the second sentence, by inserting ''certified nurse-midwife,'' after ''clinical nurse specialist,'';

(C) in the third sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fourth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(2) Section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)), as amended by section 6405, is amended—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''or an eligible professional under section 1848(k)(3)(B)'' and inserting '', an eligible professional under section 1848(k)(3)(B), or a nurse practitioner or clinical nurse specialist (as those terms are defined in 1861(aa)(5)) who is working in collaboration with a physician enrolled under section 1866(j) or such an eligible professional in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician so enrolled or such an eligible professional''; and

(ii) in each of clauses (ii) and (iii) of subparagraph (A) by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'';

(B) in the third sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be)'' after physician;

(C) in the fourth sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fifth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(3) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (m)—

(i) in the matter preceding paragraph (1)—

(I) by inserting ''a nurse practitioner or a clinical nurse specialist (as those terms are defined in subsection (aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in subsection (aa)(5))'' after ''physician'' the first place it appears; and

(II) by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician'' the second place it appears; and

(ii) in paragraph (3), by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician''; and

(B) in subsection (o)(2)—

(i) by inserting '', nurse practitioners or clinical nurse specialists (as those terms are defined in subsection (aa)(5)), certified nurse-midwives (as defined in section 1861(gg)), or physician assistants (as defined in subsection (aa)(5))'' after ''physicians''; and

(ii) by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, physician assistant,'' after ''physician''.

(4) Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended—

(A) in subsection (c)(1), by inserting '', the nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), the certified nurse-midwife (as defined in section 1861(gg)), or the physician assistant (as defined in section 1861(aa)(5)),'' after ''physician''; and

(B) in subsection (e)—

(i) in paragraph (1)(A), by inserting '', a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in section 1861(aa)(5))'' after ''physician''; and

(ii) in paragraph (2)—

(I) in the heading, by striking ''PHYSICIAN CERTIFICATION'' and inserting ''RULE OF CONSTRUCTION REGARDING REQUIREMENT FOR CERTIFICATION''; and

(II) by striking ''physician''.

(c) REQUIREMENT OF FACE-TO-FACE ENCOUNTER.—

(1) PART A.—Section 1814(a)(2)(C) of the Social Security Act, as amended by subsection (b) and section 6407(a), is further amended by striking '', and, in the case of a certification made by a physician'' and all that follows through ''face-to-face encounter'' and inserting '', and, in the case of a certification made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be), prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant himself or herself has had a face-to-face encounter''.

(2) PART B.—Section 1835(a)(2)(A)(iv) of the Social Security Act, as added by section 6407(a), is amended by striking ''after January 1, 2010'' and all that follows through ''face-to-face encounter'' and inserting ''made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be), prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant has had a face-to-face encounter''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2010.

SA 3109. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 974, between lines 9 and 10, insert the following:

SEC. 3316. PHARMACY ACCESS FOR CHRONIC CARE TARGETED INDIVIDUALS.

(a) PURPOSE.—The purpose of this section is to provide for the establishment of chronic care pharmacy programs under the Medicare prescription drug program under part D of title XVIII of the Social Security Act that utilize available technologies and efficiencies to improve the safety, convenience, and affordability of prescription drug coverage under such part with respect to long-term maintenance medication refills for enrollees with a chronic disease or condition.

(b) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

''(m) PHARMACY ACCESS FOR TARGETED BENEFICIARIES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM.—The PDP sponsor of a prescription drug plan shall—

''(i) identify (not less frequently than on a quarterly basis) targeted beneficiaries who are enrolled in the prescription drug plan; and

''(ii) establish and maintain a chronic care pharmacy program that meets the requirements of this subsection.

''(B) DEFINITIONS.—In this subsection:

''(i) CHRONIC CARE PHARMACY PROGRAM.—The term 'chronic care pharmacy program' means the program established and maintained by a PDP sponsor under subparagraph (A)(ii).

''(ii) TARGETED BENEFICIARY.—The term 'targeted beneficiary' means a part D eligible individual who is identified by the PDP sponsor as taking at least 1 long-term maintenance medication.

''(iii) LONG-TERM MAINTENANCE MEDICATION.—The term 'long-term maintenance medication' means a covered part D drug that—

''(I) has a common indication (obtained from product labeling) for the treatment of a chronic disease or condition; and

''(II) is used for the treatment of a chronic disease or condition when the duration of continuous therapy can reasonably be expected to exceed 1 year.

''(2) ENROLLMENT.—

''(A) AUTOMATIC ENROLLMENT.—The PDP sponsor shall automatically enroll targeted beneficiaries identified under paragraph (1)(A)(i) in a chronic care pharmacy program.

''(B) WRITTEN NOTICE AND PROCESS TO OPT OUT OF PROGRAM.—

''(i) WRITTEN NOTICE.—The PDP sponsor shall provide written notice to targeted beneficiaries automatically enrolled in the chronic care pharmacy program under subparagraph (A).

''(ii) PROCESS TO DECLINE ENROLLMENT AND OPT OUT OF PROGRAM.—The written notice provided under clause (i) shall include procedures under which the targeted beneficiary may decline such automatic enrollment and opt-out of the chronic care pharmacy program.

''(3) CHRONIC CARE PHARMACY PROGRAM REQUIREMENTS.—The PDP sponsor shall establish and maintain procedures to ensure that each of the following requirements is met by a chronic care pharmacy program:

''(A) A targeted beneficiary is (not less frequently than on an annual basis) provided a claims-based comprehensive written summary of the targeted beneficiary's drug therapy that includes an analysis of—

''(i) poly-pharmacy and other safety issues, including the identification of duplicative or excessive drug therapy in order to reduce

harmful adverse drug reactions and unnecessary hospitalizations; and

''(ii) clinically appropriate alternative formulary treatment options and lower cost alternatives, if any, for consideration by the treating physician of the targeted beneficiary.

''(B) Any chronic care pharmacy under the program is accredited by a private accrediting organization as meeting standards appropriate for pharmacies that dispense long-term maintenance medications, including a process for quality and safety improvement.

''(C) The program makes available, 24 hours a day, 7 days a week, to a targeted beneficiary confidential pharmacist counseling, based on the targeted beneficiary's drug therapy.

''(D) The program delivers to the address specified by the targeted beneficiary an extended supply (such as 90-days) of long-term maintenance medications where permitted by law and when indicated to be clinically appropriate.

''(E) The program provides, after filling a prescription for a targeted beneficiary for 2 consecutive months, only an extended supply of a long-term maintenance medication, except that a 1-time 30-day supply of such a medication may be provided to the targeted beneficiary at a retail pharmacy in order to transition a targeted beneficiary into the program.

''(4) ACCESS TO COVERED PART D DRUGS.—The requirements of subsection (b)(1) shall apply to a chronic care pharmacy program, except that the requirements of subparagraphs (A) and (D) of such subsection shall apply only in the case of an individual who opts out of the chronic care pharmacy program under paragraph (2)(A)(ii).

''(5) FACILITATING AFFORDABLE PAYMENT ARRANGEMENTS.—With respect to an extended supply of part D covered drugs for a targeted beneficiary under the chronic care pharmacy program, the PDP sponsor shall offer to the targeted beneficiary an option to arrange for the payment of any required cost-sharing by a targeted beneficiary on an alternative basis (including more affordable payments in installments) over the period of the extended supply.

''(6) CONTINUITY OF ELECTION.—In the case where a targeted beneficiary changes enrollment to a different prescription drug plan (including a prescription drug plan offered by a different sponsor)—

''(A) the PDP sponsor of the plan from which the targeted beneficiary disenrolls shall notify the Secretary (as part of the disenrollment process)—

''(i) that the individual is a targeted beneficiary to whom the requirements of this subsection apply; and

''(ii) whether the targeted beneficiary elected to opt out of the chronic care pharmacy program under paragraph (2)(A)(ii); and

''(B) the Secretary shall ensure that, in the case where the targeted beneficiary has not elected to opt out as described in subparagraph (A)(ii), the continuation of the enrollment of the targeted beneficiary in the chronic care pharmacy program of the PDP sponsor offering the prescription drug plan in which the targeted beneficiary has enrolled.

''(7) PROVIDING INFORMATION TO BENEFICIARIES.—The Secretary shall include information regarding chronic care pharmacy programs in the activities required under section 1860D–1(c) (relating to the provision of information to beneficiaries with respect to informed choice, and other information), including any consumer satisfaction surveys under subsection (d).

''(8) EXCEPTION FOR LONG-TERM CARE FACILITIES.—This subsection shall not apply to a long-term care facility or a pharmacy located in, or having a contract with, a long-term care facility.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply for contract years beginning with 2011.

SA 3110. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 974, between lines 9 and 10, insert the following:

SEC. 3316. PERFORMANCE BASED PHARMACY REIMBURSEMENT PROGRAM.

(a) IN GENERAL.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

''(m) PERFORMANCE BASED PHARMACY REIMBURSEMENT PROGRAM.—

''(1) IN GENERAL.—The PDP sponsor shall have in place a program that identifies omission gaps and adherence gaps (as defined in paragraph (2)) for specified beneficiaries (as described in paragraph (3)) and makes payments to participating pharmacies (as described in paragraph (4)) that close such gaps through clinical counseling.

''(2) OMISSION AND ADHERENCE GAPS DEFINED.—In this subsection:

''(A) OMISSION GAPS.—The term 'omission gaps' refers to cases when the patient is not receiving a medication that evidenced-based protocols or clinical practice standards indicate is a best practice for treatment of their disease.

''(B) ADHERENCE GAPS.—The term 'adherence gaps' refers to cases when a patient is not taking their medication the way it was prescribed, including failure to fill, failure to renew, stopping or not starting medications, or not taking a medication the way it was intended.

''(3) SPECIFIED BENEFICIARIES DESCRIBED.—Beneficiaries described in this paragraph are part D eligible individuals taking medications for one of the following conditions:

''(A) Diabetes.

''(B) Cardiovascular disease.

''(C) Pulmonary disease.

''(4) PARTICIPATING PHARMACIES.—The PDP sponsor shall contract with any pharmacy that is willing to participate in such program and meet the standard terms and conditions of the PDP sponsor. To the extent practicable, the PDP sponsor shall use a specified beneficiary's primary pharmacy to close gaps in care. If such pharmacy does not participate in such program or is unable to close a gap in care, the PDP sponsor may use other participating pharmacies. The primary pharmacy selected by the PDP sponsor shall advise the specified beneficiary of his or her right to select another participating pharmacy.

''(5) GAPS IN MEDICATION ADHERENCE.—The Secretary shall require PDP sponsors to follow uniform standards in identifying gaps in medication adherence. The Secretary shall develop such standards based on current treatment protocols for the conditions described in paragraph (2).

''(6) PAYMENTS TO PDP SPONSORS.—

''(A) IN GENERAL.—The Secretary shall pay each PDP sponsor a per member monthly amount to administer such program. Such payments shall be for operational and administrative activities only and shall not include the cost of any covered part D drug. The per member monthly payment to a PDP sponsor may not exceed an amount that equals $0.85 in 2012, increased in subsequent years by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of the previous year.

''(B) SPECIAL RULE.—The Secretary shall ensure that PDP sponsors use greater than 50 percent of the aggregate amount paid to the PDP sponsor under subparagraph (A) to compensate pharmacies for counseling activities under such program.

''(C) NOT IN BIDS.—PDP sponsors shall not include the payments described in subparagraph (A) in the bids submitted by the PDP sponsor under section 1860D–11.

''(D) SOURCE.—The payment described in subparagraph (A) shall be made from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841, in such proportion as the Secretary determines appropriate.

''(7) PAYMENTS TO PARTICIPATING PHARMACIES FROM PDP SPONSORS.—Under such program, PDP sponsors shall negotiate payment structures with pharmacies, and pharmacists shall receive remuneration based on success in closings gaps in care. Payments under paragraph (6)(A) shall be made when it is determined that the adherence and omission gaps have been closed, or when billable activity by the pharmacy occurs, by contract.

''(8) BONUSES AND PENALTIES FOR PDP SPONSORS BASED ON ESTIMATED CHANGES IN MEDICAL COSTS.—

''(A) PROJECTED COSTS.—Beginning in 2012, the Secretary shall, on an annual basis, project the anticipated costs for individuals enrolled in the program under parts A and B for the current year and the succeeding 2 years, based on risk-adjusted historical costs under such parts.

''(B) COMPARISON.—

''(i) IN GENERAL.—At the end of each 3-year period described in subparagraph (A), for each PDP sponsor under the program, the Secretary shall compare the actual spending for such individuals to the costs projected under subparagraph (A).

''(ii) INCENTIVE PAYMENT.—For each year during the 3-year period described in clause (i), to the extent the actual costs are lower than the costs projected under subparagraph (A), the Secretary will pay to the PDP sponsor an incentive based on a graduated scale, under which the PDP sponsor receives an incremental 10 percent of the per member monthly amount paid to the PDP sponsor under paragraph (6) for every 10 percent of savings above the projection, not to exceed 50 percent of the aggregate amounts paid to the PDP sponsor under such paragraph for the initial year of the 3-year period.

''(iii) PENALTIES.—For each year during the 3-year period described in clause (i), to the extent the actual costs are higher than the costs projected under subparagraph (A), the PDP sponsor shall make a payment to the Secretary in an amount based on a graduated scale, under which the PDP sponsor pays to the Secretary 10 percent of the per member monthly amount paid to the PDP sponsor under paragraph (6) for every 10 percent of costs above the projection, not to exceed 50 percent of the aggregate amounts paid to the PDP sponsor under such paragraph for the initial year of the 3-year period.

''(C) GUIDANCE ON METHODOLOGY USED.—The Secretary shall issue guidance on the methodology that the Secretary uses to project costs as described in subparagraph (A), measure actual costs for purposes of the comparison under subparagraph (B), and calculate

incentive payment and penalties under clauses (ii) and (iii), respectively, of such subparagraph.

''(D) PHARMACIES NOT LIABLE FOR FEES.—A participating pharmacy shall not be required to pay any penalties under subparagraph (B)(iii).

''(E) RECONCILIATION.—Any financial reconciliation under the program under this subsection shall be incorporated into the annual reconciliation process under this part.

''(9) LIMITATION.—The requirements of this subsection shall not apply to an MA–PD plan.

''(10) CONSTRUCTION.—The provisions of this subsection shall not modify or relieve PDP sponsors of their responsibilities under subsection (c)(2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2012.

SA 3111. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, beginning with line 15, strike all through page 246, line 7.

On page 254, strike lines 11 through 20.

On page 260, strike lines 14 through 17.

On page 267, strike lines 17 through 25.

On page 268, between lines 13 and 14, insert the following:

(3) SUBSIDIES TREATED AS PUBLIC BENEFIT.—Notwithstanding any other provision of this Act or any other provision of law, for purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), the following shall be considered a Federal means-tested public benefit:

(A) The ability of an individual to purchase a qualified health plan offered through an Exchange.

(B) The premium tax credit established under section 1401 of this Act (and any advance payment thereof).

(C) The cost sharing reductions established under this section (and any advance payment thereof).

On page 269, strike lines 7 through 9, and insert the following:

(a) VERIFICATION PROCESS.—The Secretary shall ensure that eligibility determinations required by this Act are conducted in accordance with the following requirements, including requirements for determining:

On page 269, line 18, insert ''eligible'' before ''alien''.

On page 270, line 16, strike ''provide'' and insert ''appear in person to provide the Exchange with the following''.

On page 270, between lines 20 and 21, insert the following:

(B) A sworn statement, under penalty of perjury, specifically attesting to the fact that each enrollee is either a citizen or national of the United States or an eligible lawful permanent resident meeting the requirements of section 1402(f)(3) of this Act and identifying the applicable eligibility status for each enrollee; and

On page 270, line 21, insert ''and documentation'' after ''information''.

On page 271, strike lines 4 through 15, and insert the following:

(A) In the case of an enrollee whose eligibility is based on attestation of citizenship of the enrollee, the enrollee shall provide satisfactory evidence of citizenship or nationality (within the meaning of section 1903(x) of the Social Security Act (42 U.S.C. 1396b)).

(B) In the case of an individual whose eligibility is based on attestation of the enrollee's immigration status—

(i) such information as is necessary for the individual to demonstrate they are in ''satisfactory immigration status'' as defined and in accordance with the Systematic Alien Verification for Entitlements (SAVE) program established by section 1137 of the Social Security Act (42 U.S.C. 1320b–7), and

(ii) any other additional identifying information as the Secretary, in consultation with the Secretary of Homeland Security, may require in order for the enrollee to demonstrate satisfactory immigration status.

On page 274, beginning with line 12, strike all through page 276, line 17, and insert the following:

(c) VERIFICATION OF ELIGIBILITY THROUGH DOCUMENTATION.—

(1) IN GENERAL.—Each Exchange shall conduct eligibility verification, using the information provided by an applicant under subsection (b), in accordance with this subsection.

(2) VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS.—

(A) VERIFICATION OF ATTESTATION OF CITIZENSHIP.—Each Exchange shall verify the eligibility of each enrollee who attests that they are a citizen or national of the United States, as required by subsection (b)(1)(A) of this section, in accordance with the provisions of section 1903(x) of the Social Security Act.

(B) VERIFICATION OF ATTESTATION OF ELIGIBLE IMMIGRATION STATUS.—Each Exchange shall verify the eligibility of each enrollee who attests that they are eligible to participate in the exchange by virtue of having been a lawful permanent resident for not less than 5 years, as required by subsection (b)(1)(B) of this section, in accordance with the provisions of section 1137 of the Social Security Act.

On page 277, beginning with line 19, strike all through page 278, line 16.

On page 280, strike lines 8 and 9 and insert ''in accordance with the secondary verification process established consistent with section 1137 of the Social Security Act (as is in effect as of January 1, 2009).''

SA 3112. Ms. CANTWELL (for herself, Ms. SNOWE, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 354, between lines 18 and 19, insert the following:

(B) CERTAIN EMPLOYEES TREATED AS FULL-TIME.—Solely for purposes of applying subsections (a) and (c), an employee not otherwise treated as a full-time employee under subparagraph (A) shall be treated as a full-time employee if the employee is employed at least 390 hours of service per calendar quarter.

SA 3113. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 869, between lines 14 and 15, insert the following:

SEC. 3143. REVISION TO PAYMENT FOR CONSULTATION CODES.

(a) TEMPORARY DELAY OF ELIMINATION OF PAYMENT FOR CONSULTATION CODES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to January 1, 2011, implement a final rule relating payment policies under the physician fee schedule and part B of title XVIII of the Social Security Act that contains a provision that eliminates or discontinues payment for consultation codes.

(b) EVALUATION PERIOD.—During the period prior to January 1, 2011, the Secretary of Health and Human Services shall consult with the Current Procedural Terminology Editorial Panel of the American Medical Association for the purpose of developing proposals to—

(1) modify existing consultation codes or establish new consultation codes to more accurately reflect the value provided through such consultation services; and

(2) minimize coding errors.

SA 3114. Mr. GRASSLEY (for himself, Mr. COBURN, Mr. BROWNBACK, Mr. CHAMBLISS, Mr. ISAKSON, Ms. MURKOWSKI, Mr. BUNNING, Mr. BENNETT, Mr. LEMIEUX, Mr. BARRASSO, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 2 and 3, insert the following:

''(c) PROTECTION OF SECOND AMENDMENT RIGHTS.—

''(1) FINDING.—Congress finds that the second amendment to the Constitution of the United States protects a fundamental right for individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

''(2) WELLNESS AND PREVENTION PROGRAMS.—A wellness and health promotion activity implemented under subsection (a)(1)(D) may not require the disclosure or collection of any information relating to—

''(A) the presence or storage of a lawfully-possessed firearm or ammunition in the residence or on the property of an individual; or

''(B) the lawful use, possession, or storage of a firearm or ammunition by an individual.

''(3) LIMITATION ON DATA COLLECTION.—None of the authorities provided to the Secretary under the Patient Protection and Affordable Care Act or an amendment made by that Act shall be construed to authorize or may be used for the collection of any information relating to—

''(A) the lawful ownership or possession of a firearm or ammunition;

''(B) the lawful use of a firearm or ammunition; or

''(C) the lawful storage of a firearm or ammunition.

''(4) LIMITATION ON DATABASES OR DATA BANKS.—None of the authorities provided to the Secretary under the Patient Protection and Affordable Care Act or an amendment made by that Act shall be construed to authorize or may be used to maintain records of individual ownership or possession of a firearm or ammunition.

''(5) LIMITATION ON DETERMINATION OF PREMIUM RATES OR ELIGIBILITY FOR HEALTH INSURANCE.—A premium rate may not be increased, health insurance coverage may not be denied, and a discount, rebate, or reward offered for participation in a wellness program may not be reduced or withheld under any health benefit plan issued pursuant to or in accordance with the Patient Protection and Affordable Care Act or an amendment made by that Act on the basis of, or on reliance upon—

''(A) the lawful ownership or possession of a firearm or ammunition; or

''(B) the lawful use or storage of a firearm or ammunition.

''(6) LIMITATION ON DATA COLLECTION REQUIREMENTS FOR INDIVIDUALS.—No individual shall be required to disclose any information under any data collection activity authorized under the Patient Protection and Affordable Care Act or an amendment made by that Act relating to—

''(A) the lawful ownership or possession of a firearm or ammunition; or

''(B) the lawful use, possession, or storage of a firearm or ammunition.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 9, 2009, at 2:30 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Exports' Place on the Path of Economic Recovery.''

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

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 9, 2009, at 10 a.m., to hold a hearing entitled ''The New Afghanistan Strategy: The View from the Ground.''

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

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 9, 2009, at 2:30 p.m., to hold a hearing entitled ''Strengthening the Transatlantic Economy: Moving Beyond the Crisis.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 9, 2009, at 10 a.m., to conduct a hearing entitled ''Five Years After the Intelligence Reform and Terrorism Prevention Act (IRTPA): Stopping Terrorist Travel.''

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

COMMITTEE ON INDIAN AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on December 9, 2009, at 9:30 a.m., in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on December 9, 2009, at 10 a.m., in room SH–216 of the Hart Senate Office Building, to conduct a hearing entitled ''Oversight of the Department of Homeland Security.''

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

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on December 9, 2009, at 2 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Mortgage Fraud, Securities Fraud, and the Financial Meltdown: Prosecuting Those Responsible.''

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on December 9, 2009. The Committee will meet in room 418 of the Russell Senate Office Building at 9:30 a.m.

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

SUBCOMMITTEE ON ECONOMIC POLICY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, Subcommittee on Economic Policy, be authorized to meet during the session of the Senate on December 9, 2009, at 2 p.m., to conduct a hearing entitled ''Weathering the Storm: Creating Jobs in the Recession.''

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Ms. STABENOW. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 9, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on December 9, 2009, at 2:30 p.m. to conduct a hearing entitled, ''The Diplomat's Shield: Diplomatic Security in Today's World.''

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

ORDERS FOR THURSDAY, DECEMBER 10, 2009

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Thursday, December 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 3590, the health care reform legislation; that following leader remarks, the time until 1 p.m. be for debate only and equally divided, with the time until 11 a.m. controlled between the two leaders or their designees, with the remaining time until 1 p.m. controlled in alternating 30-minute blocks of time, with the majority controlling the first block and the Republicans controlling the next block.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BAUCUS. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:19 p.m., adjourned until Thursday, December 10, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF ENERGY

PATRICIA A. HOFFMAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ELECTRICITY DELIVERY AND ENERGY RELIABILITY), VICE KEVIN M. KOLEVAR, RESIGNED.

OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA NATURAL GAS TRANSPORTATION PROJECTS

LARRY PERSILY, OF ALASKA, TO BE FEDERAL COORDINATOR FOR ALASKA NATURAL GAS TRANSPORTATION PROJECTS FOR THE TERM PRESCRIBED BY LAW, VICE DRUE PEARCE, RESIGNED.

DEPARTMENT OF STATE

MARI CARMEN APONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

DONALD E. BOOTH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant

KEITH E. TUCKER

To be ensign

BRETT E. FLOYD
BRANDY E. GEIGER
ANTHONY J.M. IMBERI
BRIAN R.C. KENNEDY
ROBERT J. MITCHELL
LINH K. NGUYEN
ALISE N. PARRISH
AMBER M. PAYNE
ADAM C. PFUNDT
TAMERA J. REUL
KELLY M. SCHILL
MICHAEL S. SILAGI
TANNER A. SIMS
DAVID O. VEJAR
JASON P.R. WILSON

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C, SECTION 211(A):

To be lieutenant

ROBERT A. MOOMAW

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. CAROL A. LEE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL ERIC W. CRABTREE
BRIGADIER GENERAL WALLACE W. FARRIS, JR.
BRIGADIER GENERAL CRAIG N. GOURLEY
BRIGADIER GENERAL DAVID S. POST
BRIGADIER GENERAL DONALD C. RALPH
BRIGADIER GENERAL JON R. SHASTEEN
BRIGADIER GENERAL RICHARD A. SHOOK, JR.
BRIGADIER GENERAL JAMES N. STEWART
BRIGADIER GENERAL LANCE D. UNDHJEM

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

JAMES R. AGAR II
JANE E. BAGWELL
RANDALL J. BAGWELL
MICHAEL R. BLACK
JOHN P. CARRELL
DAVID K. DALITION
THERESA A. GALLAGHER
TYLER J. HARDER
FRANCIS P. KING
KARL W. KUHN
MICHAEL O. LACEY
MARK D. MAXWELL
THOMAS C. MODESZTO
FRANKLIN D. RAAB
JAMES H. ROBINETTE II
PAUL T. SALUSSOLIA
RALPH J. TREMAGLIO III
STEVEN B. WEIR
KERRY M. WHEELEHAN

WITHDRAWAL

Executive Message transmitted by the President to the Senate on December 9, 2009 withdrawing from further Senate consideration the following nomination:

COAST GUARD NOMINATION OF RICHARD A. MOOMAW, TO BE LIEUTENANT, WHICH WAS SENT TO THE SENATE ON NOVEMBER 16, 2009.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, December 10, 2009 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 15

10 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine reevaluating United States policy in Central Asia.
SD–419

Energy and Natural Resources
To hold hearings to examine S. 2052, to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and S. 2812, to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs.
SD–366

Judiciary
To hold hearings to examine ensuring the effective use of DNA evidence to solve rape cases nationwide.
SD–226

Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold hearings to examine efforts to improve management integration at the Department of Homeland Security.
SD–342

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine the nominations of Julie Simone Brill, of Vermont, and Edith Ramirez, of California, both to be a Federal Trade Commissioner, David L. Strickland, of Georgia, to be Administrator of the National Highway Traffic Safety Administration, and David Matsuda, to be Administrator of the Maritime Administration, both of the Department of Transportation, Michael A. Khouri, of Kentucky, to be a Federal Maritime Commissioner, and Nicole Yvette Lamb-Hale, of Michigan, to be Assistant Secretary of Commerce.
SR–253

DECEMBER 16

10:30 a.m.
Judiciary
Human Rights and the Law Subcommittee
To hold hearings to examine United States implementation of human rights treaties.
SD–226

2:30 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee
To hold hearings to examine tools to combat deficits and waste, focusing on enhanced rescission authority.
SD–342

3 p.m.
Judiciary
To hold hearings to examine the nominations of James A. Wynn, Jr., of North Carolina, and Albert Diaz, of North Carolina, both to be United States Circuit Judge for the Fourth Circuit.
SD–226

DECEMBER 17

9:30 a.m.
Armed Services
To hold hearings to examine the nominations of Douglas B. Wilson, of Arizona, to be Assistant Secretary for Public Affairs, Malcolm Ross O'Neill, of Virginia, to be Assistant Secretary of the Army for Acquisition, Logistics and Technology, Mary Sally Matiella, of Arizona, to be Assistant Secretary of the Army for Financial Management and Comptroller, Paul Luis Oostburg Sanz, of Maryland, to be General Counsel of the Department of the Navy, and Jackalyne Pfannenstiel, of California, to be Assistant Secretary of the Navy for Installations and Environment, all of the Department of Defense, and Donald L. Cook, of Washington, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration, Department of Energy.
SD–G50

10 a.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Homeland Security and Governmental Affairs
To hold hearings to examine prospects for our economic future and proposals to secure it.
SD–342

2 p.m.
Homeland Security and Governmental Affairs
Contracting Oversight Subcommittee
To hold hearings to examine an overview of Afghanistan contracts.
SD–342

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1470, to sustain the economic development and recreational use of National Forest System land and other public land in the State of Montana, to add certain land to the National Wilderness Preservation System, to release certain wilderness study areas, to designate new areas for recreation, S. 1719, to provide for the conveyance of certain parcels of land to the town of Alta, Utah, S. 1787, to reauthorize the Federal Land Transaction Facilitation Act, H.R. 762, to validate final patent number 27–2005-0081, and H.R. 934, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.
SD–366

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S12743–S12834

Measures Introduced: Eleven bills and one resolution were introduced, as follows: S. 2852–2862, and S. Res. 373. **Pages S12804–05**

Measures Reported:

S. 574, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, with an amendment. (S. Rept. No. 111–102)

S. 1288, to authorize appropriations for grants to the States participating in the Emergency Management Assistance Compact, with an amendment in the nature of a substitute. (S. Rept. No. 111–103)

Report to accompany S. 1261, to repeal title II of the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002 to better protect the security, confidentiality, and integrity of personally identifiable information collected by States when issuing driver's licenses and identification documents. (S. Rept. No. 111–104) **Page S12804**

Measures Considered:

Service Members Home Ownership Tax Act—Agreement: Senate continued consideration of H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, taking action on the following amendments proposed thereto: **Pages S12745–99**

Pending:

Reid Amendment No. 2786, in the nature of a substitute. **Page S12745**

Dorgan Modified Amendment No. 2793 (to Amendment No. 2786), to provide for the importation of prescription drugs. **Pages S12745, S12753–99**

Crapo motion to commit the bill to the Committee on Finance, with instructions. **Page S12745**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at approximately 10 a.m., on Thursday, December 10, 2009, that following Leader remarks the time until 1 p.m., be for debate only and equally divided, with the time until 11 a.m. controlled between the two Leaders, or their designees; with the remaining time until 1 p.m. controlled in alternating 30-minute blocks of time with the Majority controlling the first block and the Republicans controlling the next block. **Page S12833**

Nominations Received: Senate received the following nominations:

Patricia A. Hoffman, of Virginia, to be an Assistant Secretary of Energy (Electricity Delivery and Energy Reliability).

Larry Persily, of Alaska, to be Federal Coordinator for Alaska Natural Gas Transportation Projects for the term prescribed by law.

Mari Carmen Aponte, of the District of Columbia, to be Ambassador to the Republic of El Salvador.

Donald E. Booth, of Virginia, to be Ambassador to the Federal Democratic Republic of Ethiopia.

10 Air Force nominations in the rank of general.

Routine lists in the Army, Coast Guard, and National Oceanic and Atmospheric Administration. **Pages S12833–34**

Nomination Withdrawn: Senate received notification of withdrawal of the following nomination:

A routine list in the Coast Guard. **Page S12834**

Messages from the House: **Pages S12803–04**

Measures Referred: **Page S12804**

Enrolled Bills Presented: **Page S12804**

Additional Cosponsors: **Pages S12805–06**

Statements on Introduced Bills/Resolutions: **Pages S12806–18**

Additional Statements: **Page S12803**

Amendments Submitted: **Pages S12818–33**

Authorities for Committees to Meet: **Page S12833**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 7:19 p.m., until 10 a.m. on Thursday, December 10, 2009. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12833.)

Committee Meetings

(Committees not listed did not meet)

CREATING JOBS DURING RECESSION

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Economic Policy concluded a hearing to examine creating jobs in the recession, after receiving testimony from Ray Leach, JumpStart Inc., Cleveland, Ohio; Rick L. Weddle, Research Triangle Park, Research Triangle Park, North Carolina; and Bruce Katz, Brookings Institution, and Heather Boushey, Center for American Progress, both of Washington, D.C.

RESEARCH PARKS AND JOB CREATION

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine research parks and job creation, focusing on innovation through cooperation, after receiving testimony from John R. Fernandez, Assistant Secretary of Commerce for Economic Development Administration; Charles W. Wessner, National Research Council of the National Academies, Washington, D.C.; Brian Darmody, University of Maryland, College Park, on behalf of the Association of University Research Parks; Anthony Townsend, Institute for the Future, Palo Alto, California; and Jonathan Sallet, Centreville, Maryland.

EXPORTS' ROLE IN ECONOMIC RECOVERY

Committee on Finance: Subcommittee on International Trade, Customs, and Global Competitiveness concluded a hearing to examine exports' role in economic recovery, after receiving testimony from Senators Klobuchar and LeMieux; Rochelle Lipsitz, Deputy Director General, Foreign Commercial Service, Department of Commerce; Alexandre Mas, Chief Economist, Department of Labor; Loren Yager, Director, International Affairs and Trade, Government Accountability Office; Howard Rosen, Peterson Institute for International Economics, Washington, D.C.; Bob Beisner, SolarWorld Industries America, Hillsboro, Oregon; and Tamara Harney, HMI Worldwide, Grandville, Michigan.

NEW AFGHANISTAN STRATEGY

Committee on Foreign Relations: Committee concluded a hearing to examine the new Afghanistan strategy, focusing on the view from the ground, after receiving testimony from General David H. Petraeus, Commander, United States Central Command; and Karl Eikenberry, Ambassador to Afghanistan, and Jacob J. Lew, Deputy Secretary for Management and Resources, both of the Department of State.

STRENGTHENING THE TRANSATLANTIC ECONOMY

Committee on Foreign Relations: Subcommittee on European Affairs concluded a hearing to examine strengthening the transatlantic economy, after receiving testimony from Robert D. Hormats, Under Secretary of State for Economic, Energy and Agricultural Affairs; Frances G. Burwell, Atlantic Council, and Michael Maibach, European-American Business Council, both of Washington, D.C.; and Charlie Howland, Warwick Mills, Inc., New Ipswich, New Hampshire.

INTELLIGENCE REFORM AND TERRORIST PREVENTION ACT

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine five years after the Intelligence Reform and Terrorism Prevention Act, focusing on stopping terrorist travel, after receiving testimony from Rand Beers, Under Secretary, National Protection and Programs Directorate, and David Heyman, Assistant Secretary of Policy, both of the Department of Homeland Security; Janice L. Jacobs, Assistant Secretary of State for Consular Affairs, Bureau of Consular Affairs; and Timothy J. Healy, Director, Terrorist Screening Center, Federal Bureau of Investigation, Department of Justice.

DIPLOMATIC SECURITY TODAY

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded a hearing to examine the diplomat's shield, focusing on diplomatic security today, operating domestic and international activities with adequate staff, providing security for facilities that do not meet all security standards, staffing foreign missions with officials who have appropriate language skills, operating programs with experienced staff, at the commensurate grade levels, and balancing security needs with State's need to conduct its diplomatic mission, after receiving testimony from Eric J. Boswell, Assistant Secretary of State for Diplomatic Security, Director, Office of Foreign Missions; Jess T. Ford, Director, International Affairs and Trade, Government Accountability Office; and Ronald E. Neumann, American Academy of Diplomacy, and Susan Rockwell Johnson, American Foreign Service Association, both of Washington, D.C.

UTAH DINEH CORPORATION

Committee on Indian Affairs: Committee concluded a hearing to examine S. 1690, to amend the Act of

March 1, 1933, to transfer certain authority and resources to the Utah Dineh Corporation, after receiving testimony from Senator Bennett; and Ben Shelly, Window Rock, Arizona, John Billie, Montezuma Creek, Utah, and Kenneth Maryboy, White Rock, Utah, all of the Navajo Nation.

DEPARTMENT OF THE INTERIOR BACKLOGS

Committee on Indian Affairs: Committee concluded an oversight hearing to examine Department of the Interior backlogs, after receiving testimony from George Skibine, Principal Deputy Assistant Secretary for Indian Affairs, and Vicki Forrest, Deputy Bureau Director for Trust Services, both of the Department of the Interior; Carl J. Artman, Arizona State University Sandra Day O'Connor College of Law, Tempe; and Derek J. Bailey, Grand Traverse Band of Ottawa and Chippewa Indians, Peshawbestown, Michigan.

HOMELAND SECURITY OVERSIGHT

Committee on the Judiciary: Committee concluded an oversight hearing to examine the Department of Homeland Security, after receiving testimony from Janet Napolitano, Secretary of Homeland Security.

MORTGAGE AND SECURITIES FRAUD

Committee on the Judiciary: Committee concluded a hearing to examine mortgage fraud, securities fraud, and the financial meltdown, focusing on prosecuting those responsible, after receiving testimony from Lanny A. Breuer, Assistant Attorney General, and Kevin L. Perkins, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, both of the Department of Justice; and Robert Khuzami, Director, Division of Enforcement, United States Security and Exchange Commission.

NOMINATIONS

Committee on Veterans' Affairs: Committee concluded a hearing to examine the nominations of Robert A. Petzel, of Minnesota, to be Under Secretary for Health, who was introduced by Senator Franken, and Raul Perea-Henze, of New York, to be Assistant Secretary for Policy and Planning, both of the Department of Veterans Affairs, after the nominees testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 12 public bills, H.R. 4247–4258; and 3 resolutions, H. Res. 959–960, 963 were introduced. **Pages H14445–46**

Additional Cosponsors: **Page H14446**

Reports Filed: Reports were filed today as follows:

H.R. 3126, to establish the Consumer Financial Protection Agency, with an amendment (H. Rept. 111–367, Pt. 1);

H. Res. 961, providing for consideration of the conference report to accompany the bill (H.R. 3288) making appropriations for the Departments of Transportation and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010 (H. Rept. 111–368); and

H. Res. 962, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 111–369). **Page H14445**

Recess: The House recessed at 11:10 a.m. and reconvened at 12:45 p.m. **Page H14383**

Suspension—Proceedings Resumed: The House agreed to suspend the rules and pass the following measure which was debated on Tuesday, December 8th:

Roy Rondeno, Sr. Post Office Building Designation Act: H.R. 3951, to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the "Roy Rondeno, Sr. Post Office Building", by a ⅔ yea-and-nay vote of 417 yeas to 1 nay, Roll No. 941. **Page H14385**

Tax Extenders Act of 2009: The House passed H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, by a recorded vote of 241 ayes to 181 noes, Roll No. 943. **Pages H14379–H14407**

Agreed to table the appeal of the ruling of the chair on a point of order sustained against the Camp motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with amendments, by a yea-and-nay vote of 251 yeas to 172 nays, Roll No. 942. **Pages H14405–06**

H. Res. 955, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of

237 yeas to 182 nays, Roll No. 940, after the previous question was ordered by a yea-and-nay vote of 239 yeas to 182 nays, Roll No. 939. **Pages H14384–85**

Suspensions—Proceedings Resumed: The House agreed to suspend the rules and pass the following measures which were debated on Monday, December 7th:

Renaming the Ocmulgee National Monument: H.R. 3603, amended, to rename the Ocmulgee National Monument, by a ⅔ yea-and-nay vote of 419 yeas with none voting "nay", Roll No. 944; and **Pages H14407–08**

Eliminating an unused lighthouse reservation, providing management consistency by bringing the rocks and small islands along the coast of Orange County, California, and meeting the original Congressional intent of preserving Orange County's rocks and small islands: H.R. 86, amended, to eliminate an unused lighthouse reservation, provide management consistency by bringing the rocks and small islands along the coast of Orange County, California, and meet the original Congressional intent of preserving Orange County's rocks and small islands, by a ⅔ yea-and-nay vote of 397 yeas to 4 nays, Roll No. 946. **Pages H14417–18**

Agreed to amend the title so as to read: "To eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.". **Page H14418**

Recess: The House recessed at 3:26 p.m. and reconvened at 6:47 p.m. **Page H14408**

Congressional Oversight Panel—Appointment: Read a letter from Representative Boehner, Minority Leader, in which he appointed Mr. J. Mark McWatters of Dallas, Texas to the Congressional Oversight Panel, pursuant to Section 125(c)(1) of the Emergency Economic Stabilization Act of 2008 (P.L. 110–343). **Page H14408**

Wall Street Reform and Consumer Protection Act of 2009: The House began consideration of H.R. 4173, to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, and to regulate the over-the-counter derivatives markets. Further proceedings were postponed. **Pages H14408–18**

Pursuant to the rule, the amendment printed in H. Rept. 111–365 shall be considered as adopted in the House and in the Committee of the Whole. **Page H14408**

H. Res. 956, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of 235 yeas to 177 nays, Roll No. 945, after the previous question was ordered without objection. **Pages H14416–17**

Quorum Calls—Votes: Seven yea-and-nay votes and one recorded vote developed during the proceedings of today and appear on pages H14384, H14384–85, H14385, H14406, H14406–07, H14407–08, H14416–17 and H14417–18. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 12:08 a.m.

Committee Meetings

CHESAPEAKE BAY WATERSHED

Committee on Agriculture: Subcommittee on Conservation, Credit, Energy, and Research held a hearing to review the regulatory and legislative strategies in the Chesapeake Bay watershed. Testimony was heard from Ann Mills, Deputy Under Secretary, National Resources and Environment, USDA; J. Charles Fox, Senior Advisor to the Administrator, EPA; Russell C. Redding, Acting Secretary, Department of Agriculture, State of Pennsylvania; and public witnesses.

SOCIAL SAFETY NET: RECESSION/ RECOVERY ACT

Committee on the Budget: Held a hearing on The Social Safety Net: Impact of the Recession and of the Recovery Act. Testimony was heard from public witnesses.

COLLEGE FOOTBALL PLAYOFFS

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection approved for full Committee action, as amended, H.R. 390, amended, College Football Playoff Act of 2009.

SECURITIES INVESTOR PROTECTION REFORM

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled "Additional Reforms to the Securities Investor Protection Act." Testimony was heard from Michael Conley, Deputy Solicitor, SEC; and public witnesses.

AEROSPACE EXPORTS STRATEGIC/ ECONOMIC REVIEW

Committee on Foreign Affairs: Subcommittee on Terrorism, Nonproliferation, and Trade, held a hearing on A Strategic and Economic Review of Aerospace Exports. Testimony was heard from Matthew S. Borman, Acting Deputy Assistant Secretary, Export

Administration, Department of Commerce; Robert S. Kovac, Acting Deputy Assistant Secretary, Defense Trade, Bureau of Political-Military Affairs, Department of State; and public witnesses.

CARIBBEAN BASIN SECURITY INITIATIVE

Committee on Foreign Affairs: Subcommittee on the Western Hemisphere held a hearing on New Direction or Old Path? Caribbean Basin Security Initiative (CBSI). Testimony was heard from Julissa Reynoso, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; and public witnesses.

GUANTANAMO DETAINEES TRANSFERS SALAHIS SUBPOENAS

Committee on Homeland Security: Ordered reported, as amended, H. Res. 922, Directing the Secretary of Homeland Security to transmit to the House of Representatives all information in the possession of the Department of Homeland Security relating to the Department's planning, information sharing, and coordination with any state or locality receiving detainees held at Naval Station, Guantanamo Bay, Cuba on or after January 20, 2009; and the Committee authorized the issuance of subpoenas for Mr. Tareq Salahi; and Mrs. Michaele Salahi.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Adversely reported H. Res. 920, Directing the Attorney General to transmit to the House of Representatives all information in the Attorney General's possession regarding certain matters pertaining to detainees held at Naval Station, Guantanamo Bay, Cuba who are transferred into the United States.

The Committee also met and considered the following measures: H.R. 3190, Discount Pricing Consumer Protection Act of 2009; and H.R. 569, Equal Justice for Our Military Act of 2009.

GLOBAL INTELLECTUAL PROPERTY RIGHTS

Committee on Oversight and Government Reform: Subcommittee on Government Management, Organization and Procurement held a hearing entitled ''Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges.'' Testimony was heard from Stanford K. McCoy, Assistant U.S. Trade Representatives, Intellectual Property and Innovation, Office of the U.S. Trade Representatives; Robert L. Stoll, Commissioner, Patents, U.S. Patent and Trademark Office, Department of Commerce; Jason Weinstein, Deputy Assistant Attorney General, Criminal Division, Department of Justice; William E. Craft, Acting Deputy Assistant Secretary, Bureau of Economics, Energy and Business Affairs, Department of State; Loren Yager, Director, International Affairs and Trade, GAO; former Representative Dan Glickman, of Kansas; and public witnesses.

U.S. AID TO PAKISTAN

Committee on Oversight and Government Reform: Subcommittee on National Security and Foreign Affairs held a hearing entitled ''U.S. Aid to Pakistan: Planning and Accountability.'' Testimony was heard from public witnesses.

CONSOLIDATED APPROPRIATIONS ACT, 2010—CONFERENCE REPORT

Committee on Rules: Granted, by a record vote of 8–4, a rule providing for consideration of the Conference Report to accompany H.R. 3288, Consolidated Appropriations Act, 2010. The rule waives all points of order against the conference report and against its consideration. The rule provides that the conference report shall be considered as read. Finally, the rule provides that the previous question shall be considered as ordered without intervention of any motion except one hour of debate and one motion to recommit. Testimony was heard from Representatives Olver and Latham.

SAME-DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by a record vote of 9–3, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any resolution reported on the legislative day of December 10, 2009, providing for further consideration or disposition of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes. Testimony was heard by Representatives Gutierrez, Watt, Minnick, Peters, Maffei, Stupak, Inslee, Kucinich, Tierney, Corrine Brown (FL), Michaud, McMahon, Murphy (NY), Royce, Lance, Burgess, Sessions, Ryan (WI), Kingston, and Inglis.

MARITIME DOMAIN AWARENESS

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on Maritime Domain Awareness. Testimony was heard from RADM Brian M. Salerno, USCG, Assistant Commandant, Marine Safety, Security and Stewardship, U.S. Coast Guard, Department of Homeland Security; and a public witness.

TVA KINGSTON ASH SLIDE

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on the One Year Anniversary of the Tennessee Valley Authority's Kingston Ash Slide: Evaluating Current Cleanup Progress and Assessing Future Environmental Goals. Testimony was heard from the following officials of the TVA: Tom Kilgore, President and Chief Executive Officer; and Richard Moore, Inspector General; Stan Meiburg, Acting Regional Administrator, Region 4, EPA; and public witnesses.

BRIEFING—AFGHANISTAN/PAKISTAN

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Afghanistan/Pakistan Update. The Committee was briefed by departmental witnesses.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR THURSDAY, DECEMBER 10, 2009

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing, Transportation and Community Development, to hold hearings to examine the Federal role in overseeing the safety of public transportation systems, 9:30 a.m., SD–538.

Committee on the Budget: to hold hearings to examine data-driven performance, focusing on using technology to deliver results, 10 a.m., SD–608.

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation Operations, Safety, and Security, to hold an oversight hearing to examine aviation safety, focusing on Federal Aviation Administration (FAA) safety initiatives, 10 a.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the role of grid-scale energy storage in meeting our energy and climate goals, 10 a.m., SD–366.

Committee on Environment and Public Works: business meeting to consider S. 373, to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal, S. 1214, to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, S. 1421, to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp, S. 1519, to provide for the eradication and control of nutria in Maryland, Louisiana, and other coastal States, S. 1965, to authorize the Secretary of the Interior to provide financial assistance to the State of Louisiana for a pilot program to develop measures to eradicate or control feral swine and to assess and restore wetlands damaged by feral swine, H.R. 509, to reauthorize the Marine Turtle Conservation Act of 2004, H.R. 2188, to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, H.R. 3433, to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, H.R. 3537, to amend and reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994, S. 1397, to authorize the Administrator of the Environmental Protection Agency to award grants for electronic device recycling research, development, and demonstration projects, S. 1660, to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, a proposed resolution relating to Army Corps study for Espanola Valley, and a proposed resolution relating to the General Services Administration, 9:30 a.m., SD–406.

Committee on Foreign Relations: to hold hearings to examine Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (Treaty Doc. 110–07), and Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (Treaty Doc. 110–10), 10 a.m., SD–419.

Committee on Health, Education, Labor, and Pensions: business meeting to consider the nominations of Jacqueline A. Berrien, of New York, Victoria A. Lipnic, of Virginia, Chai Rachel Feldblum, of Maryland, all to be a Member of the Equal Employment Opportunity Commission, P. David Lopez, of Arizona, to be General Counsel of the Equal Employment Opportunity Commission, Patrick Alfred Corvington, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service, Adele Logan Alexander, of the District of Columbia, to be a Member of the National Council on the Humanities, Lynnae M. Ruttledge, of Washington, to be Commissioner of the Rehabilitation Services Administration, Department of Education, and Sara Manzano-Diaz, of Pennsylvania, to be Director of the Women's Bureau, Department of Labor, Time to be announced, Room to be announced.

Committee on Homeland Security and Governmental Affairs: to hold hearings to examine the nominations of Grayling Grant Williams, of Maryland, to be Director of the Office of Counternarcotics Enforcement, and Elizabeth M. Harman, of Maryland, to be an Assistant Administrator of the Federal Emergency Management Agency, both of the Department of Homeland Security, 10 a.m., SD–342.

Ad Hoc Subcommittee on Disaster Recovery, to hold hearings to examine children and disasters, focusing on a progress report on addressing needs, 2:30 p.m., SD–342.

Committee on the Judiciary: business meeting to consider S. 448, to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media, S. 714, to establish the National Criminal Justice Commission, S. 1624, to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, S. 1765, to amend the Hate Crime Statistics Act to include crimes against the homeless, S. 678, to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, S. 1554, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to prevent later delinquency and improve the health and well-being of maltreated infants and toddlers through the development of local Court Teams for Maltreated Infants and Toddlers and the creation of a National Court Teams Resource Center to assist such Court Teams, S. 1789, to restore fairness to Federal cocaine sentencing, and the nominations of Rosanna Malouf Peterson, to be United States District Judge for the Eastern District of Washington, William M. Conley, to be United States District Judge for the Western District of Wisconsin, Denny Chin, of New York, to be United States Circuit Judge for the Second Circuit, Paul R. Verkuil, of Florida, to be Chairman of the Administrative Conference of the United States, and John Gibbons, to be United States Marshal for the District of Massachusetts, Richard G. Callahan, to be United States Attorney for the Eastern District of Missouri, and John Leroy Kammerzell, to be United States Marshal for the District of Colorado, all of the Department of Justice, 10 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to consider certain intelligence matters, 2:30 p.m., S–407, Capitol.

House

Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies, oversight hearing on the Smithsonian Institution, 10 a.m., B–308 Rayburn.

Committee on Armed Services, Subcommittee on Readiness, Air and Land Forces, and the Subcommittee on Seapower and Expeditionary Forces, joint hearing on Status of Army and Marine Corps Reset Requirements, Part II, 10 a.m., 210 HVC.

Committee on Energy and Commerce, Subcommittee on Energy and Environment, hearing entitled ''Drinking Water and Public Health Impacts of Coal Combustion Waste Disposal,'' 9:30 a.m., 2322 Rayburn.

Committee on Foreign Affairs, to continue hearings on U.S. Strategy in Afghanistan, Part II, 9:30 a.m., 2172 Rayburn.

Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, hearing entitled ''Moving More Effective Immigration Detention Management,'' 10 a.m., 311 Cannon.

Committee on the Judiciary, Subcommittee on Courts and Competition Policy, hearing on Examining the State of Judicial Recusals after *Caperton* v. *A.T. Massey,* 1 p.m., 2237 Rayburn.

Subcommittee on Crime, Terrorism, and Homeland Security, hearing on H.R. 1924, Tribal Law and Order Act of 2009, 10 a.m., 2237 Rayburn.

Committee on Oversight and Government Reform, to mark up the following measures: S. 303, Federal Financial Management Improvement Act of 2009; H. Res. 708, Congratulating Nancy Goodman Brinker for receiving the Presidential Medal of Freedom; H. Res. 779, Recognizing and supporting the goals and ideals of National Runaway Prevention Month; H. Res. 942, Commending the Real Salt Lake soccer club for winning the 2009 Major League Soccer Cup; H. Con. Res. 158, Expressing support for the designation of an Early Detection Month for breast cancer and all forms of cancer; H. Con. Res. 160, Honoring the American Kennel Club on its 125th Anniversary; H.R. 4095, To designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the ''Congresswoman Jan Meyers Post Office Building''; H.R. 4139, To designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the ''Sergeant Matthew L. Ingram Post Office''; and H.R. 4214, To designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the ''Roy Wilson Post Office,'' 10 a.m., 2154 Rayburn.

Committee on Science and Technology, hearing on Decisions on the Future Direction and Funding for NASA: What Will They Mean for the U.S. Aerospace Workforce and Industrial Base? 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, hearing on Recovery Act: Progress Report for Transportation Infrastructure Investment, 10 a.m., 2167 Rayburn.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the challenge of creating jobs in the aftermath of the recession, 10 a.m., 210 Cannon Building.

Next Meeting of the SENATE

10 a.m., Thursday, December 10

Senate Chamber

Program for Thursday: Senate will continue consideration of H.R. 3590, Service Members Home Ownership Tax Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, December 10

House Chamber

Program for Thursday: Continued Consideration of H.R. 4173—Wall Street Reform and Consumer Protection Act of 2009 (Subject to a Rule).

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