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No. 53

## Senate

The Senate met at 9 a.m. and was called to order by the Honorable KEN SALAZAR, a Senator from the State of Colorado.

### PRAYER

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

Let us pray.

Almighty God, the true light of life whose power no earthly force can challenge and whose reign no alien god can shake, open our hearts to what You have done for us, what You are doing even now, and what You promise for us in the future.

Draw near to our lawmakers as they work. Let the consciousness of Your presence fill their minds with peace. Use them today to defend those who are helpless and have lost all hope. Quicken their memories to recall the many times You have intervened to keep our Nation safe. Let the warmth of Your divine solace scatter the shadows of perplexity and doubt, as You encircle them with the wonder of Your love.

Lord, on this 40th anniversary of the death of Dr. Martin Luther King, Jr., bring unity to our land.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KEN SALAZAR 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, April 4, 2008.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, we are going to resume consideration of the housing legislation. There will be 2 minutes for debate equally divided between the proponents and opponents of the amendments. The Senate will proceed to vote in relation to the Voinovich amendment, to be followed by a vote in relation to the Landrieu amendment. I have been told those two amendments will be modified. I think they will be approved.

I would say to all Members of the Senate, I have spoken to the Republican leader. We have a cloture motion ready to file sometime this afternoon. If we can, we will come up with a consent agreement that we can have a time for final passage on this bill on Tuesday. Before doing that, we would have to know what amendments are going to be offered. We would have to have a finite list of amendments so we knew that. We will all be in communication with the Republican leader. We will either go cloture or we will go with a consent agreement to finish on Tuesday. There has been a good debate on this bill. There will be managers

available all afternoon to offer amendments that Senators want to offer. We will be available here on Monday. People can offer amendments. So there is plenty of time to offer amendments on this bill.

### RESERVATION OF LEADER TIME

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

### NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3221, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

Pending:

Dodd/Shelby amendment No. 4387, in the nature of a substitute.

Voinovich amendment No. 4406 (to amendment No. 4387), to protect families most vulnerable to foreclosure due to a sudden loss of income by extending the depreciation incentive to loss companies that have accumulated alternative minimum tax and research and development tax credits.

Landrieu modified amendment No. 4389 (to amendment No. 4387), to amend the Internal Revenue Code of 1986 to allow use of amended income tax returns to take into account receipt of certain hurricane-related casualty loss grants by disallowing previously taken casualty loss deductions, and to waive the deadline on the construction of GO Zone

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



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property which is eligible for bonus depreciation.

Sanders amendment No. 4401 (to amend amendment No. 4387), to establish a national consumer credit usury rate.

Cardin/Ensign amendment No. 4421 (to amend amendment No. 4387), to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time home buyer.

#### AMENDMENT NO. 4406

The ACTING PRESIDENT pro tempore. Under the previous order, the question is on amendment No. 4406, offered by the Senator from Ohio, Mr. VOINOVICH, and the Senator from Michigan, Ms. STABENOW.

The Senator from Ohio.

#### AMENDMENT NO. 4406, AS MODIFIED

Mr. VOINOVICH. Mr. President, I ask unanimous consent to modify the amendment, and I now send the modification to the desk.

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

The amendment, as modified, is as follows:

At the end of title VI, insert the following:  
**SEC. \_\_\_\_ . ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.**

(a) IN GENERAL.—Section 168(k), as amended by this Act, is amended by adding at the end the following new paragraph:

“(5) ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.—

“(A) IN GENERAL.—If a corporation which is an eligible taxpayer (within the meaning of paragraph (4)) for purposes of this subsection elects to have this paragraph apply—

“(i) no additional depreciation shall be allowed under paragraph (1) for any qualified property placed in service during any taxable year to which paragraph (1) would otherwise apply, and

“(ii) the limitations described in subparagraph (B) for such taxable year shall be increased by an aggregate amount not in excess of the bonus depreciation amount for such taxable year.

“(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

“(i) the limitation under section 38(c), and

“(ii) the limitation under section 53(c).

“(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The bonus depreciation amount for any applicable taxable year is an amount equal to the product of 20 percent and the excess (if any) of—

“(I) the aggregate amount of depreciation which would be determined under this section for property placed in service during the taxable year if no election under this paragraph were made, over

“(II) the aggregate amount of depreciation allowable under this section for property placed in service during the taxable year.

In the case of property which is a passenger aircraft, the amount determined under subclause (I) shall be calculated without regard to the written binding contract limitation under paragraph (2)(A)(iii)(I).

“(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any applicable taxable year shall not exceed the applicable limitation under clause (iii), reduced (but not below zero) by the bonus depreciation amount for any preceding taxable year.

“(iii) APPLICABLE LIMITATION.—For purposes of clause (ii), the term ‘applicable limi-

tation’ means, with respect to any eligible taxpayer, the lesser of—

“(I) \$40,000,000, or

“(II) 10 percent of the sum of the amounts determined with respect to the eligible taxpayer under clauses (ii) and (iii) of subparagraph (D).

“(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated as 1 taxpayer for purposes of applying the limitation under this subparagraph and determining the applicable limitation under clause (iii).

“(D) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount which is to be allocated to each of the limitations described in subparagraph (B).

“(ii) BUSINESS CREDIT LIMITATION.—The portion of the bonus depreciation amount allocated to the limitation described in subparagraph (B)(i) shall not exceed an amount equal to the portion of the credit allowable under section 38 for the taxable year which is allocable to business credit carryforwards to such taxable year which are—

“(I) from taxable years beginning before January 1, 2006, and

“(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

“(iii) ALTERNATIVE MINIMUM TAX CREDIT LIMITATION.—The portion of the bonus depreciation amount allocated to the limitation described in subparagraph (B)(ii) shall not exceed an amount equal to the portion of the minimum tax credit allowable under section 53 for the taxable year which is allocable to the adjusted minimum tax imposed for taxable years beginning before January 1, 2006.

“(E) CREDIT REFUNDABLE.—Any aggregate increases in the credits allowed under section 38 or 53 by reason of this paragraph shall, for purposes of this title, be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A.

“(F) OTHER RULES.—

“(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (D)) may be revoked only with the consent of the Secretary.

“(ii) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Notwithstanding this paragraph, paragraph (2)(G) shall apply with respect to the deduction computed under this section (after application of this paragraph) with respect to property placed in service during any applicable taxable year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years ending after such date.

Mr. VOINOVICH. Mr. President, the chairman of the Finance Committee has voiced concern about the original revenue loss associated with our amendment, which is bipartisan, with several members of the Finance Committee as sponsors. Senator STABENOW and I have worked very hard with Finance Committee staff and the Joint Committee on Taxation to bring the revenue estimate down. We managed to cut it by two-thirds to about \$1.3 billion over 10 years. I am pleased Senator BAUCUS finds it acceptable and now supports my amendment.

I would now like to turn the floor over to Senator STABENOW.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, let me say, part of this recovery is to support those businesses currently not making a profit but that want to continue to invest in America and American jobs. That is the piece we address in this amendment.

I thank Senator BAUCUS and his staff and Senator GRASSLEY for working very closely with us to get this to a point where it is supported by them.

Thank you.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, under the rules, technically someone on the minority side would manage the time, theoretically, in opposition to this amendment. I do not see anyone here. Not to be too formal about this, I will speak anyway.

I thank the Senator from Ohio, as well as the Senator from Michigan, for working out this amendment. Very basically, they have a very good point; namely, that many businesses, particularly in some parts of the country, are not able to take full advantage of bonus depreciation or so-called 179 expensing. That is because these are companies that have no profits. They do not have the ability to take advantage of these depreciation write-downs.

So they have come up with an amendment to address that problem. The first version was a bit expensive. We have worked very closely together with the Senators, as well as with the Joint Committee on Tax, to find the proper amount that makes some sense, and it has been tailored down to about \$1.3 billion. That is the modification which was sent to the desk by the Senator from Ohio. I think that is a proper amount. I think it is very helpful and ought to help these companies in these very stressed parts of our country that very much need the benefit of this provision. So I accept the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I thank the Senator from Montana for those words of support.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. OBAMA), the

Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Montana (Mr. TESTER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: The Senator from Colorado (Mr. ALLARD), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from Mississippi (Mr. COCHRAN), the Senator from Texas (Mr. CORNYN), the Senator from Wyoming (Mr. ENZI), the Senator from Utah (Mr. HATCH), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN), and the Senator from Pennsylvania (Mr. SPECTER).

Further, if present and voting the Senator from Texas (Mr. CORNYN) and the Senator from Utah (Mr. HATCH) would have voted "yea." The Senator from Kentucky (Mr. BUNNING) would have voted "nay."

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

The result was announced—yeas 76, nays 2, as follows:

[Rollcall Vote No. 91 Leg.]

#### YEAS—76

Akaka	Ensign	Nelson (FL)
Alexander	Feingold	Nelson (NE)
Barrasso	Feinstein	Pryor
Baucus	Graham	Reed
Bayh	Grassley	Reid
Biden	Hagel	Roberts
Bingaman	Harkin	Salazar
Bond	Hutchinson	Sanders
Brown	Isakson	Schumer
Brownback	Johnson	Sessions
Burr	Kerry	Shelby
Cantwell	Klobuchar	Smith
Cardin	Kohl	Snowe
Carper	Kyl	Stabenow
Casey	Landrieu	Stevens
Chambliss	Leahy	Sununu
Coburn	Levin	Thune
Coleman	Lincoln	Vitter
Collins	Lugar	Voinovich
Craig	Martinez	Warner
Crapo	McCaskill	Webb
DeMint	McConnell	Whitehouse
Dodd	Menendez	Wicker
Dole	Mikulski	Wyden
Domenici	Murkowski	
Durbin	Murray	

#### NAYS—2

Corker Gregg

#### NOT VOTING—22

Allard	Cornyn	Lieberman
Bennett	Dorgan	McCain
Boxer	Enzi	Obama
Bunning	Hatch	Rockefeller
Byrd	Inhofe	Specter
Clinton	Inouye	Tester
Cochran	Kennedy	
Conrad	Lautenberg	

The amendment (No. 4406), as modified, was agreed to.

The PRESIDING OFFICER. The question now occurs on the Landrieu amendment No. 4389, as modified.

AMENDMENT NO. 4389, AS FURTHER MODIFIED

Ms. LANDRIEU. Mr. President, I ask unanimous consent that my amendment No. 4389 be further modified, the text of which is at the desk.

The PRESIDING OFFICER. Is there objection to the further modification of the amendment?

Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 82, between lines 7 and 8, insert the following:

#### SEC. 605. USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a personal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina or Hurricane Rita and in a subsequent taxable year receives a grant under Public Law 109-148, 109-234, or 110-116 as reimbursement for such loss from the State of Louisiana or the State of Mississippi, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed and disallow such deduction. If elected, such amended return must be filed not later than the due date for filing the tax return for the taxable year in which the taxpayer receives such reimbursement or the date that is 4 months after the date of the enactment of this Act, whichever is later. Any increase in Federal income tax resulting from such disallowance if such amended return is filed—

(1) shall be subject to interest on the underpaid tax for one year at the underpayment rate determined under section 6621(a)(2) of such Code; and

(2) shall not be subject to any penalty under such Code.

(b) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

#### SEC. 606. WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.

(a) IN GENERAL.—Subparagraph (B) of section 1400N(d)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) without regard to ‘and before January 1, 2009’ in clause (i) thereof.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

(c) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

#### SEC. 607. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.

(a) IN GENERAL.—The following provisions of or relating to the Internal Revenue Code of 1986 shall apply, in addition to the areas described in such provisions, to an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA-1699-DR), as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributed to such storms and tornados:

(1) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting “May 4, 2007” for “August 25, 2005”.

(2) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the

Katrina Emergency Tax Relief Act of 2005, by substituting “on or after May 4, 2007, by reason of the May 4, 2007, storms and tornados” for “on or after August 25, 2005, by reason of Hurricane Katrina”.

(3) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting “May 4, 2007” for “August 28, 2005” each place it appears,

(B) by substituting “January 1, 2008” for “January 1, 2006” both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(4) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code—

(A) by substituting “qualified Recovery Assistance property” for “qualified Gulf Opportunity Zone property” each place it appears,

(B) by substituting “May 5, 2007” for “August 28, 2005” each place it appears,

(C) by substituting “December 31, 2008” for “December 31, 2007” in paragraph (2)(A)(v),

(D) by substituting “December 31, 2009” for “December 31, 2008” in paragraph (2)(A)(v),

(E) by substituting “May 4, 2007” for “August 27, 2005” in paragraph (3)(A),

(F) by substituting “January 1, 2009” for “January 1, 2008” in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(5) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting “qualified section 179 Recovery Assistance property” for “qualified section 179 Gulf Opportunity Zone property” each place it appears.

(6) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting “qualified Recovery Assistance clean-up cost” for “qualified Gulf Opportunity Zone clean-up cost” each place it appears, and

(B) by substituting “beginning on May 4, 2007, and ending on December 31, 2009” for “beginning on August 28, 2005, and ending on December 31, 2007” in paragraph (2) thereof.

(7) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—Section 1400N(o) of such Code.

(8) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting “qualified Recovery Assistance loss” for “qualified Gulf Opportunity Zone loss” each place it appears,

(B) by substituting “after May 3, 2007, and before on January 1, 2010” for “after August 27, 2005, and before January 1, 2008” each place it appears,

(C) by substituting “May 4, 2007” for “August 28, 2005” in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting “qualified Recovery Assistance property” for “qualified Gulf Opportunity Zone property” in paragraph (2)(B)(iv) thereof, and

(E) by substituting “qualified Recovery Assistance casualty loss” for “qualified Gulf Opportunity Zone casualty loss” each place it appears.

(9) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RENTAL PROJECT REQUIREMENTS.—Section 1400N(n) of such Code.

(10) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code—

(A) by substituting “qualified Recovery Assistance distribution” for “qualified hurricane distribution” each place it appears,

(B) by substituting “on or after May 4, 2007, and before January 1, 2009” for “on or

after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i).

(C) by substituting "qualified storm distribution" for "qualified Katrina distribution" each place it appears.

(D) by substituting "after November 4, 2006, and before May 5, 2007" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii).

(E) by substituting "beginning on May 4, 2007, and ending on November 5, 2007" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A).

(F) by substituting "qualified storm individual" for "qualified Hurricane Katrina individual" each place it appears.

(G) by substituting "December 31, 2007" for "December 31, 2006" in subsection (c)(2)(A).

(H) by substituting "beginning on June 4, 2007, and ending on December 31, 2007" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i).

(I) by substituting "May 4, 2007" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(J) by substituting "January 1, 2008" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(b) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Ms. LANDRIEU. Mr. President, the junior Senator from Mississippi wishes to speak on our amendment.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, I thank the Senator from Louisiana for yielding me an opportunity to speak. This is an example of how those in Government can work together to help citizens who have been disadvantaged by a storm, where Members can work together in a bipartisan manner.

The Senator from Louisiana will be able to explain briefly the base amendment she offered. I simply want to thank her for agreeing to incorporate two very important amendments into hers. One is with regard to the bonus depreciation piece of the Gulf Opportunity Zone Act, known in shorthand as the GO-Zone. Because of bureaucratic delays, and because of the magnitude of Hurricane Katrina, people who wish to take the opportunity of the GO-Zone bonus depreciation have not been able to commence construction. The Wicker-Cochran amendment, which the Senator has agreed to incorporate into her amendment, would move the commencement date of GO-Zone construction.

The Senator from Louisiana has also graciously agreed to add a Brownback-Roberts amendment that will help the small town of Greensburg, KS, which was completely devastated in a storm recently. I urge all Senators to vote in favor of this simple change in the date on bonus depreciation.

I thank the Senator from Louisiana. The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CORKER. Mr. President, I raise a point of order that this amendment violates section 204 of S. Con. Res. 21.

Ms. LANDRIEU. Mr. President, pursuant to section 204 of Senate Concur-

rent Resolution 21, I move to waive that section of the concurrent resolution for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN: I announce that the Senator from California (Mrs. BOXER), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. OBAMA), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Montana (Mr. TESTER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: The Senator from Colorado (Mr. ALLARD), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from Texas (Mr. CORNYN), the Senator from Wyoming (Mr. ENZI), the Senator from Utah (Mr. HATCH), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN), and the Senator from Pennsylvania (Mr. SPECTER).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea." The Senator from Kentucky (Mr. BUNNING) would have voted "nay."

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

The yeas and nays resulted—yeas 74, nays 5, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—74

Akaka	Ensign	Nelson (FL)
Alexander	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Graham	Reed
Biden	Grassley	Reid
Bingaman	Hagel	Roberts
Bond	Harkin	Salazar
Brown	Hutchison	Sanders
Brownback	Isakson	Schumer
Burr	Johnson	Sessions
Cantwell	Kerry	Shelby
Cardin	Klobuchar	Smith
Carper	Kohl	Snowe
Casey	Landrieu	Stabenow
Chambliss	Leahy	Stevens
Coburn	Levin	Sununu
Cochran	Lincoln	Thune
Coleman	Lugar	Vitter
Collins	Martinez	Voinovich
Craig	McCaskill	Warner
Crapo	McConnell	Webb
Dodd	Menendez	Whitehouse
Dole	Mikulski	Wicker
Domenici	Murkowski	Wyden
Durbin	Murray	

NAYS—5

Barrasso	DeMint	Kyl
Corker	Gregg	

NOT VOTING—21

Allard	Cornyn	Lautenberg
Bennett	Dorgan	Lieberman
Boxer	Enzi	McCain
Bunning	Hatch	Obama
Byrd	Inhofe	Rockefeller
Clinton	Inouye	Specter
Conrad	Kennedy	Tester

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order is moot.

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

The motion to lay on the table was agreed to.

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

The amendment (No. 4389), as further modified, was agreed to.

Ms. LANDRIEU. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, Senator DODD is going to be here, as will Senator BAUCUS, for offering of amendments. It is my understanding there are a number of tax related amendments that will be offered. Senator ENSIGN, Senator BILL NELSON, and Senator SNOWE have amendments.

For the benefit of Members, I wish to lay out generally what the plan is for next week. We will have no votes on Monday. That has been long scheduled. The Republican leader and I will work out what is going to happen on Tuesday. There are a couple alternatives. I discussed it briefly this morning.

I have a cloture motion waiting to file. Whether we do that or not, I will consult with my distinguished colleague, the Senator from Kentucky. What we might try to work out is having a finite list of amendments and have a time certain to complete work on this bill on Tuesday sometime.

Mr. MCCONNELL. Mr. President, if the majority leader will yield for an observation, I agree it would be appropriate filing a cloture motion. We can vitiate it later if we get there without that. I think it would help us get to the end of the trail, a point at which both of us would like to finish up, which will hopefully be Tuesday or Wednesday.

Mr. REID. Mr. President, I appreciate my friend's advice and will follow it.

I will also say this about next week. We can work Tuesday, and we can work Wednesday. Thursday the Pope will be in Washington, DC, and will say a mass. It is my understanding that mass will begin at 10 a.m. There will be a lot of traffic problems. There are a huge number of people expected to be at that mass, so we will have a window so Members and staff who wish to attend the mass will be able to do so. It will not be for all day, but I assume we will all work with those who know the

schedule better. We will have a window on Thursday, but we will have to work into Thursday afternoon and Thursday evening on other issues.

On Friday, there is a long-scheduled Senate Democratic retreat in Richmond, VA.

That is the general view of next week.

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

Mr. REID. I will be happy to yield.

Mr. LEAHY. I believe the mass is the Thursday after.

Mr. REID. It is not next week?

Mr. LEAHY. No. We are trying to make life easy. The Pope would like to make life easier for the majority leader.

Mr. REID. I had a couple of my Catholic friends come to me today and say: We have to have some time off. That is a week from Thursday. That is like an eternity in the Senate. Everybody is going to have to work all day Thursday, I hate to break the bad news to you. I guess I have said enough.

We will work with everyone's schedule so it is compatible with the Pope's a week from Thursday.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, a number of Senators wish to speak and offer amendments. I ask unanimous consent that Senator ENSIGN be recognized for 5 minutes and then I be allowed to follow him; following him, Senator NELSON of Florida recognized for 5 minutes and I be allowed to follow him. We will lock those two in at this point. There may be others throughout the day.

Mr. COLEMAN. Reserving the right to object, I would like to be added as a cosponsor with Senator NELSON on his amendment. I ask that I be recognized for 5 minutes after Senator NELSON.

Mr. BAUCUS. That is on the Bill Nelson of Florida amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Reserving the right to object, I would like to ask the Senator from Montana if I could be recognized following the Senator from Nevada to offer an amendment to his amendment.

Ms. LANDRIEU. Reserving the right to object, could I be added after the Senator from Tennessee?

Mr. ENSIGN. To clarify, the Senator from Tennessee objects to the wind power part, and he wants to offer a second-degree amendment. He wants to make sure he is in order for a second-degree amendment to our amendment is all.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Reserving the right to object, may I follow after that debate is completed?

Mr. BAUCUS. A better procedure is not to line up second degrees because nobody's second-degree rights are ever denied anyway on any amendment. That is automatic. For example, when Senator ENSIGN's amendment is of-

fered, if somebody wants to offer a second-degree amendment, that is certainly in order. The unanimous consent request would not preclude someone from offering a second-degree amendment. The Senator always has that right.

I don't want to get in the position of getting UCs for one second-degree amendment or another at this point, especially when, I say to my good friend from Tennessee, it is not necessary in any way. He will be fully protected when the amendment of the Senator from Nevada is up. He is protected to offer a second degree.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator. I wish to make sure I am fully protected and another Senator does not get ahead of me in terms of a second-degree amendment. Is that the assurance I am receiving from the Senator?

Mr. BAUCUS. That is absolutely this Senator's understanding, and I will protect that Senator's right as best I can.

The PRESIDING OFFICER. There is a unanimous consent request pending.

Ms. LANDRIEU. Reserving the right to object, may I inquire of whoever will be managing the next amendment how long they will go forward with the discussion on this amendment? I would like to be added to the list after it is all over for 5 minutes to present a wholly different amendment. It does not have anything to do with this issue.

Mr. BAUCUS. Mr. President, so the Senator from Louisiana does not have an amendment?

Ms. LANDRIEU. I do have an amendment that I would like to offer on a completely different subject and sometime today.

Mr. BAUCUS. Not to the housing bill?

Ms. LANDRIEU. To the housing bill.

Mr. BAUCUS. Later on today.

Ms. LANDRIEU. Later on today.

Mr. DODD. I am going to be here all afternoon. So anyone who wants to offer amendments, I will be here to consider any amendments and debate anytime they want. We are not going anywhere. We have no more votes. We certainly are offering amendments.

Ms. LANDRIEU. I am trying to get a timeframe as to when I might be able to do that so I can plan my day.

Mr. BAUCUS. As far as this Senator is concerned, it is fine if this Senator is added.

Mr. ENSIGN. To add a clarification, we were only going to talk for 5 minutes, 5 minutes, and the next people 5 minutes, 5 minutes.

Ms. LANDRIEU. So I will be in line to offer an amendment at 10:30 a.m.?

Mr. DODD. Mr. President, I ask unanimous consent that at the conclusion of the offering of the three amendments, the Senator from Louisiana be recognized.

Ms. LANDRIEU. Be recognized for 10 minutes.

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

The Senator from Tennessee.

Mr. ALEXANDER. Reserving the right to object, may I say to the Senator from Montana, I would like to follow the Senator from Nevada for 5 minutes for the purpose of offering a second-degree amendment, if he can show me that courtesy.

Mr. BAUCUS. Mr. President, as far as I am concerned, that is perfectly OK with me.

Mr. ALEXANDER. I thank the Senator from Montana.

The PRESIDING OFFICER. Is there objection to the initial request of the Senator from Montana? Without objection, it is so ordered.

The Senator from Nevada.

AMENDMENT NO. 4419 TO AMENDMENT NO. 4387

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.)

Mr. ENSIGN. Mr. President, I ask that the pending amendment be set aside and I be allowed to call up amendment No. 4419.

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

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. THUNE, and Ms. CANTWELL, proposes an amendment numbered 4419 to amendment No. 4387.

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

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. ENSIGN. Mr. President, I ask unanimous consent that Senators CANTWELL and THUNE be added as cosponsors to the amendment. I am sure there will be others who will want to be added as cosponsors to this amendment. Since Senator CANTWELL and I introduced the freestanding bill yesterday, we already have 28 of our colleagues who have become cosponsors. Additionally, we expect many more of our colleagues will be added as cosponsors to the bill and will also want to be added as cosponsors to this amendment.

Briefly, I wish to share my time with the Senator from Washington, who has shown great leadership on this issue. The amendment we are proposing deals with renewables. We know this country has an energy problem. We are too dependent on foreign sources of energy. Too much of our energy byproducts are polluting the environment, and there are concerns about climate change around the world. And this amendment addresses both of those concerns, as well as being a stimulant to the economy. There are over 100,000 jobs that we protected with this amendment. We are talking about solar power, geothermal, wind energy and biomass.

There are many different renewables that are going to help within this amendment. Additionally, at a time when our country is at war in places where we are spending over \$100 per barrel of oil, we are spending hundreds of billions of dollars from our economy to support people who are not necessarily friendly to the United States. It is very important that we as a Senate, act now on this amendment in order to help the United States become less dependent on foreign sources of energy as well as clean up our environment. It is a national security concern, it is an economic concern, and it is an environmental concern.

I am very pleased to introduce this amendment today so we can vote on it next week. I think it is very critical that this be part of the package, and that is why it needs to be done as soon as possible. Some may ask why there is such an urgency. Well, because a lot of this type of energy production takes a long time to develop. We do not have a lot of time to set the financing of these projects. We have been told by a lot of industries that if there isn't stability, a lot of these industries are going to go away. We need to be encouraging renewable energy development.

Mr. President, I yield a couple of minutes to my friend, the Senator from Washington, who is the lead sponsor of the bill we introduced yesterday.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. I thank the Senator from Nevada for yielding me some of his time.

This has been a big priority on this side of the aisle, to get clean energy tax credits so we can continue to stimulate investment in wind and solar and energy efficiency, and a variety of others—fuel cells, biomass, geothermal, and the list goes on and on. This is the fourth time we have tried to get to this legislation. Three other times we have come within one vote, so we are here today with more bipartisan support for a proposed solution.

My colleagues and the chairman of the Finance Committee have worked very hard on this legislation in general, on the concept of trying to push forward these tax credits, but we are at a critical point. In fact, I have said to my colleagues that Rome is burning; that is, we are at the precipice now of projects actually getting canceled. Having been in business, I know what it is like to have your first quarter earnings report and then have to show some forward advancement to your investors about your projects. That is where we are. And because we aren't giving certainty in the Tax Code to these investors, they are going to start canceling projects.

So we cannot wait another month, another 2 months to get about this tax. If we want to give certainty to the markets to continue to invest in alternative energy to take some of the pressure off of the rising cost of energy, now is the time to act. So I hope my

colleagues will think about the bipartisan nature of the amendment. We have failed three times and have come one vote short to try to help our own economies in our States and in our country by saving this investment cycle. Give the predictability so we can keep 100,000 jobs working, so we can get renewable energy produced and invested in during 2008, and so we can have the production of CO<sub>2</sub>-reducing energy supply and get that going now.

I could say to my colleagues that we are almost at a point where the United States is so far behind what other countries are doing that we are not even going to be able to claim we are leading in this area if we do not get about the task. So if the votes are here, let's start voting to say renewable energy and its ability to stimulate the economy is a priority.

I yield the floor.

Mr. ENSIGN. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Mr. ENSIGN. Mr. President, I will yield the floor after one brief comment to once again thank the great leadership of the Senator from Washington. I look forward to all of our colleagues joining us on this vote in a bipartisan way next week.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 4429 TO AMENDMENT NO. 4419

Mr. ALEXANDER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER] proposes an amendment numbered 4429 to amendment No. 4419.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the amendment not be read further.

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

The amendment is as follows:

(Purpose: To provide a longer extension of the renewable energy production tax credit and to encourage all emerging renewable sources of electricity, and for other purposes)

Beginning on page 2, line 14, strike all through page 6, line 13, and insert the following:

**SEC. 811. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.**

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking “January 1, 2009” and inserting “January 1, 2011”:

- (1) Paragraph (1).
- (2) Clauses (i) and (ii) of paragraph (2)(A).
- (3) Clauses (i)(I) and (ii) of paragraph (3)(A).
- (4) Paragraph (4).
- (5) Paragraph (5).
- (6) Paragraph (6).
- (7) Paragraph (7).
- (8) Paragraph (8).
- (9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking “and” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, and”, and by adding at the end the following new subparagraph:

“(I) marine and hydrokinetic renewable energy.”

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

“(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

“(A) IN GENERAL.—The term ‘marine and hydrokinetic renewable energy’ means energy derived from—

“(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

“(ii) free flowing water in rivers, lakes, and streams,

“(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

“(iv) differentials in ocean temperature (ocean thermal energy conversion).

“(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.”

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

“(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term ‘qualified facility’ means any facility owned by the taxpayer—

“(A) which has a nameplate capacity rating of at least 150 kilowatts, and

“(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2011.”

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking “or (9)” and inserting “(9), or (11)”.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking “January 1, 2011” and inserting “the date of the enactment of paragraph (11)”.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: “A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33)).”

(e) REDUCTION OF CREDIT FOR WIND ENERGY.—Section 45(b)(4)(A) is amended by inserting “(1),” before “(3)”.

(f) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking “facility which burns” and inserting “facility (other than a facility described in paragraph (6)) which uses”, and

(2) by striking “COMBUSTION”.

(g) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b), (c), (d), and (e) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (f) shall



apply to electricity produced and sold before, on, or after December 31, 2007.

Mr. ALEXANDER. Mr. President, I believe the amendment I offer on behalf of the Senator from Arizona, Mr. KYL, and myself would improve the amendment offered by the Senator from Nevada and the Senator from Washington.

As I listened to them talking, their concern is for emerging technologies, for businesses that are trying to develop emerging technologies to have time to plan, and so they offer a 1-year extension of the production tax credit, which gives a 1 cent per kilowatt hour tax credit to most emerging technologies producing electricity for commercial sales. Some renewable electricity sources receive a larger 2 cents per kilowatt hour credit. I would propose, along with Senator KYL, that we make it a 2-year extension for emerging technologies.

The way we would pay for that so it would not be any more expensive than the proposal they have offered is to do with wind what we have already done with solar: take it off the list of 2-cent-per-kilowatt-hour technologies and put it on the 1-cent list. In other words, we would be creating a 2-year extension of the production tax credit for renewable technologies. We would be treating wind the same way we treat open-loop biomass, small irrigation power, landfill gas, trash combustion, qualified hydropower, and wave and tidal facilities. They all would receive 1 cent per kilowatt hour.

I think it makes much more common sense today, if we want to encourage emerging technologies, to treat them the same, especially because wind has had a preferential treatment since 1992. What has happened, Mr. President, is wind has gobbled up most of the money that has been spent through the production tax credit, and very little has gone to any of the other technologies. The taxpayer has spent an enormous amount of money to build large wind turbines in this country.

According to the Joint Committee on Taxation, we are committed to spending another \$11.5 billion over the next 10 years for wind power alone, even though wind power produces less than 1 percent of all of our electricity and less than 3 percent of our clean electricity. Nuclear power produces nearly 70 percent of our clean electricity; that is, no nitrogen, no sulfur, no mercury, and no carbon for those concerned about climate change. If we were subsidizing nuclear power at the same rate we subsidize wind power for clean energy, we would be spending \$300 billion or \$400 billion over the next 10 years for nuclear power. So wind has been gobbling up the available money for renewable energies, and making it difficult to identify appropriate offsets to pay for long-term extensions of this renewable electricity tax credit.

We have spent an extraordinary amount of money on wind. Wind has already proven that where the wind

blows, it works. It is competitive. And where it does not blow, it is not competitive. In the Southeastern United States, for example, there is one wind farm. Because of the generous wind subsidies, this wind farm on the top of a lovely mountain, Buffalo Mountain in Tennessee, last August, in the middle of a drought when we were all sweating and turning up our air conditioners, was operating 10 percent of the time. It makes no sense to pay big subsidies to people in Chicago to build wind farms in places where the wind doesn't blow. So what we are suggesting, Senator KYL and I, is to let us take the available money and let us extend for 2 years the production tax credit, and let us let some of it go to open-loop biomass, more to small irrigation power, more to landfill gas and trash combustion, and qualified hydropower and wave and tidal power, and it would also go for wind. It means the wind part of the tax credit would be for 2 years and wind would still receive about \$1 billion of the \$6 billion or \$7 billion that the Ensign-Cantwell amendment would consume.

So I ask my friends to seriously consider this not as an unfriendly amendment to renewable energy but as a friendly amendment. I have met with a lot of people who say we desperately need some certainty in business. Well, 2 years is twice as much certainty as 1 year, and there is no reason at this stage of development of energy why wind, which is well proven where the wind blows, and which has been subsidized so heavily since 1992, should continue to be subsidized at the expense of certainty in our tax policy and at the expense of all of the other renewable energies.

So in summary, Mr. President—and I will have more to say about this next week—we believe the Alexander-Kyl amendment would improve the Ensign-Cantwell amendment by doubling the time the production tax credit is available to emerging renewable technologies. And the way we would pay for it is to treat wind the same way we treat open-loop biomass, small irrigation power, landfill gas, trash combustion, qualified hydropower, and wave and tidal power. They would be treated the same, and they would be given a chance over 2 years to flourish rather than 1 year.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to address the underlying Ensign amendment. I think most Members of this body believe very strongly we need to be much more self-sufficient in the production of energy. We are way too reliant on OPEC. We have made several attempts in this Congress in the last several months to try to pass tax incentive provisions to accomplish that objective. They have not been successful, for various reasons. Some because they are paid for, and people don't like

to pay for this, and others because it was not paid for.

For example, last February we passed an energy tax incentive package very similar to the Ensign package, which was not paid for, and that did not survive. So we are in a difficult position. I agree with the impetus of Senator CANTWELL and Senator ENSIGN, but we also know the other body is probably not as friendly toward passing this because it is not paid for—not as friendly as this body.

We hope the President signs this package. I am not terribly sanguine that will happen, but nevertheless let's at least try to see if the other body will in fact adopt it. This is a housing bill; it is not an energy bill. We want to get a housing bill passed very quickly, and now that we have an energy provision in it, that is a bit problematic as to whether we are going to get the housing bill passed as it is, especially when the energy provisions are not paid for.

The Finance Committee has other options to pass this package. All Senators on the committee know what we have been working on. I am committed to getting these tax incentives passed this year. They are so important, so vitally important, for reasons everyone has mentioned. And, in fact, I am even more worried about it than probably some other Senators. I am as worried as the Senator from Washington about getting this passed. So I am committed to finding a way. If this approach is not successful, I am committed to finding a way, to finding a successful approach so these energy provisions are in fact enacted into law this year.

Mr. DODD. Will the Senator yield?

Mr. BAUCUS. I will be happy to yield.

Mr. DODD. Mr. President, I underscore the point the Senator from Montana has just made, and I say this in the same spirit in which he has expressed his remarks. This is a housing bill. We have 8,000 people a day in foreclosure—8,000. Just as we started this debate, 24,000 of our fellow citizens have lost their homes—24,000 people lost their homes.

Now, I agree energy independence is critically important. But this isn't a Christmas tree. There are ways of doing these energy bills in other matters. I was under the impression we wanted to get a housing bill out that could make a difference in people's lives.

Why are we taking up matters that run the risk of tying this up for weeks on end in a conference with the House on matters they disagree with, that are not paid for, that may get a Presidential veto, and as a result we watch even more people lose their homes? It is a housing bill. It is a housing bill.

So with all due respect to the authors of this amendment, I am going to oppose every one of them from here on out so we can get this bill done. We have more to do. This is not an all-inclusive bill. A lot more needs to be done. We are, frankly, not doing

enough for people in foreclosure, in my view, and I have made that speech for a year now on this matter. We have finally gotten to a point where we have come together in a bipartisan fashion to deal with housing, and all of a sudden I find myself dealing with every other issue in creation because we haven't had bills that have moved along for whatever reason.

But we shouldn't make people who are losing their homes, with our economy suffering, pay the price because we haven't dealt with these other issues. This is housing. The Senator from Montana is absolutely correct, and I intend to stand with him. We may lose. I hope we don't because we run the risk of having this one effort to make a difference on housing fall apart.

With all due respect to the authors of this legislation, and I agree with all of them on the substance, this is not the place and time for this issue. We need to deal with housing.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 4423 TO AMENDMENT NO. 4387

Mr. NELSON of Florida. Mr. President, because this is the Mortgage Foreclosure Prevention Act, just what the chairman of the Banking Committee has brought up, let's remind ourselves what is the underlying bill. The State of this Senator has the second highest number of foreclosures in the country. That is why I ask consent we set aside the pending amendment.

I call up amendment No. 4423.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. COLEMAN, proposes an amendment No. 4423 to amendment 4387.

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

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

The amendment is as follows:

(Purpose: To provide for the penalty-free use of retirement funds to provide foreclosure recovery relief for individuals with mortgages on their principal residences)

At the end of title VI, insert the following:

**SEC. \_\_\_\_ . PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR FORECLOSURE RECOVERY RELIEF FOR INDIVIDUALS WITH MORTGAGES ON THEIR PRINCIPAL RESIDENCES.**

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified foreclosure recovery distribution.

(b) LIMITATIONS.—

(1) IN GENERAL.—For purposes of this section, the aggregate amount of distributions received by an individual which may be treated as qualified foreclosure recovery distributions for any taxable year shall not exceed the lesser of—

(A) the individual's qualified mortgage expenditures for the taxable year, or

(B) the excess (if any) of—

(i) \$25,000, over

(ii) the aggregate amounts treated as qualified foreclosure recovery distributions

received by such individual for all prior taxable years.

(2) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to paragraph (1)) be a qualified foreclosure recovery distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified foreclosure recovery distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$25,000.

(3) CONTROLLED GROUP.—For purposes of paragraph (2), the term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) AMOUNT DISTRIBUTED MAY BE REPAYED.—

(1) IN GENERAL.—Any individual who receives a qualified foreclosure recovery distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Internal Revenue Code of 1986, as the case may be.

(2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified foreclosure recovery distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified foreclosure recovery distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(3) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified foreclosure recovery distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified foreclosure recovery distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) APPLICATION TO ELIGIBLE RETIREMENT PLANS.—

(A) IN GENERAL.—Nothing in this section shall be treated as requiring an eligible retirement plan to accept any contributions described in this subsection.

(B) QUALIFICATION.—An eligible retirement plan shall not be treated as violating any requirement of Federal law solely by reason of the acceptance of contributions described in this subparagraph.

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

(1) QUALIFIED FORECLOSURE RECOVERY DISTRIBUTION.—The term "qualified foreclosure recovery distribution" means any distribution to an individual from an eligible retirement plan which is made—

(A) on or after the date of the enactment of this Act and before January 1, 2010, and

(B) during a taxable year during which the individual has qualifying mortgage expenditures.

(2) QUALIFYING MORTGAGE EXPENDITURES.—(A) IN GENERAL.—The term "qualifying mortgage expenditures" means any of the following expenditures:

(i) Payment of principal or interest on an applicable mortgage.

(ii) Payment of costs paid or incurred in refinancing, or modifying the terms of, an applicable mortgage.

(B) APPLICABLE MORTGAGE.—The term "applicable mortgage" means a mortgage which—

(i) was entered into after December 31, 1999, and before the date of the enactment of this Act, and

(ii) constitutes a security interest in the principal residence of the mortgagor.

(C) JOINT FILERS.—In the case of married individuals filing a joint return under section 6013 of the Internal Revenue Code of 1986, the qualifying mortgage expenditures of the taxpayer may be allocated between the spouses in such manner as they elect.

(3) ELIGIBLE RETIREMENT PLAN.—The term "eligible retirement plan" shall have the meaning given such term by section 402(c)(8)(B) of such Code.

(4) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 121 of such Code.

(e) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD FOR QUALIFIED FORECLOSURE RECOVERY DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified foreclosure recovery distribution, unless the taxpayer elects not to have this subsection apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified foreclosure recovery distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED FORECLOSURE RECOVERY DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified foreclosure recovery distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

(3) SUBSTANTIALLY EQUAL PERIODIC PAYMENTS.—A qualified foreclosure recovery distribution—

(A) shall be disregarded in determining whether a payment is a part of a series of substantially equal periodic payment under section 72(t)(2)(A)(iv) of such Code, and

(B) shall not constitute a change in substantially equal periodic payments under section 72(t)(4) of such Code.

(g) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to the provisions this section, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this section, and



(ii) on or before the last day of the first plan year beginning on or after January 1, 2010, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date the legislative or regulatory amendment described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, any later effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

Mr. NELSON of Florida. Mr. President, under current law, you can invade your retirement fund, your 401(k) fund, in order to purchase a home without paying the 10-percent penalty. What this amendment says is, if home ownership and keeping people in their homes is an important value in America, and they are about to have their home taken away because of this foreclosure crisis, then it seems to me we would want to amend the law to allow them to take money out of their retirement fund in order to forestall the foreclosure and stay in their homes.

That is what this amendment does. It allows someone to withdraw up to \$25,000 from their retirement fund without paying the 10-percent penalty. That has to be used for the purpose of foreclosure prevention purposes; that is like paying on the principal or interest payments; that is like a refinancing or a mortgage modification.

To make sure people do not abuse this, we are limiting it to a 2-year period and we are additionally going to say, the money you bring out to help you so you do not go into foreclosure, if you put that money back into your retirement fund within 3 years, you are not going to have to pay the income tax on it. So it is a direct, tailored amendment to try to help people accomplish what the underlying goal is, which is to prevent foreclosures.

I am joined by my colleague from Minnesota, who wants to speak on this amendment.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I rise with my colleague from Florida to speak on behalf of our amendment No. 4423. I start by thanking, first, the chairman of the Banking Committee, Senator DODD, and ranking member Senator SHELBY, for bringing us to this point. People are losing their homes. I hear it. We all heard it when we went back over Easter break. For Senator DODD and Senator SHELBY to come together in a bipartisan way and give us

an opportunity to do what this Senate is going to be doing, I express my deep appreciation; also to Senator BAUCUS and Senator GRASSLEY, the chair and the ranking member, for working with us on this amendment. It is one of those things that goes to the heart of what we are trying to do today.

Mr. President, I ask unanimous consent that Senator MARTINEZ be added as a cosponsor of this amendment.

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

Mr. COLEMAN. Mr. President, during our travels back home to housing townhall forums during the course of this last year, we are all meeting more and more folks who are in very desperate straits, trying to keep their home. Minnesota ranks No. 2 in the number of subprime mortgages in for closure. Minnesota—who would have thought? That is the reality. It is across the country. I was in a forum at St. Cloud, in the central part of my State. I met a nurse named Terri Ross, a woman who had two jobs, bought a house which was in need of repair. She had a pretty good mortgage, low interest rate, and wanted actually to quit one job to go back to school. She wanted to improve herself, improve her life, add to her education. She met with the mortgage broker. He said: Have I got a deal for you. We can get you a mortgage and it will be at a low rate. Don't worry about the fact—I am not sure she even knew it was going to pop up in a few years. Don't worry about it because property values are rising and there will be more equity in your house. She put the money in the house, did the mortgage. When all was said and done, she found herself in the situation where the value of the house was less than the value of the additions. She had lost one job. She now had one job, her income was in half. She is in big trouble.

Here is a woman who worked all her life, put aside some money for retirement. What she did is she tapped into that and then she paid a penalty on it, trying to save her home. That was what she had. The problem is, across the Nation, people are now looking to use their retirement savings to save their homes and they get hit hard with a 10-percent early withdrawal penalty.

There was an article in USA Today. They ran a piece entitled “401(K)s Tapped to Save Homes.” The article focuses on this problem. Americans are being slammed with taxes and penalties as they try to keep their homes.

I ask unanimous consent that at the conclusion of my remarks this article be printed in the RECORD.

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

(See Exhibit 1.)

Mr. COLEMAN. These are the stories my friend from Florida and I have been exchanging. We have personal accounts that do stretch from the Gulf of Mexico to the Great Lakes. These are the reasons we were called to take up this commonsense cause. We want to work

on this legislation that Senator NELSON and I believe is one more way we can responsibly help homeowners, to temporarily waive this 10-percent penalty for withdrawals up to \$25,000. Our amendment would also waive ordinary income taxes, as the Senator from Florida indicated, if the homeowner pays back the withdrawal within 3 years of making it, so homeowners are provided with a strong incentive to make their retirement savings whole again.

This is not a silver bullet—I don't know if there is a silver bullet in terms of the crisis we are dealing with—but it helps those whom we want to help, homeowners who are in big trouble. In doing so, this temporary relief can prevent an unnecessary foreclosure from happening, one which hurts not only the family but hurts the entire community. When houses are foreclosed and vacant, it affects everyone in the surrounding area. It affects the neighborhoods. As a former mayor, I looked at neighborhoods we built up in my time as mayor and I believe the same neighborhoods are being torn down by the crisis we are facing.

This bill is about homeowners helping themselves. While the 10-percent penalty is well intentioned and we do not want people to be using retirement savings during their working years, times such as this require us to recognize that sometimes such rules need to be flexible in order to serve a greater good. Both on a home ownership level and community level, I believe it makes sense to enable those who can to keep their homes. Ultimately it is up to the homeowner to decide whether it makes financial sense to turn to their retirement savings to keep their homes.

At least for those who decide to do so, we should not penalize them for trying to keep a roof over their heads and wanting to remain part of the community they have called home.

I urge my colleagues to support this commonsense and much needed relief.

I yield the floor.

[From USA Today]

401(K)s TAPPED TO SAVE HOMES

(By Christine Dugas)

Struggling to save their homes from foreclosure, more Americans are raiding their 401(k) retirement accounts to pay their bills—and getting slammed with taxes and penalties in the process, according to retirement plan administrators.

Rather than borrow money from their 401(k) accounts, which would have to be paid back, a growing number of beleaguered families have been cashing out, plan administrators say.

This is happening even as borrowing from 401(k) accounts remains fairly flat. Fewer still are borrowing from 401(k) plans to buy homes. By contrast, new figures from plan administrators show the number of 401(k) “hardship withdrawals” is up in early 2008 compared with the same period last year.

The main reason? The need to stave off foreclosure or eviction.

Consider Tamara Campbell, who raided her 401(k) after her husband was laid off from his job as an occupational technician, and they

fell behind on their mortgage for several months. "If I hadn't done that, we would have been foreclosed on last year," says Campbell, who lives in a Denver suburb.

Such hardship withdrawals began rising last year and, by January this year, had exceeded January 2007 levels. During the first month of the year, as the economic slowdown tightened pressure on mortgage holders, hardship withdrawals rose 23 percent at plans that Merrill Lynch (MER) administers compared with the same period in 2007, says Kevin Crain, managing director of the Merrill Lynch Retirement Group.

The 401(k) withdrawals are rising mainly because people such as Campbell and her husband want to save their homes. Merrill Lynch found that the primary reason for the rise in hardship withdrawals was to prevent foreclosure or eviction, based on its sampling of applications filed in January.

Likewise, in the first month of the year, compared with January 2007, Great-West Retirement Services saw a 20 percent increase in hardship withdrawals to save a home. And Principal Financial (PFG) reports that in January it received 245 calls from participants who inquired about 401(k) withdrawals to prevent a foreclosure or eviction, up dramatically from 45 similar calls it received in January 2007.

For workers, the consequences can be severe. About 85 percent of employers bar employees from making 401(k) contributions for six months after taking a hardship withdrawal, says Pamela Hess, director of retirement research at Hewitt Associates (HEW). Worse, employees who pull money out of tax-deferred 401(k) plans before age 59½ generally must pay a 10 percent penalty on top of the taxes owed.

A 401(k) loan imposes no such punishment. "But let's face it: If your problem is paying bills, and if you take out a loan, then you just add another bill to pay," says Nevin Adams of PlanSponsor.com, which monitors the 401(k) industry.

As Campbell considers whether to make another withdrawal, she notes, "It's not the kind of thing you want to use your 401(k) for. And if I keep doing this, I'm not going to have any retirement savings."

Mr. NELSON of Florida. Mr. President, I wish to close with a couple of sentences. As the chairman of the Banking Committee can so well instruct us, for most Americans, their home is their most valuable asset. We ought to be adopting policy, through enacting law, that allows them to be able to stay in their own home and to use every tool available to stay in that home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have great respect for my colleague from Florida and the Senator from Minnesota for their work on this effort, having been involved years ago in the creation of Individual Retirement Accounts going back to the early 1980s, recognizing the value of encouraging people to set aside hard-earned income for retirement, for health care, for education as the motivation. Let me mention one concern I have while both Senators are on the floor, and I don't question at all the motivations behind it. There is nothing in this amendment that would require a writedown. What we are trying to do is get the lenders to write down the size of these mortgages,

to work out different arrangements so the borrower could afford the mortgage.

What concerns me here is, while we are using this retirement income or these savings accounts to help meet these obligations, there is no commensurate responsibility on the part of the lender to try to reduce the cost. At the end of 2 years you may end up at exactly the same level. The money goes into the pockets of the lender, but at the end of the 2 years we are still faced with the size mortgage we had before, and the homeowner is in the same position they are in today.

I don't have any quick idea here for you to tie this together to see if we can't incentivize that lender on that mortgage to also write down the cost of part of that or to restructure it in a way so that person facing foreclosure would be able to handle this. These moneys would be of tremendous help to them. But if you don't do anything about the size of the mortgage or conditions of it, all you have done is kicked the can down the road for 2 years and then also watch that retirement income get exhausted. You can put it back in, but it seems to be defeating the very purpose of trying to get workouts.

We started a year ago with the stakeholders and set up a set of principles for writedowns. Unfortunately, according to Moody's, only 1 percent of the lending institutions have done that in a year—tragically, in my view. We would be in a very different position had they done otherwise. So I am very suspicious about their willingness to do this, and merely providing additional resources to them coming out of people's hard-earned money, although you have a good idea putting money back in. I would like to find a way to incentivize the lender so the people can use these resources to stay in the home. That is merely an idea to consider in the next couple of days as we go forward.

Mr. BAUCUS. Mr. President, frankly, I think this is a good discussion. There is merit for both, for those who want to amend the law so IRAs can be used to help people finance their homes, but I also think the Senator from Connecticut, the chairman of the Banking Committee, makes a very good point. We don't want to let the lenders off the hook either.

From a tax perspective, we in the Finance Committee believe—I can speak for myself anyway—that the purpose of this amendment is close enough to the nature of the purpose of the IRAs and the savings vehicles in the first place to warrant an exception that will last for 2 years because, after all, a home is pretty close to retirement. People should be saving for retirement in these retirement programs. If saving their home means dipping into their retirement savings, then I think that would be appropriate, as to avoiding the 10-percent penalty. Also it is in effect for only 2 years, so from a tax per-

spective I think it is appropriate. However, I think the chairman of the banking committees makes an excellent point and I would join with the Senator to see if he can find some way to incentivize lenders to do what they should be doing, at least with respect to the principal on a lot of these mortgage loans.

Mr. NELSON of Florida. Mr. President, will the Senator yield? Can we then create some ideas between our respective staffs—yours, Finance; the Banking Committee; ours individually—and see if we can come up with something to address the issue?

Mr. BAUCUS. I think we should. I will devote my staff to that effort.

Mr. NELSON of Florida. I thank the Senator.

Mr. COLEMAN. If the Senator will yield, I also understand the concern raised by the chairman of the Banking Committee. I will be pleased to work with the chairman and my colleagues. I ask the chairman of the Finance Committee, I think one of the things he did address, a piece of issue, had to do with the tax consequences. If a mortgage was \$150,000 and it was taken down to \$100,000 by agreement, in the past that \$50,000 was a taxable gain. I believe recently—again, this little piece—we took that building block and said: Hey, if you knock it down to \$100,000, that \$50,000 is no longer a taxable gain; is that correct?

Mr. BAUCUS. That is correct.

Mr. COLEMAN. All these pieces fit together. Again, there is no silver bullet at the end, but if we can come closer to addressing the full range of concerns, I think that would be positive. I think we already moved, with the leadership of the chairman of the Finance Committee, to address that one piece. This is another piece. It is your home, your future, and clearly there is more work to be done.

Mr. BAUCUS. I appreciate that. Earlier, when the Senator from Minnesota talked about silver bullets I was smiling because it is my view there are never silver bullets. It is always a major effort to find lots of different pieces, different steps to address the difficulties.

The occupant of the chair might remember this. There is a famous journalist, H.L. Mencken, of Baltimore, who said: For every complicated problem there is a simple solution—and it doesn't work.

I guess that is true of this situation, too.

Mr. THUNE. Mr. President, what is the unanimous consent agreement?

The PRESIDING OFFICER. The Senator from Louisiana is to be recognized.

Ms. LANDRIEU. Mr. President, I would like to add to the unanimous consent agreement: If I could let my colleague go before me and then I could speak whenever he is finished or at 11 o'clock.

The PRESIDING OFFICER. Is there objection.

Mrs. LINCOLN. Reserving the right to object, I will not. I am in the queue as well. I want to make sure I know where I am. I understand now I will follow Senator THUNE.

AMENDMENT NO. 4419

Mr. THUNE. Mr. President, I wish to speak to the amendment of the Senator from Nevada, Mr. ENSIGN, regarding renewable energy.

As much as I appreciate the fact, as the Senator from Connecticut has pointed out, that this is a housing bill and there is a mortgage crisis out there that needs to be addressed, I would also argue, first of all, that, this being the Senate, we oftentimes consider amendments to bills that are not necessarily related to the underlying base bill, and secondly, that there probably is not an issue that impacts the folks I represent in South Dakota any more than does the high cost of energy.

Now, granted, as you travel across the country—and this is true in my State, as I think it is in every State—people are following closely what is happening with the subprime mortgage crisis, and the Senate and the Congress are reacting to that with the legislation that is currently on the floor. But if you look at it in the context of the broader economy and what is impacting the pocketbooks of Americans every single day—and certainly of South Dakotans—there is no question that high energy prices are impacting the lives of everyone I represent in South Dakota. We are a very energy-dependent State, and we travel long distances; we are a farm economy, so those inputs are very important to our economic well-being. We are a cold-weather State, and so electricity is in very high demand, both during the cold-weather season but also during the hot-weather season.

It seems to me that if we are going to address the economic issues that affect this country right now, we cannot do that without taking a hard look at what we can do to make energy more affordable to people in this country. So I would argue to my colleagues who have made the point that this is, in fact, a housing bill that, notwithstanding that is the basic focus of this bill, when we look at addressing the economy, I think in the broader context this is what this whole discussion is about: how can we bring relief to hard-working people who are struggling with the economic pains created by the housing crisis, by high energy prices, by high health care costs. Those are all factors that impact the pocketbooks of everyday Americans. So I think the discussion of this renewable energy extender amendment is perfectly appropriate in the context of this debate.

I would also say, with respect to the Senator from Montana, who has worked very hard, along with the Senator from Iowa, Mr. GRASSLEY, on an energy package that would extend many of the tax incentives that are in place for renewable energy, we have

had that legislation now on the floor of the Senate several different times and have been unable to reach that magic 60-vote threshold that is necessary to end a filibuster and to move forward with the legislation. So I would argue that every opportunity we have, we need to move forward with this debate about energy and what we are going to do to lessen our dependence on foreign sources of energy to make energy more affordable to more Americans. So I think it fits perfectly within the context of this debate.

I would also say, with regard to some of the extenders that will impact those that relate to energy production in my part of the world, I am particularly interested in the wind energy production tax credit, the 2-cent-per-kilowatt credit that applies to wind, and I have talked to investors who are looking at wind energy projects across this country and who are prepared to invest capital to build wind energy production but cannot deal with the uncertainty that exists with regard to Federal policy. The wind energy production tax credit expires at the end of this year, and if we do not do something in the very near future, those who are looking at making investments—that investment capital is going to dry up. We cannot afford to have that happen at a time when we have an increasing and growing demand for energy across this country.

We are trying to look at the whole issue of greenhouse gas emissions and carbon emissions and find new renewable forms of energy that will help address our energy needs in a clean, environmentally friendly way. We cannot afford to allow these tax incentives for renewable energy production to lapse at the very time that there is investment sitting there on the sidelines waiting to invest in wind energy production and solar energy production, but with the lack of certainty that exists today because of the pending expiration of these production tax credits, that investment very well could end up staying on the sidelines and not be made. That would be a very tragic outcome, I would argue, for our country.

So I would hope that every opportunity we have here in the Senate—and frankly there will not be that many opportunities, regrettably, this year on legislation that actually is going to pass here in the Senate to which to attach these types of amendments. The Senator from Montana has said there will be a tax extender bill moving later. I hope he is right. I hope we have a window down the road to get addressed some of these tax measures that are expiring. But if, in fact, that does not happen or if it happens later in the year, sometime in the summer, we are going to miss a lot of opportunity, a lot of capital investment in wind energy and other types of renewable energy production that we otherwise would get if we had some certainty with regard to what the policy is going to be.

So, again, as much as there are jurisdictional objections being raised by the Senator from Connecticut with regard to this bill being a housing bill, the Senator from Montana regarding the need to do this later on a piece of legislation that might be a tax bill moving through the Finance Committee and ultimately out to the floor, I would simply make the case to my colleagues that timing is important. Timing really is critical with respect to whether we are going to continue to have incentives in place, economic incentives for investment in renewable energy. Frankly, based on the conversations I have had with those who are looking at making those types of capital investments in wind energy and other forms of renewable energy production, they are very concerned that Congress has yet to act.

I would much rather see a multiyear extension of the production tax credit for wind, and some of the other renewable energy tax credits, than doing this for 1 year because I do not think that provides the long-term certainty that is necessary. But I would much rather have a 1-year extension than face the prospect of this production tax credit expiring at the end of this year and us not addressing it and seeing a whole lot of capital investment that otherwise would be made in these areas of production stay on the sidelines and us continue to go down this path of increasing dependence on foreign sources of energy, growing demand for energy here in the United States, and a need to lessen the greenhouse gas emissions into our atmosphere and us doing nothing about that. So my fear is that if we do not act now, perhaps this thing gets punted down the road, perhaps it does not get addressed this year, in which case the production tax credit would expire. That would be a tragic outcome, a tragic result for this country and for the goals we have when it comes to renewable energy.

I would simply say to my colleagues who are going to hear objections raised on procedural grounds about dealing with these production tax credits in the context of this particular bill that we need to look at the broader picture. We have an energy crisis in this country. We have those who want to invest in renewable energy products that would help address that, that would meet all of the goals I mentioned about clean energy, about lessening our dependence upon foreign energy.

Frankly, the argument that was made by my colleague from Tennessee, Senator ALEXANDER, with regard to wind energy being more of a localized, regional issue, that is predominately true. But so is oil production. There are lots of parts of the country that do not have certain energy sources. Yet we all rely upon all of those energy sources for our energy needs in this country. We happen to have an abundance of wind in the upper Midwest which I think has been underutilized, but it has the potential to meet the energy needs of people not just in South

Dakota or North Dakota or Nebraska or Iowa or Minnesota but all across the country. We need to be making the investments in those types of energy sources, and we need to have the policies in place that would create the economic incentives for that to happen.

I hope that in spite of the objections that will be raised on some procedural grounds to moving forward, that absent action to date and having seen in the past—looking historically at what has happened to this wind energy production tax credit over time, since 1992 when it was originally enacted, every time it comes to where it is about to expire or does expire—you will see this peak investment when it is in place. When it comes to where it is running out, the investment falls off, tails off; it expires, gets put back in place, and it takes off again. We need to even that out so we don't have these peaks and valleys, that we have consistent policies in place that will provide the certainty and the necessary incentives for those who want to invest in these types of energy sources to be able to do.

So I hope we will pass the Ensign amendment and put it on this bill. The objection has been raised that this could derail the housing bill. Frankly, the House has voted not on one occasion but on several occasions already for these very same renewable energy tax credits, and I suspect that they would welcome the opportunity to have that vote again in the House of Representatives. I hope it will be part of this package because it does address the fundamental issue when it comes to our broader economy; that is, the high cost of energy that is plaguing and harming and impacting the pocketbooks of every single American.

I urge my colleagues, when we have this vote, which I assume will be early next week, to vote yes for the Ensign amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I might call up my amendment.

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

AMENDMENT NO. 4382 TO AMENDMENT NO. 4387

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

Mrs. LINCOLN. I call up my amendment No. 4382.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for herself, Mr. SMITH, Mr. KERRY, Ms. STABENOW, and Mr. LEVIN, proposes an amendment numbered 4382 to amendment No. 4387.

The amendment is as follows:

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

At the end of title III add the following:

**SEC. 302. EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS RESTORED, EXTENDED, AND MODIFIED.**

(a) REMOVAL OF DOLLAR LIMITATION.—Section 120(a) of the Internal Revenue Code of 1986 (relating to exclusion by employee for contributions and legal services provided by employer) is amended by striking the last sentence.

(b) REAL ESTATE MATTERS EMPHASIZED.—Section 120(c) of the Internal Revenue Code of 1986 (relating to requirements) is amended by adding at the end the following new paragraph:

“(6) BENEFITS.—The plan shall provide, at a minimum, legal services for real estate matters relating to family or personal residences, including document review of real estate sales, purchases, closings, mortgages, and foreclosures.”

(c) EXTENSION.—Section 120(e) of the Internal Revenue Code of 1986 is amended to read as follows:

“(e) APPLICATION.—This section and section 501(c)(20) shall apply to taxable years beginning after December 31, 2007, and before January 1, 2010.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Mrs. LINCOLN. Mr. President, the amendment I am offering today is a very important amendment because we are all here because we are concerned about the crisis that exists in the mortgage industry and certainly in home ownership, but, more importantly, we want to prevent it from happening again. We want to make sure we are providing information to home buyers and others, counseling them in a way that really makes a difference. The amendment I am offering today will encourage our employers to provide group legal services benefits with an emphasis on real estate counseling for their employees.

Group legal services plans have been around since the 1970s and are intended to do exactly what the Center for Responsible Lending says should be one of our very top priorities in this effort to deal with the housing crisis. We should be encouraging and incentivizing preventative legal services.

I want to make sure my colleagues understand how important this benefit is for our Nation's employees, particularly employees in rural areas and low-income areas where access to lawyers might be scarce. We should be giving the average American homeowner access to legal advice so that she or he can feel confident in the mortgages they are getting into and so that when, God forbid, things do go wrong, they can receive advice about what their rights and responsibilities are in dealing with foreclosures and what options are available to them in dealing with this crisis.

Section 120 of the Internal Revenue Code has lapsed. That section of the code was intended to provide a tax incentive so that our employers would offer group legal services plans to their employees. Since it has lapsed, virtually no new group legal benefit plans have been created and many employers are dropping those that do exist.

We should be encouraging these plans because they provide our working

Americans with access to the legal advice they need, that they deserve, and that they often cannot access. Those legal services would provide a review of mortgage documents, would work with lenders to modify the loans and would create forbearance agreements, would assist in the restructuring of loans, and would provide counsel in foreclosure litigation when that is needed. These are all complex transactions that require significant legal counsel, and my amendment will help ensure that America's homeowners, particularly those who are hard-working American families, and those home buyers, can get that much needed advice. We have provided this advice and certainly these services, as I mentioned earlier, since the 1970s through this benefit where employers can actually pool their resources in providing this type of advice and service to their employees.

I wish to thank all of my colleagues who have cosponsored this important amendment. Many of us have worked on a separate bill, and we think this is absolutely an appropriate and a proper place to put this incentive. But Senator SMITH, Senator KERRY, Senator STABENOW, Senator LEVIN, Senator SCHUMER, and Senator KENNEDY are all cosponsors of our amendment.

Mr. President, I also ask unanimous consent now to add Senator SNOWE as a cosponsor, who is also a cosponsor of the bill.

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

Mrs. LINCOLN. I also want to say a very big thanks to all of the groups that have endorsed this amendment: the American Bar Association, the American Prepaid Legal Services Institute, the International Union, the UAW, the AFSCME, and the Laborers. All of these groups have recognized how important it is to be able to provide these legal services to hard-working American families.

Particularly at a time when they may be affected in their home ownership or in the difficulties and challenges they face in the problems that exist in the mortgage industry right now, this is a critical component of the assistance we can provide them. To have let it lapse and to see that it virtually no longer exists is something we can correct. I hope we will with this amendment.

So, Mr. President, I thank you for the time, and I also say a special thanks to my chairman, Chairman BAUCUS, and Ranking Member GRASSLEY, who have worked with us on this issue, along with Chairman DODD and Ranking Member SHELBY, who have done such a tremendous job in organizing and putting together, in an expeditious way, the effort we have to address these issues that working families are facing.

So I thank them and their staff for working with us, and we look forward to being able to move our amendment. I hope my colleagues will join me in

support of such an important amendment, a vehicle as well as a component that we already know works because we have had it in this country for quite some time in providing legal services to working American families. We want to continue to see that happen.

AMENDMENT NO. 4433 TO AMENDMENT NO. 4387

Mr. President, before I yield the floor, I ask unanimous consent to lay aside the pending amendment and call up an amendment on behalf of Senator SNOWE.

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

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for Ms. SNOWE, proposes an amendment numbered 4433 to amendment No. 4387.

The amendment is as follows:

(Purpose: To modify the increase in volume cap for housing bonds in 2008)

On page 70, strike lines 14 through 22 and insert the following:

“(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to the greater of—

“(i) \$10,000,000,000 multiplied by a fraction—

“(I) the numerator of which is the population of such State, and

“(II) the denominator of which is the total population of all States, or

“(ii) the amount determined under subparagraph (B).

“(B) MINIMUM AMOUNT.—The amount determined under this subparagraph is—

“(i) in the case of a State (other than a possession), \$90,300,606, and

“(ii) in the case of a possession of the United States with a population less than the least populous State (other than a possession), the product of—

“(I) a fraction the numerator of which is \$90,300,606 and the denominator of which is population of the least populous State (other than a possession), and

“(II) the population of such possession.

In the case of any possession of the United States not described in clause (ii), the amount determined under this subparagraph shall be zero.

“(C) SET ASIDE.—

Mrs. LINCOLN. Mr. President, the amendment Senator SNOWE is offering with several other colleagues is an amendment that focuses on what we passed and maybe what we did not quite notice. The Finance Committee passed an important provision that would provide an additional \$10 billion in mortgage revenue bonds for first-time home buyers and at-risk borrowers. This is something we have been trying to do, and we have had much leadership in the Senate on this issue.

Under present law, however, mortgage revenue bonds are allocated with a small State set-aside. The \$10 billion in the current package is allocated only based on State populations. As we know, the economic downturn and housing collapse do not necessarily correspond to the population of States.

Those of us who come from smaller States recognize that and also recognize the benefits that have been pro-

vided in the underlying law that exists in that small State set-aside.

The Snowe amendment adds enough additional bonds so large States will still receive their due under the allocation of the \$10 billion by population, but small and rural States also receive their allocation based on a small State set-aside under the current law.

I think it is an important point we have noticed in terms of what the underlying law does and has done effectively and making sure we incorporate that into what we do moving forward in the legislation we have.

This amendment only costs about \$134 million, but it means an awful lot for small and rural States in order to make sure they have equity in being able to access the resources their homeowners need and their States can provide through those revenue bonds.

So I urge my colleagues to support this fair and reasonable amendment which will be a good addition to the mortgage revenue bond provision in the underlying bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 4404 TO AMENDMENT NO. 4387

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up amendment No. 4404.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4404 to amendment No. 4387.

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

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

The amendment is as follows:

(Purpose: To amend the provisions relating to qualified mortgage bonds to include relief for persons in areas affected by Hurricanes Katrina, Rita, and Wilma)

Beginning on page 68, strike line 22 and all that follows through line 4 on page 69 and insert the following:

“(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage which—

“(i) was originally financed by the mortgage through a qualified subprime loan, or

“(ii) is a mortgage on a residence—

“(I) located in the Gulf Opportunity Zone (as defined in section 1400M(1)) and damaged or rendered uninhabitable by reason of Hurricane Katrina,

“(II) located in the Rita GO Zone (as defined in section 1400M(3)) and damaged or rendered uninhabitable by reason of Hurricane Rita, or

“(III) located in the Wilma GO Zone (as defined in section 1400M(5)) and damaged or rendered uninhabitable by reason of Hurricane Wilma.

On page 72, between lines 10 and 11, insert the following:

(C) WAIVER OF 3-YEAR REQUIREMENT FOR HOMES DAMAGED BY HURRICANES KATRINA, RITA, AND WILMA.—Paragraph (2) of section 143(d) of the Internal Revenue Code of 1986 is

amended by striking “and” at the end of subparagraph (C), by inserting “and” at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

“(E) in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2011, financing with respect to the purchase of any residence—

“(i) located in the Gulf Opportunity Zone (as defined in section 1400M(1)) and damaged or rendered uninhabitable by reason of Hurricane Katrina,

“(ii) located in the Rita GO Zone (as defined in section 1400M(3)) and damaged or rendered uninhabitable by reason of Hurricane Rita, or

“(iii) located in the Wilma GO Zone (as defined in section 1400M(5)) and damaged or rendered uninhabitable by reason of Hurricane Wilma.”

On page 72, line 11, strike “(c)” and insert “(d)”.

On page 73, line 19, strike “(d)” and insert “(e)”.

Ms. LANDRIEU. Mr. President, I appreciate the support earlier today of an amendment that I, Senator COCHRAN, Senator VITTER, and Senator WICKER brought forward for the people of the gulf coast—thousands and thousands and thousands of homeowners, responsible homeowners, homeowners who did not exploit opportunities for fancy-dancy mortgages, homeowners who took just the regular standard mortgages, who had actually paid their mortgages off, and kept insurance their whole life. Then, in 2005, two storms hit the gulf coast and literally wiped out the net worth—literally, a great deal of the net worth—of hundreds of thousands of families on the gulf coast.

The reason I continue to come to the Senate floor is because the Stafford Act, which would normally come, if you would, to the rescue of people in our country in this situation, is wholly inadequate for either the initial recovery or the long-term rebuilding. It is not just what MARY LANDRIEU says, the Senator from Louisiana. It is what Secretary Chertoff testified before our committee last week. I am going to submit his actual quote for the RECORD. It is what Chief Paulson of FEMA said yesterday, testifying before the committee. It is what the inspector general of the Homeland Security Department said yesterday testifying before our committee.

So this is my dilemma as a Senator from a State that has had an unprecedented disaster. I would have been happy to receive the Stafford Act and just make it work for us. But since it is not working for us, I am kind of inventing things as we go along, trying to take appropriate and responsible advantage of other bills that come along that actually might be appropriate for our situation.

I am trying not to ask for too much but only what we need. But since the structure we have is not applicable, I have no choice. So I have been waiting for a year and a half to get a housing bill on the Senate floor so we could make some of these changes. I appreciate my colleagues being understanding and supportive, and everybody has been just terrific.

As I said earlier this week, we have had some terrible situations in Detroit, in California, in Las Vegas, in Sacramento, thousands and thousands in San Bernardino, CA. But as I said, some of these homeowners could have gotten themselves in trouble. They might have done things they should not have done. I do not know. Maybe some people were victims of fraud. That will be worked out, I hope, through some of the legislation we are passing.

But the reason I pull this chart up is to say that even in the worst area in the country right now for foreclosures, which is Detroit, Dearborn, MI, with 42,000 homes—these are official numbers—only 4.9 percent of the houses in this whole area are basically in foreclosure or for which there is a threatening pending foreclosure.

I bring this contrast to show you that down on the gulf coast, those numbers are dwarfed by what Katrina and Rita and the subsequent levee breaks did to our homeowners. In St. Bernard Parish, almost 55 percent—not 4 percent, not 10 percent, not 20 percent but 54 percent of the homes in St. Bernard Parish—had damage exceeding 30,000. Some of these homes were only worth \$50,000. Some were worth \$350,000. But they are basically completely damaged.

In fact, the sheriff and the parish president told me that there were only five homes undamaged in the whole parish after Katrina and Rita—after those waters went down—5 out of the 67,000 people who live in this parish.

For Cameron Parish, almost 50 percent of their households have had completely devastating damage to their homes.

So, if you can, picture a place that does not have just a spattering of houses and weeds and emptiness but places that have blocks and blocks and miles and miles of homes that are empty and gutted with the windows and doors open and the families gone. People are struggling to come back with a very inadequate Federal framework right now to help them.

I know we have sent down a lot of community development block grant money. After a lot of contortions that everybody went through, we finally crafted a plan to give each of these homeowners, if they qualified—they had to prove they owned the land; they had to prove they paid taxes; they had to prove they were actually the right homeowner—we gave them a grant, no more than \$150,000. The average is about \$60,000 for Mississippi and Louisiana. Our plans are similar but not the same.

But you can imagine the problem with a family who owned their house outright, they had no mortgage. It was worth \$350,000 or \$400,000 or \$500,000, and the most grant they could possibly get is \$150,000.

So we are far away from trying to make people whole. Why should we try to make them whole? Again, it is nothing

they did. They did not cause the hurricane. Some of them did not even live in floodplains. Some of the families did not have flood insurance because they were told by their mortgage holder and their bankers they did not need it. They were told by the Federal Government they did not need it.

So my amendment is an attempt to help these homeowners by not adding a penny to the underlying bill, which is a wonderful thing—that we do not have to add any money to the underlying bill because I know we are trying to keep the cost of all this down. But all my amendment would do would be to allow there to be a third reason that bonds could be issued at the State level.

In the underlying bill, the first reason, which is a good reason, is to allow first-time home buyers to buy some of the homes that have been foreclosed on that are sitting empty in neighborhoods. So what a good way to kind of get these homes back in circulation, to allow first-time home buyers with limited incomes—it is \$65,000 in my State. I am not sure what it is in everybody else's State, but that would be a lot of families with teachers, firefighters, nurses, et cetera. They are not very wealthy but not poor middle-class families. These families could come in and buy some of these homes. That is a great idea.

I used to be the State treasurer. I issued these bonds. It works. It is a happy thing when people can buy a home. The underlying bill also allows these bonds to be issued to build more multifamily dwellings. This is a desperate need in Louisiana because while we spend a lot of time talking about our homeowners who have lost homes, we had over 60 percent of the population in New Orleans, maybe between 50 and 60 percent who were not even homeowners. They were renters. Some of them were very wealthy renters. They chose to live in nice places, but a lot of the people in New Orleans—my hometown—were poor, and they could not afford a home, so they were renting. Their places have been destroyed, and we now have a growing homeless population of historic proportions.

So the provision in the underlying bill that gives the opportunity to issue bonds to build multifamily dwellings is great. We can build for the elderly, who really need affordable housing in the country. I also believe the underlying provision allows for the building of places, rentals for the disabled, which is also a growing need.

But what my amendment simply says is, there will be a third option for these bonds, and it will help to refinance homes that have been destroyed along the gulf coast in basically the storms of 2005. That is what the current amendment says.

But let me say that I am very open to modify my amendment, if the leadership wants to do that, to allow the use of these bonds to go to basically any home that was destroyed by a disaster

in the whole country. I think it would be a very good use of these bonds because, as I said, there is not a lot of help outside of just general insurance that helps people to rebuild. If people have insurance, fine; they can rebuild their home from insurance proceeds. But many people who had their houses destroyed by tornadoes or flash floods or hurricanes or earthquakes were not required to have insurance by the current law, and if they already paid off their mortgage, even if they were required to have insurance, they weren't required to after they paid off their mortgage; so a disaster hits and there is no way.

This is not a grant. This is not a giveaway. It is an opportunity to provide mortgage lending for people who may want to buy some of these homes that have been destroyed. They are not foreclosed homes; they were destroyed and owned basically now by, in our case, Government entities that are trying to recirculate these properties back into the housing market.

So that is basically what my amendment does. I hope we will have an opportunity, of course, as the day goes on, to maybe speak about it more or to have a vote on it next week, whenever the Senate decides to proceed.

I thank the Senator from Connecticut. As I was saying before he came in, the amendment I am offering now adds no cost to the underlying bill. It takes the mortgage provision piece and makes it applicable for trying to help with homes that were destroyed in a disaster. Right now, we are trying to help with homes that were destroyed, if you will, by a foreclosure situation. We are also hoping to build multifamily housing, which is great.

All we are asking for with this amendment is to basically add a third voluntary—not mandatory but voluntary on the part of the States if they want to include disaster, without adding any additional expense to the bill.

So I thank the Senator from Connecticut. I hope we will take up this amendment whenever we can.

I yield the floor.

Mr. DODD. Mr. President, before the Senator from Louisiana leaves, first of all, let me commend her generally. All of us at one time or another have faced natural disasters in our State, but I can't recall anything, at least in recent memory, that would compare to what the Gulf State have suffered and particularly what the State of Louisiana has suffered. I know some may say: Well, every time there is a bill up, that Senator from Louisiana has an amendment to help her folks in Louisiana. That is how it ought to be. They are very fortunate indeed to have a fighter such as MARY LANDRIEU in their corner.

As she said, this wasn't any disaster. This was devastating. For those of us who have been there, as I was, and as one who has been there on several occasions since then, it still is stunning to me to go down and see the devastation still exists. In most disasters,



within weeks or months after the occurrence, it is amazing how recuperative areas are; however, despite the Herculean efforts of many in her State and others, the devastation still persists.

Certainly, those who have lost their homes suffer the most devastating impact of all, in many ways, because that is the center of a neighborhood, it represents the ability of a family to survive and stay together. All the elements and qualities we like to attribute to being an American family are associated with our homes. The fact that so many have been destroyed as a result of these disasters is something all of us are mindful of, and if we are not, the Senator from Louisiana reminds us of it on a daily basis. We thank her for that.

We are certainly going to do everything we can to accommodate and be supportive of this effort. As she points out, it doesn't expand the program financially. It operates within the financial constraints as the amendment has been crafted. Right now it is focused on the Gulf States, those areas that were adversely affected. My inclination is to keep it that way. That is not to suggest other States may not have had similar occurrences, but I think because of the uniqueness of what happened there, we need to recognize that in this effort. I would be a little uneasy about expanding it. Not that that is without merit, but I think particularly in this case, with this one occasion we are talking about a particular compelling case which has been made.

So once again, I thank her for fighting on behalf of our fellow American citizens who happen to be her specific constituents. We thank her for it. Over this weekend, we will take a look at it, and if there are any questions we have about it, I will get back to her, but I will be urging Senator SHELBY and others to be supportive of this idea.

Ms. LANDRIEU. Mr. President, I thank the Senator from Connecticut. I will follow his advice and keep the amendment tailored, and if he changes his mind, he can let us know. I appreciate his attention to this matter.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4384 TO AMENDMENT NO. 4387

Mr. SANDERS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Sanders amendment at the desk, No. 4384, be called up, and I ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS], for himself and Mr. BROWN, Mr. SCHUMER, and Mr. HARKIN, proposes an amendment numbered 4384.

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

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

The amendment is as follows:

(Purpose: To provide an increase in specially adapted housing benefits for disabled veterans)

At the appropriate place, insert the following:

**SEC. — INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.**

Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking “\$10,000” and inserting “\$12,000”; and

(2) in subsection (d)—

(A) in paragraph (1), by striking “\$50,000” and inserting “\$60,000”; and

(B) in paragraph (2), by striking “\$10,000” and inserting “\$12,000”.

Mr. SANDERS. Mr. President, I ask unanimous consent that Senators BROWN, SCHUMER, and HARKIN be added as cosponsors of this amendment.

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

Mr. SANDERS. Mr. President, first, I wish to commend Senator DODD and Senator SHELBY for their work on this legislation. In particular, I wish to congratulate them on the provisions already in the bill to help our service-members and veterans. I also wish to thank Senator AKAKA, the chairman of the Committee on Veterans' Affairs, and Senator BURR, the ranking member, and their staffs, for helping to clear this amendment.

The amendment I am offering today will provide another piece of needed help to disabled veterans trying to stay in their homes. This amendment increases funding for a VA grant program that assists disabled veterans needing to adapt their homes to accommodate their disabilities. As the Presiding Officer knows, many thousands of soldiers, coming home from Iraq and Afghanistan as amputees, who are blind and who have a number of disabilities, and this amendment attempts to address some of those problems by helping them adapt their homes so they can live in those homes with their disabilities.

This amendment is supported by some of our Nation's largest veterans organizations, including the VFW, the DAV, AMVETS, Paralyzed Veterans of America, and the Vietnam Veterans of America. It is also important to note the policy changes we are advocating are contained in the independent budget, the document authored every year by many of the same organizations. It is also a policy that has the unanimous support of the majority members of the Senate Veterans' Affairs Committee, which endorsed this policy change in the 2007 and 2008 Views and Estimates letter to the Budget Committee; in other words, this policy in this amendment has broad support.

Veterans with certain severe service-connected disabilities are entitled to what are known as specially adapted housing grants of up to \$50,000. Veterans with service-connected blindness only or with loss of use of both upper extremities may receive a grant of up to \$10,000. The authors of the independent budget note increases in these amendments have been sporadic, despite the increases in real estate costs. In particular, veterans returning from Iraq and Afghanistan are finding the current VA program does not cover the cost of adapting their homes to accommodate wheelchairs or loss of vision, to create physical therapy space or other needed changes.

This amendment increases the specialty adaptive housing grant to provide \$10,000 in additional benefits for those veterans eligible for the \$50,000 grant and \$2,000 in additional benefits for those veterans eligible for the current \$10,000 grant. So we are raising the cap on each program to \$60,000 and \$12,000, respectively. According to CBO, for fiscal year 2009, this amendment would cost about \$6 million.

The Senate is now debating an important piece of legislation to try to bring relief to so many of the middle-income Americans who are struggling to keep their heads above water in today's economy and housing crisis. I think, given the context of this bill, certainly we can reach out to disabled veterans to adapt their homes so they can try to live as full lives as possible.

I wish to again commend Senator DODD, Senator SHELBY, and the Banking Committee for the proveteran, proservice member provisions already in this legislation, and I ask that my colleagues support this small additional benefit. I ask for my colleagues' support on this amendment, and if it is appropriate, I ask for the yeas and nays on the amendment.

Mr. DODD. Mr. President, let me commend my fellow New Englander for this idea. You wonder how something such as this persisted as long as it did. I wish to commend our colleague for discovering it and finding it out. Senator SHELBY is not here this afternoon, but his staff is around, and we have been talking with them. I think this will overwhelmingly be accepted. This should not require a recorded vote.

I was telling the staff I am one of six children. My oldest sister Carolyn was born legally blind. When I arrived at the House of Representatives in the mid-1970s, I remember as a freshman I discovered you couldn't be a foreign service officer if you were legally blind. We managed to change those regulations. How silly a rule it was. Unrelated or related, I guess, to some degree here, but I thank my colleague from Vermont for raising this.

I appreciate his kind comments about Senator AKAKA. Senator KERRY and Senator COLEMAN offered some ideas as well on the veterans housing issues also. I am told by Senator SHELBY's staff he is very supportive of this

as well. This isn't a large amount. It may not be a banner headline for some, but the Senator from Vermont is going to make a difference in the lives of some families and some individuals. It may not be thousands. Even if there are a few hundred, it makes a difference.

So at a moment such as this, on a Friday afternoon, when most people have headed off for home, let the RECORD record and history record that the Senator from Vermont made a difference in the lives of a handful of people with this amendment. I thank him.

Mr. SANDERS. I thank the Senator for his kind remarks.

Mr. WHITEHOUSE. Mr. President, I thank all of my colleagues who have worked so hard this week on the housing stimulus bill. I particularly want to commend my friend from Rhode Island—Senator JACK REED—for his tireless work on simplifying mortgage disclosures so that mortgage applicants will have in plain English—not fine print or jargon—the most important terms of the loan including the maximum monthly payment possible. This provision was included in the bipartisan substitute amendment and I congratulate Senator REED.

For months, as America has sunk deeper and deeper into economic distress, hard-working people all over this country have wondered what they are going to do to make ends meet—and why their Government wasn't doing more to help.

For families already strained by rising health care and gasoline costs, and with many struggling to care for an elderly parent or put a child through college, the latest economic downturn is fast becoming the proverbial straw that broke the camel's back.

In my State of Rhode Island, where affordable housing was already in scarce supply, thousands of families face foreclosure, eviction, and an uncertain future. For the 12-month period ending in December 2007, the foreclosure rate in Rhode Island increased by a staggering 238 percent. More than 12 percent of subprime loans in my State were in foreclosure in December 2007. The foreclosure rate among subprime loans in Rhode Island is 15 times higher than the prime loan foreclosure rate.

This is a crisis that strikes at the most vulnerable. As I talked to Rhode Islanders during the recent recess, I heard over and over again about the difficulty of making ends meet in this fragile economy. And as they watch things get worse, they wonder why our Government would do so much to keep the investment bank Bear Stearns from going under, but so little for them and their neighbors.

There are some in this city, and in this building, who believe that if we simply let the markets correct themselves, all will be well. I have great faith in market forces, and I've seen firsthand the power of American industry and American ingenuity to work

great good in our country and our world. But we in Government should know by now that market forces need disciplined constraint, and that the American people deserve better than to see their homes swept away by a financial typhoon while Congress stands idly by. They need our help.

Earlier this week, after hard work and good-faith negotiations, Senators DODD and SHELBY reached a compromise on legislation to soften the blow of the residential real estate collapse. In addition to Senator REED's disclosure provision, the bill now before us includes \$4 billion in funding for community development block grants to assist States and municipalities in purchasing and rehabilitating homes that have been foreclosed upon, and \$100 million for pre-foreclosure counseling. It also includes Federal Housing Administration reform that will increase the availability of FHA-backed mortgages, offering an alternative to the subprime market for more middle- and lower-income families for whom buying a new home might otherwise be out of reach.

This agreement is a strong start, but it failed to include a provision authored by Senator DICK DURBIN of Illinois that would permit bankruptcy judges to modify the terms of a primary residence mortgage. I was proud to cosponsor Senator DURBIN's amendment, which included this provision, and was disappointed that the amendment lost a procedural vote yesterday. I plan to support my colleague from Illinois as he continues his efforts to enact this important change to the bankruptcy code.

As my colleagues know, unlike most contracts, including mortgages on vacation homes and family farms, bankruptcy judges cannot currently modify the terms of the very contract most dear to families facing bankruptcy, their principal residence: the place they call home, where they raise their children, know their neighbors, and live their lives.

Simply put, this provision would fix this glaring anomaly in section 1322(b)(2) of the bankruptcy code so that primary residence mortgages are treated like most other secured debts. Like any secured creditor, the mortgage holder would be entitled to adequate protection of his or her property interest during the chapter 13 case. The modification of the mortgage would be limited by market prices and rates and to a repayment term of no longer than 30 years.

Given the cost of foreclosures—which may average as high as \$50,000 per incident—it would seem that this amendment to the bankruptcy code would benefit all parties to a mortgage. Passing this measure could help more than 600,000 families facing bankruptcy stay in their homes.

As we continue to consider this housing stimulus package, we have an opportunity to help millions of families weather this crisis and get their lives

back on track. I will continue to fight for meaningful relief for middle-class families threatened with the loss of their homes.

Mr. DODD. Mr. President, I am told, and I could be corrected, but I think we have probably completed any amendments to be offered on this legislation at this juncture. I will wait for instruction from the leaders on how they want to proceed, and while we are doing that, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

#### CLOTURE MOTION

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

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

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment No. 4387 to H.R. 3221:

Christopher J. Dodd, Harry Reid, Mark L. Pryor, Max Baucus, Charles E. Schumer, Patty Murray, Claire McCaskill, Patrick J. Leahy, Daniel K. Akaka, Ken Salazar, Sherrod Brown, Bryon L. Dorgan, Evan Bayh, Edward M. Kennedy, Jon Tester, John F. Kerry, Bill Nelson.

#### CLOTURE MOTION

Mr. REID. Mr. President, I now send to the desk a cloture motion on the bill itself.

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

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3221, the Housing bill.

Christopher J. Dodd, Harry Reid, Mark L. Pryor, Max Baucus, Charles E. Schumer, Patty Murray, Claire McCaskill, Patrick J. Leahy, Daniel K. Akaka, Ken Salazar, Sherrod Brown, Bryon L. Dorgan, Evan Bayh, Edward M. Kennedy, Jon Tester, John F. Kerry, Bill Nelson.

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote on the substitute amendment No. 4387 occur at 2:15 p.m., Tuesday, April 8; further, that the mandatory quorums for both motions be waived.

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

#### MORNING BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate