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

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

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

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

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

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

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

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

The Senator from Pennsylvania.

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

[Rollcall Vote No. 33 Leg.]

YEAS—58

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

NAYS—39

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

NOT VOTING—2

Gregg	Kennedy

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

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

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

The motion to lay on the table was agreed to.

RECESS

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

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

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Florida is recognized.

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

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Oklahoma is recognized.

AMENDMENT NO. 109 TO AMENDMENT NO. 98

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

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

The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

I bring up this amendment because it shows how misaligned this bill is. This amendment seeks to eliminate a $246 million earmark. It is nothing but that. It is a tax earmark for the movie industry. Let's put the history out there. The movie industry today can take advantage and write off all of its production costs and take an additional $15 million out of the taxpayers' pocket for every movie they produce in this country, of which 75 percent of the expenses are actually incurred in this country. What we have added is an earmark to markedly increase all movies produced in 2009, which is an additional $246 million.

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

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

If we are spending money to do that in what is called an economic recovery program, let's try to track that money. This amendment is very simple. It is the Jobs Accountability Act. What I propose is that when this money goes out the door to the recipients—State governments, local governments, and others—we ask them to file quarterly reports with the Congress to say three things: One, I received the money; two, here is how I spent the money; and, three, here is how many jobs I estimate we created with this money. It is the only place we will get this kind of information.

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

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

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

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

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

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

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

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

Mr. DORGAN. I will be happy to yield.

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 104 TO AMENDMENT NO. 98

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

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

The PRESIDING OFFICER. Is there objection?

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

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

The PRESIDING OFFICER. The majority leader.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The majority leader.

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

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

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

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

The legislative clerk read as follows:

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

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

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

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

AMENDMENT NO. 109

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

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

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

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

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

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

I regret that I can't support the so-called stimulus bill that has been presented. We have an opportunity to craft a bill that would provide real relief for the American people at a time of great economic uncertainty. Unfortunately, that opportunity has so far been rejected. Once again, parochial partisan and special interests have taken precedence over the interests of the American people.

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

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

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

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

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

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

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

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

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

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

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

WHY PERMANENT TAX CUTS ARE THE BEST STIMULUS

(By John B. Taylor)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This bill contains protectionist ''Buy America'' provisions that will prove harmful to both the American worker and the world economy. The Senate version of the stimulus bill goes beyond the stark protectionism of its House counterpart in a way that risks serious damage to our economy. The Senate bill requires that major projects funded in the bill favor American-made steel, iron, and manufacturing over goods produced abroad. These anti-trade measures may sound welcome to Americans who are hurting in this economy and faced with the specter of layoffs. The United States, after all, produces the world's finest products. Yet shortsighted protectionist measures risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the ''Buy American'' provisions in this bill will cost more jobs than it will generate. Some of our largest trading partners, including Canada and the European Union, have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

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

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

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

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

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

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

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

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

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

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 3, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

Finally, we need to recognize that this recovery and reinvestment plan is an extraordinary response to an extraordinary crisis. It should not be seen as an opportunity to abandon the fiscal discipline that we owe each and every taxpayer in spending their money—and that is critical to keeping the United States strong in a global, interdependent economy. Although it is not feasible to avoid any spillover whatsoever of the recovery package on out-year spending, the Administration believes that the package should minimize such effects on out-year spending as much as possible. Furthermore, the President is committed to paying for any extension of the temporary tax cuts included in the recovery plan that he would like to make permanent, and will detail the manner of doing so in his budget submission.

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

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

PETER R. ORSZAG,
Director.

The PRESIDING OFFICER. The Senator from Nevada.

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

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

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

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

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

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

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

The single biggest failure of the response to the Great Depression is that the private sector was not encouraged to grow this country out of its financial crisis. In fact, by injecting so much money into the Government programs, FDR created a competitor to the private sector. This was a match between David, the private sector, and Goliath, the Government monster. This time, unfortunately, Goliath won. We know that the policies of the New Deal actually prolonged the Nation's financial hardships. After all, the depression lasted 10 years. Do we want to be in this kind of an economic recession for 10 years?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. President, I yield the floor.

The PRESIDING OFFICER: The Senator from Montana.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

The PRESIDING OFFICER. The Senator is correct.

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

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

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

The PRESIDING OFFICER. The Senator from Kansas is recognized.

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

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

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

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

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

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

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

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

So I urge my colleagues to support this amendment.

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

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

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

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

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

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

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

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

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

Now, there are those who say: How much will this cost the Treasury? I just wish to bring to their attention that doing nothing will cost our Treasury: more expenditures on unemployment; the possibility that one of our manufacturers could go bankrupt and throw this into pension guarantee, which would be a disaster; and in our local communities, the heartbreak that would result from a shuttered dealership in a small town on the Eastern Shore or in western Maryland would really be devastating. It would hurt the consumer and hurt consumer confidence.

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

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

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

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

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

Mr. COCHRAN. I have no objection.

The PRESIDING OFFICER. The Senator from Montana is recognized.

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 109

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

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

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

Nowhere in this bill is there an elimination of one Government program—not one. There is no line by line. There is no attempt to do what we are asking Americans to do every day. Here is what we are asking them to do: We are in tough financial straits. Go through your budget, figure out what you cannot afford, and eliminate it.

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

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

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

The PRESIDING OFFICER. The Senator from Montana is recognized.

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

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

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

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

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

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

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

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

The PRESIDING OFFICER. Time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

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

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to Coburn amendment No. 109. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—52

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

NAYS—45

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

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 109) was agreed to.

AMENDMENT NO. 104

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

The Senator from Maryland.

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

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

The PRESIDING OFFICER. The Senator from Iowa.

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

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

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I move to waive the applicable sections of the Budget Act, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) was necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—-yeas 71, nays 26, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—71

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

NAYS—26

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

NOT VOTING—2

Gregg	Kennedy

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

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The amendment (No. 104) was agreed to.

The Senator from Arizona.

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

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

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

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

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

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

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

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

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

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

There are things that can help. Republicans have some better ideas about how to craft this legislation so it will actually achieve the objective we want. The bottom line is, rather than spending $1.3 trillion on this bill, we should be providing tax incentives that will create jobs. We should use the Tax Code to encourage beneficial behavior to encourage people to work and save and invest and create jobs. That leads me to the next subject.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

One of the reasons I believe the program will not work is because less than half of all the discretionary funding is spent by the year 2011. Now, I hope by the year 2011 this recession is over. But you cannot call it a stimulus when more than half of the discretionary spending does not even begin to be spent until the year 2011.

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

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

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

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

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

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

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

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

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

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment, as modified, is as follows:

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

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*, That the amount under the heading 'STATE FISCAL STABILIZATION FUND' under the heading 'DEPARTMENT OF EDUCATION' in title XIV shall be decreased by $6,500,000,000.''.

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

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

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

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

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

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

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

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

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

For example, between 1994 and the year 2004, the number of deaths from coronary heart disease declined by 18 percent and the stroke death rate fell by 24 percent. Were it not for groundbreaking research on the causes and treatment of heart disease, supported in large part by NIH, heart attacks would most probably account for an estimated 1.6 million deaths per year instead of the approximately 440,000 deaths experienced last year in 2008.

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

AMENDMENT NO. 178 TO AMENDMENT NO. 101

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

Mr. HARKIN. I will check on that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

I thank the Chair and yield the floor.

AMENDMENT NO. 178, AS MODIFIED

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

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

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

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

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

Mr. HARKIN. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 179 TO AMENDMENT NO. 98

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

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

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To eliminate unnecessary spending)

At the appropriate place, insert the following:

SEC. ____. ELIMINATE SPENDING AND PRIORITIZE INVESTMENTS.

(a) ELIMINATE SPENDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) UNDER GENERAL PROVISIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commerce headquarters: Construction for the Commerce headquarters is another $34 million.

Department of Homeland Security consolidation: We are going to consolidate and, in my mind, that means cut, save, and trim. But for some reason that consolidation is going to cost $248 million in this bill.

USDA modernization: Again, we are building Government, we are growing Government $300 million.

We are going to build a State Department training facility, $75 million, and more State Department capital investment, another half a billion dollars.

The DC sewer system: We are going to spend an extraordinary amount on that system—$125 million, again in the home of the Federal Government. Nowhere else are those dollars figured but in the home of the Federal Government. And on and on.

Again, we may be building. We seem to be building big Government and Government buildings in Washington, DC, not anything else.

There are all sorts of line items that, again, are Government Washington programs, traditional spending, not in any way focused on job creation, on real economic stimulus, on getting us out of this recession.

DOD hybrid vehicles, $100 million. NASA climate change research; neighborhood stabilization; the Historic Preservation Fund; comparative research; spending for the pandemic flu, $870 million; broadband and the smart grid, and on and on.

Again, we can debate another time another bill whether these are reasonable spending items, but it is obviously beyond debate whether it is job creation, economic stimulus, getting us out of the recession. It is not that in any focused, disciplined way. It is just using this $1 trillion opportunity to throw money at every cat-and-dog Government program to use the opportunity to plus up somebody's pet projects, to build what they have been waiting to build at the Commerce Department for 10 years and have not gotten the money. Oh, this is a trillion-dollar opportunity; let's do it now. This bill is a laundry list of those spending programs, of those big Government cats and dogs. No discipline, no focus, no demand that it be economic development, economic stimulus, job creation.

In addition, there is another provision that will cost a lot of money and not produce any additional economic stimulus, and that is the Davis-Bacon language. The Davis-Bacon requirements in this bill, mandates, would require Federal construction contractors to pay their workers a wage far above the market rate in most places, and that wage is basically the union wage which is above free market wages and rates in most parts of the country. That has been estimated to cost an additional $17 billion.

Mind you, that is not a cost out of the Federal Government contained in this bill, but it is a true cost and it should be added to the calculations of the cost of this bill. It is not included in the CBO score, but it is an actual cost, a true cost that should be added—$17 billion. It does not produce any additional project. It does not build another bridge. It does not build another highway. It does not employ anybody else. It drives up the cost of those construction projects and goes above the market rate in almost every labor market in the country. My amendment would also strike those provisions.

All told, Mr. President, my amendment would strike almost $35 billion of this miscellaneous, cats-and-dogs spending that covers a whole spectrum of traditional big government Washington programs. It would also take out that Davis-Bacon language and thus save us another $17 billion on top of the $35 billion, for a total savings of well over $50 billion.

Now, we are faced, as I said, with almost a $1 trillion bill. If we started spending $1 million a day on the day Jesus Christ was born, we would not yet be, at that spending rate today, in 2009, to the full cost of this bill. So $50 billion doesn't do the whole job, but it is a start. And I think the American people are watching and waiting to see if we are even willing to start, if we are really going to go to the core of this bill and change the core of this bill and say, no, we are going to maintain some discipline. We are not going to allow this to be another spending Christmas tree on which everybody gets to hang their ornament. This isn't just a laundry list of big government Washington spending programs. This is something much more disciplined, much more focused.

That is what the American people are waiting to see, if we are going to do that. They know the bill before us, just as the House-passed bill, has no discipline. It is a laundry list. They are waiting to see if we are going to get serious on the floor of the Senate and fundamentally change that laundry list of government spending, the idea of spending everything across the spectrum in this bill.

Obviously, Mr. President, I hope we take that important first step by adopting this Vitter amendment. Let's begin to enforce some discipline in this process. Let's begin to shave and cut those miscellaneous spending items, some of which are outright ridiculous, others of which may be good programs but aren't economic stimulus, aren't job creation, and aren't going to get us out of this recession in the next several months.

So with that, Mr. President, I urge all my colleagues, Republicans and Democrats, to join me in supporting this amendment and taking an important crucial first step—only a first step but a very important first step—to get back to what this bill was supposed to be about: real economic stimulus, real job creation, with real focus and discipline, not just a laundry list of spending items.

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

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 112 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I have an amendment at the desk, amendment No. 112, and I ask for its immediate consideration.

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

Hearing no objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER, proposes an amendment numbered 112 to amendment No. 98.

Mrs. BOXER. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow the deduction for dividends received from controlled foreign corporations for an additional year, and for other purposes)

On page 514, between lines 16 and 17, insert the following:

PART X—INVEST IN THE USA

SEC. 1291. ALLOWANCE OF DEDUCTION FOR DIVIDENDS RECEIVED FROM CONTROLLED FOREIGN CORPORATIONS FOR ADDITIONAL YEAR.

(a) IN GENERAL.—Section 965 (relating to temporary dividends received deduction) is amended by adding at the end the following new subsection:

''(g) ALLOWANCE FOR DEDUCTION FOR AN ADDITIONAL YEAR.—

''(1) IN GENERAL.—In the case of an election under this subsection, subsection (f)(1) shall be applied by substituting 'January 1, 2010,' for 'the date of the enactment of this section'.

''(2) SPECIAL RULES.—For purposes of paragraph (1)—

''(A) EXTRAORDINARY DIVIDENDS.—Subsection (b)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Subsection (b)(3)(B) shall be applied by substituting 'October 3, 2009' for 'October 3, 2004'.

''(C) APPLICABLE FINANCIAL STATEMENT.—Subsection (c)(1) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003' each place it occurs.

''(D) DETERMINATIONS RELATING TO BASE PERIOD.—Subsection (c)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(E) REQUIREMENTS FOR INVESTMENT IN UNITED STATES.—Subsection (b)(4) shall be applied—

''(i) by inserting 'deposited in 1 or more United States financial institutions and' after 'amount of the dividend', and

''(ii) by striking subparagraph (B) thereof and inserting the following:

'' '(B) provides for the reinvestment of such dividend in the United States (other than as payment for executive compensation) as a source of funding for only 1 or more of the following purposes:

'' '(i) worker hiring and training,

'' '(ii) research and development,

'' '(iii) capital improvements,

'' '(iv) acquisitions of business entities for the purpose of retaining or creating jobs in the United States, and

'' '(v) clean energy initiatives (such as clean energy research and development, energy efficiency, clean energy start ups, and clean energy jobs).

For any purpose described in clause (i), (ii), or (iii), funding shall qualify for purposes of this paragraph only if such funding supplements but does not supplant otherwise scheduled funding for either taxable year described in subsection (f) by the taxpayer for such purpose. Such scheduled funding shall be certified by the individual and entity approving the domestic reinvestment plan.'.

''(3) AUDIT.—Not later than 2 years after the date of the election under this subsection, the Internal Revenue Service shall conduct an audit of the taxpayer with respect to any reinvestment transaction arising from such election.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 2010.

Mrs. BOXER. Mr. President, I am pleased to offer this amendment on behalf of myself and Senator ENSIGN. We have a number of cosponsors, so this is truly a bipartisan amendment, and I think it is worthy of everyone's consideration.

It is pretty simple what this amendment would accomplish. It provides an incentive for companies to bring back foreign earnings into the United States, and those foreign earnings must be invested in our U.S. economic recovery.

Right now there is about $800 billion sitting offshore because companies do not want to bring it in because it would be taxed at a 35-percent rate. This means, first and foremost, if you think about it, that our banks do not have any of these funds at a time when they are desperate for capital. This means that at a time that we want to inject dollars into this economy, those dollars are sitting offshore.

Now, we tried this once before. You are going to hear Senator LEVIN and others attack us for that last attempt. So to preempt that attack—I will have more to say about it later—I wish to show you what actually occurred last time that we did this.

We saw in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, before we passed our repatriation, all of these dollars, almost more than $350 billion, sitting offshore, not doing the American economy any good. When we passed this, those funds came back.

Now, what you are going to hear from some of my colleagues is that some of the companies did not live up to the spirit of the amendment. The spirit of the amendment was to bring the money home and invest it here at home in job-producing activity.

It is true. That is why, in this amendment we are offering, we have tightened the strings of what the companies can do, and we have required an audit of each and every company that takes this particular tax break. We have said that you only can use these funds to create or retain jobs, to make capital improvements in your business, to buy other businesses that will otherwise fail, to invest in clean technology.

We do not allow these companies to use any of these funds for golden parachutes or high CEO pay. We do not allow these funds to be used for dividends. We do not allow these funds to be used to buy stocks. Now, I can tell you a lot of the companies would like to see fewer strings. But Senator ENSIGN and I have agreed, in order to pass this, we are going to put some tough strings on it. That is what we have done.

Now, I do not have to go through the litany of job losses we have seen in our great Nation. Last month, there were 500,000 jobs lost. Laura Tyson, former Chairman of the Council of Economic Advisers under President Clinton, says:

> In the current crisis, even credit-worthy and profitable companies face liquidity and credit constraints.

And she said, in essence, that the repatriation policies provide a short-run stimulus.

People, if you vote against this, know you are voting against a stimulus because those funds will be available to support the domestic operations of U.S. companies. If you do not want to listen to Laura Tyson, listen to Robert Shapiro, chairman of Sonecon, former Under Secretary of Commerce for Economic Affairs under Bill Clinton. See what he says:

> $421 billion in foreign-sourced income currently held abroad could be repatriated. We project that nearly $97 billion of the $421 billion would go to retaining or creating employment.

And he goes on to say:

> Additional funds used for employment could save or create an estimated 2.6 million jobs, including 2.1 million jobs in manufacturing.

That is a Democratic economist. Now, last time, everyone said: Oh, nothing is going to come back in. No taxes will be paid to the Government. That was wrong. As a result of this repatriation in 2004, $18 billion in revenue was received by the U.S. Treasury, six times what some experts predicted.

Now, 62 percent of the funds were spent on worker hiring and training, R&D, and capital investments. You are going to hear horror stories, and I say to my cosponsor from Nevada, you are going to hear a litany of horror stories.

Well, I am going to tell some of the good stories. Oracle, a California high-tech company, used the funds repatriated in 2004 to outbid foreign competitors to acquire two U.S. companies—one in California, the other in Minnesota, and to keep the companies and their intellectual property in the United States. Oracle has increased jobs at both firms.

Intel, another California company, used repatriated funds to help build new fabrication plants. Now, some of the things you are going to hear I do not like to hear. I do not like that some companies did not act in the spirit of the amendment. But the amendment was not tightly drawn.

Let me say, loudly and clearly, if any company or any individual in the United States of America does not live up to the law, they should be gone after by the IRS and have to pay their back taxes. That is what is going to happen to companies that disobey this law. That is clear in our amendment.

I tell you what we do, we guarantee that there will be an audit of these companies. Now, I would say to any of my colleagues who oppose it, show another case where we pass a tax break and we require every company that takes advantage of it to get audited. As a matter of fact, I think it is a fantastic precedent to set around here, so maybe Chairman LEVIN does not have to hold hearings if the IRS did its job and go after the bad apples.

We address the issue of fungibility. We require that foreign funds must be spent in addition to the current spending level, not to displace money. We require that. We assure transparency and accountability.

I am proud that Senators ENSIGN, BAYH, SPECTER and INHOFE and I have come together across party lines. I am proud. This is a good amendment. I would ask my friends, where we have an opportunity such as this in the current environment, to inject $300, $400, $500, $600, up to $800 billion into this economy.

Now, people are going to say it costs money. Joint Tax says it is a few billion dollars over the first couple of years. Let me say, only in the Government would there be a cost of something that actually increases revenue. Those revenues were not coming in. We have proven it. These revenues sat out there all these years until we passed the bill. Then they came home and they paid their taxes.

I believe it brought in 16 billion—between 16 and 18 billion came into the Federal Government. So this amendment means job creation, it means funding for the banks that need capital injection. I am tired of voting for public money to fund banks. I did it. It was tough. Taxpayer money. I wish to see some of this money that is sitting out there get injected into the banks.

You are going to hear horror stories, you are going to hear populist arguments. I would put my populism to the test. I do not stand here every day and endorse tax breaks. I am very cautious. But common sense says, you have hundreds of billions of dollars sitting offshore, we are not being paid taxes on the money.

They will pay taxes on the money when it comes in. We have heavy strings attached. We require an audit. We have transparency attached. We have support from the National Taxpayers Union, from the U.S. Chamber of Commerce, we have support from industry. They very much would like to bring this back but do not want to bring it back in a circumstance where they are so heavily taxed.

So we have a choice: We can walk away from this amendment and we can let $800 billion sit offshore or we can learn from our experience the last time, where we did take in $18 billion into the Treasury.

But no question, we could have had some tighter strings. Senator ENSIGN, I have to thank him, because I am sure he had some other ideas for some of the uses, and I prevailed upon him. I said: Let's allow for a few uses.

I see that the Senator from New Hampshire is here. I wanted to close right now in this argument by telling you the uses that would be allowed because I think those are very important.

Here is the chart, folks. I ask Senator SHAHEEN to take a look at this: These are the sole permitted uses of repatriated funds. I hope my colleagues who stand and bash this tell me why these are not good.

Why is it not good to hire workers and train them? Why is it not good to do more research and development? Why is it not good to do capital improvements which will put people to work? Why is it not good to acquire distressed businesses to avoid layoffs, shutdowns or bankruptcy? Why is not good to allow these funds to be used for clean energy initiatives?

Now, I ask that rhetorically. Maybe the answer comes back, we do not trust these companies. Well, let me tell you, we have added an audit. Every company that does this has to be audited by the IRS. It is automatic. So I am very pleased to present this admendment tonight. I am looking forward to hearing from Senator ENSIGN. I know we have a debate for which we will stick around, but at this point I will yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, I wish to congratulate and thank my colleague from California, Senator BOXER. A few years ago, we worked on an amendment together. Not a lot of people knew about it. The first time it was voted on in the Finance Committee, most of the Republicans in the Finance Committee voted against it. I remember talking to Senator Nickles at the time. He was leading the charge with the Republicans against the amendment, frankly, because a lot of people did not understand it.

It does not sound right that someone who invested overseas can bring the money back for less than what they pay in the United States. But the problem is that companies, if they have to pay a 35-percent tax on the money to bring it back, as Senator BOXER and I recognized it is common sense, they are not going to bring the money back.

The chart Senator BOXER had clearly showed that. Very small amounts each year of the profits that companies made overseas actually came back into the United States, until we passed what we called, at the time, the Invest in the USA Act.

The outside economists got it. They understood it. They projected—Allen Sinai, who was the economist at the time, did the studies. He predicted between $300 and $400 billion would come back to the United States and it would actually produce tax revenues, it would produce jobs.

Guess what happened, $360 billion came back to the United States. The Congressional Budget Office, Joint Tax, they said only about $135 billion would come back, and it would lose revenue to the Federal Government.

Well, a minimum of $16 to $20 billion was paid in taxes on the money that was repatriated, so it only increases revenues to the Federal Government. It did not hurt the deficit; it actually helped the deficit. The economists have studied the indirect and the direct revenue effects of the jobs that were saved and the jobs that were created. The estimates are closer to $34 billion of additional revenue, tax revenue to the Federal Government from the last repatriation.

So the Invest in the USA Act, which Senator BOXER and I worked on in a bipartisan fashion, passed 75 to 25 in the Senate. It turned out to be a great success. So we are trying to put a new version of this on this bill. To our amazement, the outside economists again are predicting that $565 billion this time is going to come back to the United States.

There is about $800 billion sitting overseas. The companies are not bringing it back. It creates jobs overseas. That helps the banks that are overseas with their capital. They are not bringing it back because they have to pay up to a 35-percent corporate tax rate.

We want to bring foreign earnings back one time. If they bring the money back in the next 12 months, we charge them a 5.25-percent tax. Well, is not 5.25 percent on $565 billion better than 35 percent of zero?

This is common sense. That is going to help the deficit. We have to get real about this and put some commonsense thinking into this.

I commend to my colleagues two studies: One is by Allen Sinai and the other by Robert Shapiro and Aparna Mathur. By the way, Robert Shapiro, former Clinton adviser, liberal economist; Allen Sinai, by any stretch of the imagination, at best a moderate economist. These are not rightwing radical economists. These are not neoclassical economists who are talking about this.

I ask unanimous consent to have their conclusions printed in the RECORD.

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

USING WHAT WE HAVE TO STIMULATE THE ECONOMY: THE BENEFITS OF TEMPORARY TAX RELIEF FOR U.S. CORPORATIONS TO REPATRIATE PROFITS EARNED BY FOREIGN SUBSIDIARIES

(By Robert J. Shapiro and Aparna Mathur, Jan. 2009)

CONCLUSION

In this analysis, we have evaluated the economic effects of the 2004 American Jobs Creation Act, which provided one-year of favorable tax treatment for repatriated profits from foreign subsidiaries of U.S. corporations. Using newly-released data from the Internal Revenue Service on repatriated earnings by industry under this program, we examined the range of stimulus-related effects, including significant positive effects on employment, domestic capital spending and wages associated with the use of repatriated profits for purposes assigned under the legislation, as well as significant revenue gains for the federal government.

This report extends this analysis to estimate the effects of a comparable one-year policy in 2009. We conclude that a one-year policy of taxing repatriated foreign-source profits at a 5.25 percent rate, as in 2004–2005, would have substantial stimulative effects on the current recession and expand capital flows in the currently-constrained financial system. We estimate that such a policy would result in the repatriation of nearly $421 billion in foreign-source income held abroad, including nearly $340 billion repatriated by U.S. manufacturers. Under the permitted purposes of the 2004 Act, this policy in 2009 would result in an additional $97 billion for job creation or retention, $101 billion for new capital spending, and $52 billion to pay down domestic debt. The additional funds used for employment could create or save an estimated 2.6 million jobs, and the additional funds used for capital investments could lead to long-term average wage increases of nearly 1.3 percent. The policy could produce more than $22 billion in direct corporate tax revenues and another $22 billion in individual income tax revenues on wage income stimulated by the job creation and job retention and by the wage increases associated with the additional capital spending. We further estimate that the policy could produce or free up $52 billion used to reduce the domestic debt of companies repatriating foreign-source income, providing an infusion of new capital into the financial system equivalent to 21 percent of the $250 billion provided in 2008 for bank equity infusions under the current TARP program.

This analysis shows that a temporary policy of sharply reducing the tax on profits held abroad by foreign subsidiaries of U.S. companies can play a meaningful role in stabilizing and restoring U.S. employment, capital spending and wages in the current deep recession, and provide additional liquidity to the U.S. financial system.

MACROECONOMIC EFFECTS OF REDUCING THE EFFECTIVE TAX RATE ON REPATRIATED FOREIGN SUBSIDIARY EARNINGS IN A CREDIT- AND LIQUIDITY-CONSTRAINED ENVIRONMENT

(By Allen Sinai)

CONCLUDING PERSPECTIVES

All-in-all, repatriation of foreign subsidiaries' funds via a program similar to the American Jobs Creation Act (AJCA) of 2004 that allows an 85% dividends-received-deduction and provides a lift to the U.S. business sector and significantly improves the financial position of nonfinancial corporations. The program works through providing an exogenous lift in business cash flow and then through the uses of the new cash flows by increasing corporate condition through the uses of new cash flows for capital spending, R&D, jobs, and strengthening of corporate balance sheets. The overall economy gains in growth, jobs, and the lower unemployment rate as a result.

Increased liquidity, less need for credit, and much greater cash flow to nonfinancial corporations stimulate business capital spending and capital formation, R&D, and hiring to raise the growth and levels of real economic activity. This comes at the cost of only a slight increase for inflation. The federal government budget deficit actually improves, benefiting from the taxation of funds that would otherwise be untaxed and left abroad and from increased tax receipts because of a stronger economy.

Depending upon assumptions made with regard to repatriated funds later in the period, there may be no cost to the federal government, with net, ex-post new higher tax receipts and a lower budget deficit than otherwise from the stronger economy.

Essentially repeating the AJCA in the current context of a credit- and liquidity-constrained environment appears to be a "win-win" event for all, the exception being those countries from which U.S. funds are repatriated. The other cost, which is arguable, is the possibility of an incentive to keep earnings abroad, awaiting another one-time tax break for repatriation.

This cost would appear to be minimal compared with the benefit of repatriation to the economy, businesses and in the credit- and liquidity-constrained situation that currently exists.

Mr. ENSIGN. What their studies are showing today, as they showed before we acted in 2004, is that money is going to come back. The Treasury actually will be helped. Jobs will be created in the United States. And a side benefit is $565 billion comes into the banks in the United States to help capitalize the banks. What are we all talking about here? That our banks don't have enough capital. This, without a cost to the taxpayer, brings capital back.

But in the wisdom of Joint Tax, they actually say that this bill is going to cost money, that it is going to decrease revenues to the Federal Government, where all the evidence by outside economists as well as all the evidence by history shows otherwise. Look at this. Every year money being repatriated to the United States, pretty consistent down here, below $50 billion was brought back in each year. Guess what. We passed the Invest in USA Act in 2004. Repatriation shot up to $360 billion. Look what happened the next year. It went right back down, and it has been down since.

Mrs. BOXER. Will my colleague yield?

Mr. ENSIGN. I will.

Mrs. BOXER. I have been advised by my staff that Joint Tax today told us that in the first 2 years we will get revenues of $5 billion. Then they go off and speculate as to what is going to happen in 2017. So we can tell our friends here, in the first 2 years, Joint Tax tells us we are going to gain $5 billion. Obviously, they are off on that. We got $16 billion the last time. But even they are saying in the early years we gain revenue. I wanted to make sure my friend knew that.

Mr. ENSIGN. I was aware of the new numbers coming out of Joint Tax. But the outside economists say this will probably mean $45 billion in direct revenues, not including revenues produced when you actually have people in jobs and people paying taxes who are earning the money in those jobs. We have some great examples of what businesses did with that.

But let me quote Dr. Tyson, who was the chairman of President Clinton's Council of Economic Advisers. She recently wrote a report that said $565 billion would be repatriated. The money would be brought back to the United States. She believes it could raise $28 billion in investment in renewable energy projects alone, health care initiatives, and broadband deployment.

We have bipartisan economists saying this is going to work. The only people who don't seem to think this is going to work are the people somehow inside the walls here in Washington, DC who don't seem to get that if you have to pay a 35-percent tax, it is better to keep the money overseas.

One of the great American companies is Microsoft. Do you know that Microsoft has no exports from the United States. They have a lot of them from Ireland. Guess why. Ireland has a 12.5-percent corporate tax rate. If they pay that and they want to bring the profit back to the United States, they have to pay a lot of money, up to a 35-percent tax rate. So guess what they do. They keep the money in Ireland. They produce products in Ireland, and they export those products from Ireland instead of bringing the money back to the United States and creating jobs where they can have exports from the United States. From a commonsense perspective, it makes no sense to me to oppose this piece of legislation that will help capitalize our banks. It will help improve the capital structure of our businesses, because the money, as Senator BOXER so eloquently discussed, can only be used to hire and train workers. It can only be used for research and development, for capital improvements, for acquisition of businesses that may be distressed. That is certainly what Oracle did. Oracle bought two companies. They outbid a German company that was going to take 2,000 jobs outside the United States. Oracle buys them, keeps them in the United States, and then over the next few years increases employment at both places. Dell built a plant where they hired 1,800 workers. Those are good things to do with the money and more companies will do exactly this.

We look forward to the debate. I think it makes common sense. I thank my colleague from California, Senator BOXER, who has done great work this time as she did last time. I appreciate working with her.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this may sound like a good idea, but it isn't. There are a lot of reasons. First, it is a question of fairness, fairness to American companies that do their business in America compared with American companies that do their business in America and maybe significantly overseas. If you are an American company and you are doing business in America, let's say you are doing pretty well. You pay the standard 35-percent corporate rate; that is, if you are an American company. If you are an American company but you have significant overseas operations, subsidiaries and businesses in the Cayman Islands and other offshore entities, under this bill you don't pay that 35-percent rate that the American company pays that is doing business. You pay a much lower rate under this bill and basically pay 5 percent. I think that is about it.

So on the first level, this is totally unfair. Here we are, an American company doing business in America. We have to pay the full 35-percent corporate tax rate compared with companies that have significant revenues overseas. They bring it back to the United States, and they only pay 5 percent. These are companies that are taking advantage of the current tax laws by bringing it home, especially bringing back home repatriated income.

Under our tax laws, income by an American company earned overseas, active income, is not taxed unless it is brought home to the United States. But when it is brought home, then it is taxed at the basic 35-percent rate. There are some who claim that that revenue overseas is trapped. It is trapped overseas. Because they are bringing it back home, where they have to pay our rate. That is a totally unfair mischaracterization. It is not trapped. It would be trapped if they had to pay a penalty to bring it back, say a 70-percent rate. They bring it back at the ordinary rate, the rate the other companies have to pay. So it is not trapped. It is just that companies want to take advantage of this argument that they have to do it to create jobs.

Data shows that the last time we enacted something such as this, there were virtually no new jobs created in the United States. Why is that? Because companies use this money for other purposes. If there were provisions in the law that they had to use to it create jobs—money is fungible. So they say: OK, we will use some of this to make our payroll. Then we will use the money to pay dividends, go pay stockholders, go do something else. It is so easy to get around the nominal putative provisions in this amendment.

I must say also this is expensive. This costs $30 billion over 10 years for no good reason. Sure, if I am an American company with significant overseas operations and I parked a lot of my, say, patent development over in the Cayman Islands—and that is what they do, many of them, they develop a patent in the United States and park it over in the Cayman Islands, enjoy a very low tax rate, and then send the revenue generated by that patent back to the United States, that is what they want to do under this amendment—sure, I would like to do that, if I were an American company. I don't want to pay taxes, compared with the garden variety American company that does have to pay taxes.

There are a lot of reasons why this is a bad idea. It will not create new jobs. In fact, there is no job creation according to a study, which I can put in the RECORD, done on the last repatriation provision. We also know from the IRS that most of the dividends in 2004 came from tax havens such as Bermuda and the Cayman Islands and other low tax jurisdictions such as Ireland and Switzerland. These companies took advantage. It is not illegal, but they took advantage of the law by parking their operations over in those countries.

I do not think we should be rewarding bad conduct by enacting this amendment. This is an enabling kind of amendment. It encourages and enables future conduct. Where companies would say they developed a U.S. patent, they would sell the patent, put the cash in an overseas subsidiary in the Cayman Islands, and that sub then buys the patent and the money is then repatriated back. It is very much at the expense of good, solid American companies doing business in America.

This amendment will not encourage business to reinvest in America. The last evidence shows it did not happen. Money is fungible. A lot of it went to stocks and dividend payments.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Before the distinguished chairman of the committee might leave the floor, he said some things that are not true, so I wish to point out to him that I am holding in my hand a report done by Robert J. Shapiro and Aparna Mathur. Robert Shapiro was a former Under Secretary of Commerce for Economic Affairs under Bill Clinton. He says that almost 2 million jobs were created the last time we brought the money home.

Let's take a look at that chart again, because I think it is worth looking at. He shows where they were created. Job creation or retention: 1.6 million manufacturing. They either retained it or created it. He goes through how many of them were food industry, paper, chemical.

I can tell you about Oracle, which was stated by my distinguished cosponsor, that Oracle went in and bought companies that were going downhill and were going to be bought up by a foreign company and saved those jobs. I can tell you, because we have the list of things that were done. We will take a look at Cisco.

And then my friend, the chairman of the committee, talks about these companies as if they are some terrible people. Cisco Systems, we should be proud of Cisco Systems. Intel, we should be proud of these companies. Cisco brought back $1.2 billion in 2004. They were right here. And it was used to create 1,200 R&D engineering jobs in the United States. Cisco says they have added 8,500 jobs in the United States, excluding employees added through acquisitions.

So my friends who are opposing this are going to stand up and throw out the horror stories and numbers. We have the studies. It doesn't take a degree—although I have one—in economics to understand that if money is sitting offshore and it isn't coming in in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, and then in 2005, it jumps up and comes in, gives $18 billion to the Treasury, and according to Robert Shapiro and Laura Tyson, we see millions of jobs saved, then you can stand up and demagog this thing to death. I could do it. They are going to demagog this to death. But I have the facts.

I also want to say that there were abuses the last time. The spirit of the law was not followed. The law was weak. That is why this is a very strong amendment. We tie down what they can spend. They have to have maintenance of effort. And any company that does this must be audited. It is in there. You show me another amendment that gives a tax break that does that kind of due diligence.

My friend can stand up there and say it didn't work the last time and it won't work this time. We have evidence to the contrary. We know what happened. Even Joint Tax says in the first 2 years we are going to make $5 billion. The whole notion that these companies are going to bring the money in out of the goodness of their hearts, I wish they would. Believe me, I wish they would. So you will hear more of this attack, and I hope you will put it into perspective, because the facts are otherwise.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Montana.

Mr. BAUCUS. Mr. President, I will speak briefly. I know others want to speak. I asked the Congressional Research Service to investigate this question, and I have a memorandum from them dated January of this year. It is from Jane Gravelle, senior specialist in economic policy. Jane Gravelle is a very respected analyst at the Congressional Research Service. This is an independent study. She has no ax to grind except to just get the facts.

Let me briefly indicate some of the findings they have. I will read here:

> The following is a list of firms with repatriations and job reductions—

Not job additions, ''job reductions''—

> along with the news source, in order of the size of the repatriations. The total in repatriations for these twelve firms is $140 billion, or one third of the total repatriations of $312 billion reported by the Internal Revenue Service.

First:

> Pfizer repatriated [in that period] $37 billion. According to a New York Times Editorial . . . [and lots of other sources] Pfizer planned to lay off—

''Lay off,'' not add, ''lay off''—

> 10,000 employees.

I might say, according to Michelle Lederer, of Slate Magazine, in an article entitled ''The $104 Billion Refund,'' dated April 13, 2008, Pfizer had a 106,000 job loss in 2005.

> Merck repatriated $15.9 billion and announced layoffs of 7,000 workers. . . .

Not additions—layoffs.

> Hewlett-Packard repatriated $14.5 billion with a layoff of 14,500 jobs.
>
> Procter and Gamble repatriated $10.7 billion . . . and cut jobs by an unspecified amount. . . .

We do not know what that number is.

> IBM repatriated $9.5 billion; it added only 400 jobs worldwide out of 345,000 [jobs] but eliminated 5 million square feet located in the United States. . . .
>
> Pepsi Co. repatriated $7.5 billion and laid off 200 to 250 Frito Lay workers. . . .

The list goes on in descending order. The other amounts are not as great.

So there is ample documentation that companies that have repatriated did not add; they laid off. Why? It makes sense because the money that comes back is fungible. They can use it for any purpose—any purpose—they want. It is not going to create jobs. They would like to have it come back and say it creates jobs, but it does not.

Now, my good friend from California said: Well, Joint Tax scores this positively in the first 2 years. That is right. But over 10 years, it is negative $30 billion, and a positive score does not mean jobs. A positive score just means there is more money for Uncle Sam because they are paying a lower tax rate. But that begs the question: What are they going to do with those dollars? I submit, based upon the evidence we have from the Congressional Research Service, they do not use it for new jobs. Past experience indicates, if anything, it is that these companies, in fact, took this money and cut jobs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, there is not fungibility this time. Senator BOXER and I worked very closely to make sure there were very tight uses of the money, and there is going to be IRS audits afterward to make sure they use the money exactly how the bill specifies.

The other thing is the distinguished chairman of the Finance Committee was trying to point out the companies repatriated money and then laid off workers, and he was trying to point out that was somehow a causative effect. It had nothing to do with it. Ford repatriated $1 billion almost and laid off 30,000 to 40,000 employees. OK. Ford had a lot of other problems. These companies had a lot of other problems.

Hewlett-Packard had huge problems going on, and the repatriation made it a lot better, so they ended up in a short period of time laying off some people, but in the long run they ended up increasing American employment over the next several years because they were in a better financial position. That is the way our companies are today. You could take a lot of other companies during that same period of time that did not repatriate a dollar and laid off people. So what did repatriation have to do with anything?

Now, the chairman of the Finance Committee brought up that it is a question of fairness, that U.S. companies doing business overseas would only have to pay at a 5.25-percent tax rate on the money they made overseas, while companies in the United States pay a 35-percent corporate tax rate. Well, I will join you right now in lowering the corporate tax rate in the United States. I will join you hand in hand to lower it. By the way, if you lower it, you do not have to do the repatriation amendment. As a matter of fact, they tell us that at somewhere between a 20-percent and 25-percent corporate tax rate, you do not have to do repatriation because then money can flow where money would be used most efficiently, and a lot of this money would come back on its own to the United States. The problem is, the way the tax structure is set up today, it encourages companies in the United States that have invested overseas to keep the money there because it is too prohibitive to bring the money back to the United States.

So I ask the rhetorical question, once again: Is 5.25 percent of $560 billion better than 35 percent of zero or 35 percent of a small number? That is really what we are dealing with here. So whether it is CRS, whether it is Joint Tax, they just do not seem to get it. The outside economists get it. They understand it. That is why their studies show 2 million jobs will be created this time, maybe more than that. Actually, Shapiro actually says it will be about 2.6 million jobs created or saved with this amendment. So I think the facts are clearly on our side on this issue. Whether it is a fairness issue or whatever, the bottom line is we want to help the United States of America.

The last point I will make is, if you did nothing with this money—absolutely zero—if we required nothing except for the money to come back to the United States and come in to our banks, wouldn't that be a good thing right now? Common sense: Our banks need capital. We need liquidity in the United States. Let's try to follow this simple formula: In order to have employees, you must first have employers. OK. Are you with me so far? In order to have employers, you have to have capital.

Mr. President, $560 billion in capital leads to a lot of employees. That is capitalism, folks. You need capital to have employees. It is a simple formula. Let's get this right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I have been listening to this debate and I am kind of, let's say, astounded by the arguments of the proponents that somehow or other you can cite the Joint Tax Committee for how much money will come into the Treasury for the next 2 years and then trash the Joint Tax Committee for everything else they say. They are not outside economists, we are told; they are inside economists. Yet the facts that the Joint Tax Committee give us for the years 2009 and 2010 are cited as supporting the proponents' argument because it shows that money comes into the Treasury during those 2 years, but in order to sustain their position, they have to ignore all the rest of the Joint Tax's position, which is that this costs almost $30 billion in 10 years.

Is it just that the outside economists take over the Joint Tax for the last 8 years? This argument about outside economists, inside economists—there are economists who differ on things. We rely on Joint Tax. These are independent, objective economists whom we have to rely on, and do rely on, not just for some of the things they say, as some of the proponents want to have it, but for what they tell us about this amendment.

This amendment will cost us over the first 5 years, $3 billion—that is Joint Tax—over the 10 years, $28.6 billion. That is a major loss to the Treasury, and we cannot afford it. This is a tax gift to those companies that move operations overseas, and then produce overseas, and then have no tax on their profits because those taxes are deferred until they bring those profits home. Our tax structure says when you bring them home, you should pay the same tax as your competitors pay in the United States. The companies in the United States that do not move operations overseas, they pay up to a 35-percent tax.

By the way, the Senator from Nevada has an argument. The basic problem is the size of the tax that we impose on corporations. That is the fundamental issue. But what the proponents are doing is creating a competitive advantage for those companies that move operations overseas because they do not pay the 35-percent tax if they do not bring back those profits.

Then, we were told 5 years ago: Let's just, one time—we were assured just once—let them bring back this money and only hit them for 5 percent. We were assured it would be a one-time-only deal. It would not be repeated, to use the words of the conference report. Lo and behold, now the proponents—the same proponents—want to repeat this. And what has happened—and this is not just me saying this; this is the CRS saying this—is the companies wait for this opportunity believing that once again we are going to allow this kind of repatriation at a much lower rate. They hold money overseas, awaiting the time when they can bring it back at a 5-percent rate instead of paying the same tax rate their domestic competitors pay, which is up to 35 percent. So this ends up—with this kind of repatriation, when we repeat it this way—being an incentive to keep the profits overseas, waiting for the time when they can be repatriated at the lower rate.

Now, I want to quote some other inside economists since the distinction seems to be important to the proponents, and they are in the CRS. What does the CRS say about the 2004 repatriation package that was passed? The chairman of the Finance Committee has quoted the CRS for some of the data, and I am not going to repeat that. It is pretty powerful as to the lack of impact in terms of jobs and in terms of investments from that repatriation. They are inside economists, yes, but objective economists, independent economists not paid by anybody else to make a study. You can get economists, I am sure, who are going to reach different conclusions on this issue. But these objective, independent economists, whom we rely upon—frankly, I rely on much more than outside economists who have all kinds of connections to all kinds of organizations, and no one knows exactly on whose payroll they are when they make studies—the Congressional Research Service, with independent, objective economists, what does it say about that 2004 bill?

They say: Imperial evidence is unable to show a corresponding increase in domestic investment or employment, that the repatriations did not increase domestic investment or employment. That is what they say. You cannot show any empirical evidence. Or put it this way—this is their conclusion, not mine—their conclusion: That empirical evidence does not show an increase in domestic investment or employment from what we did last time. Little evidence, they say, exists that new investment was spurred.

Some outside economists, Foley, Forbes, wrote the following: Repatriations—they are talking about in 2004—did not lead to an increase in investment, employment, or R&D, even for the firms that lobbied for the tax holiday stating those intentions. Instead, a one-dollar increase in repatriations was associated with an increase of approximately one dollar in payouts to shareholders.

Those are outside economists, for what that distinction is worth. When companies move jobs offshore and they make profits overseas, they have a competitive advantage frequently because labor might be cheaper, and that is something we should not encourage, that movement of jobs. Our Tax Code should not give an incentive to the movement of jobs overseas. It does right now because you defer the profit you make overseas and don't pay tax on it. That is already an incentive in the Tax Code which, frankly, I don't like, and there may be, hopefully, some effort to correct that with this administration and in this body. But at least when they bring back the profits, they ought to pay the same tax their competitors pay.

The argument is made that they are not going to bring back the profits, that we lose money to the Treasury. They, the proponents, cite a study—and I believe they are relying on a calculation from the Grant Thornton firm, although I am not sure; that name has not been used here. But I think this is the assessment that is being relied upon. Here is what Joint Tax said about that calculation:

It ignored the fact that a significant part of the $18 billion in revenues that it attributed to that 2004 Act would have been collected by Treasury in any event as dividends were paid in the ordinary course of business over the 10-year budget window. Thus, the calculation—

And this is Joint Tax speaking—

is not a revenue estimate at all.

When the Joint Committee on Taxation issued its revenue estimate in 2004 on the impacts of the 2004 repatriation—a projection of how much additional tax revenue would be generated or lost by that proposal—it projected $2.8 billion in additional revenue would be generated the first year, but the Joint Committee estimated that for the 5-year budget cycle, 2005 through 2009, the repatriation proposal would cost the Treasury money—a loss of $2 billion, to be exact. The revenue estimate for the 10-year budget cycle of 2005 through 2014 was estimated by the

Joint Committee on Taxation to be a loss of $3.3 billion.

We have to rely on these independent experts. They may be in-house, they may be ours, we appoint them, but we have to rely on them. This distinction between inside and outside economists, it seems to me, if anything, should work to the advantage of the independent, objective, inside economists on whom we rely. These are nonpartisan experts we put in place to give us the very projections which we have in front of us tonight. Those projections are mighty clear. Those projections show, yes, year 1 and 2, there is going to be additional money coming into the Treasury, but then we start losing money big time, and we cannot afford to do that.

Finally, a lot has been said here about the fact that there are going to be audits of this—and, indeed, the amendment does provide for audits—to try to determine whether the money which comes back into the treasuries of these companies is spent for the purposes that are stated in the amendment. But what the amendment does not do is require that those funds be spent. There is no time limit saying that the funds must be spent in year 1 or year 2. What it does say is that if they are spent, an auditor is going to try to determine that they are spent for the enumerated purposes. But what it doesn't do is provide the requirement that those funds be spent in years 1 and 2, and that is the purpose of the stimulus package. The purpose of the stimulus package is to try to get money spent on job creation, and the amendment fails in that very fundamental way. It does not require the funds that are brought back to be spent for the identified purposes. It says if they are spent, it must be for those purposes, but it doesn't require that they be spent in year 1 or year 2 or year 3 or year 4 or whenever. When they are spent, they will be audited. That is an effort on the part of the proponents to avoid the problems discovered the last time we did this, but it doesn't address the fundamental purpose of a stimulus package.

So it costs us money—that is Joint Tax. The last time we did this, which was supposed to be the last time we would do this, according to CRS, it did not stimulate the creation of jobs, and it fails to pass the fundamental test that it is not required to be spent for the enumerated purposes.

I yield the floor.

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

Mr. DORGAN. Mr. President, there has been a generous amount of discussion and debate. In fact, I was sitting listening to it and curious that my friend from California described those who would speak in opposition as being engaged in demagoguery before she heard the opposition. So there is a clairvoyance here, I guess, before we have an opportunity to speak on these issues. I will not engage in demagoguery, but I will not disappoint her in my opposition to this piece of legislation.

Let me describe what this piece of legislation is. If you like the notion that we want to encourage companies to move their jobs from our country to other countries, then this is the legislation for you. This is an acceleration of what we have done for far too long and what some of us have tried to correct for a long time. There is an unbelievably pernicious provision in our tax laws that says: If you have two businesses right across the street from each other and one of them decides they are going to fire all of their workers and move to China, and they both make the same product and sell the same product in the United States, the only thing that is different once they have moved those jobs to China is the company that left our country and fired their workers ended up with a lower tax bill. What an unbelievable thing to have in the middle of our Tax Code. I intend to try to correct that with another amendment, by the way. But this repatriation tax holiday amendment is kind of a cheerleader amendment for that proposition: Well, we like that; in fact, let's encourage more of it.

Let me straighten out a couple of things with facts. Everybody is entitled to their own opinion but not their own facts.

First of all, the corporate tax paid in this country is not 35 percent. That is a statutory rate. The effective tax rate paid by corporations in America is around 17 percent, not 35 percent. So when we talk about it, let's talk about what is real. All right. So big corporations on average pay 17 percent. But what we have in this piece of legislation is to say those corporations that have, in many cases, moved their plants overseas and made profits overseas with the full understanding in our tax laws that they will at some point repatriate those profits and then pay the corporate tax rate on those profits in our country, this amendment says no, that is not going to be the case. What we are going to try to do is say: If you bring them back, you get to pay a 5.25-percent tax rate—not a tax rate that ordinary folks pay, a tax rate that is almost one-half of the tax rate the lowest income folks pay. That is pretty unreasonable, in my judgment. Now, let me just say that in the ranks of bad ideas, the pantheon of bad ideas, this ranks way up there. It is tired, old, shopworn, and they try to slide it through here with a thick coat of legislative Vaseline, just sort of slip it all through here while we are debating how to promote economic recovery in this country.

Let me just turn to a few facts, if I might. This is the New York Times, Lynnley Browning talking about the one-time tax holiday—this isn't new; we have done this before—in 2004 that offered companies the chance to bring that money back at a reduced rate of 5.25 percent. Put another way, the tax break gave each company claiming it an average of $370 million in tax deductions.

So we are probably not at odds that the proposition is to give very big tax deductions to big companies. That is what this amendment is.

Now, the New York Times. The drugmakers were the biggest beneficiaries of the amnesty program—this is the 2004 program—repatriating about $100 billion in foreign profits and paying only minimal taxes. That is the purpose of this amendment. But the companies did not create many jobs in return. Instead, since 2005, the American drug industry has laid off tens of thousands of workers in this country.

I was part of that 2004 debate. I remember the claims that were made: Do this. Give a special deal to these companies. They will create jobs. Well, the biggest beneficiaries were the big drug companies. They didn't create jobs; they cut jobs in our country. A success or failure? It seems to me that is a failure, and now we have the same proposition back saying: Let's have another round of this.

Hewlett Packard: $14.5 billion in repatriated profits, 14,500 jobs cut. Colgate-Palmolive. Motorola. I could spend a lot of time, but I got rid of most of those charts, so just to show an example.

This is an editorial by the Chattanooga Times: It shouldn't escape Americans' attention—this is 2005—that U.S. companies have disclosed plans to repatriate some $206 billion in foreign profits—that is as a result of the 2004 legislation—under a one-time tax break allowed by Congress on the grounds—you guessed it—that such a big break would ignite a strong spurt in growth. The upshot, of course, is that no such job spurt appears to be materializing. Some have even announced plans to cut domestic operations and jobs.

Colgate-Palmolive repatriated $800 million in foreign profits and cut 4,450 jobs and shut a third of its plants over the next 4 years. Even the primary advocate—and I mention this because my colleague just mentioned Mr. Allen Sinai—even the primary advocate for the special one-time break, economist Allen Sinai, is now soft-pedaling his reduction of 660,000 new jobs over 5 years. He now says the efficacy of the tax break will be hard to prove.

Well, some other thoughts about this. Michael McIntyre, Wayne State University: There is no evidence that the tax amnesty added a single job to the U.S. economy.

Michael wrote a piece about this in December of 2008.

Again, Michael McIntyre: Most of the repatriated money was used to buy back corporate shares and for other expenditures favoring management. Not exactly something that fits very well in an economic recovery plan. One study found that repatriations did not lead to an increase in investment, employment, or R&D. Instead, a $1 increase in repatriations was associated with an increase of approximately $1 in payouts for shareholders.

So much for new jobs.

Professors Clemons and Kinney, Texas A&M research study: On average, firms appear to have responded to the opportunity to reap tax savings provided by the act but did not use the funds to increase domestic investment.

Finally, Robert Willens, tax and accounting authority, New York Times article: It was basically worked out to be one big giveaway. The law never took into account the fact that money is fungible.

That is the most important point. Money is fungible. You can say it will create jobs; it doesn't mean anything. It doesn't mean a whit.

So here we are in February of 2009, 5 years after the last time the proposal was made to give a very big tax break by saying to some corporations: You know what, we have tax rates that we want you to pay, but if you are big enough and if some of you move jobs overseas from our country, we will give you a 5.25-percent tax rate.

Now, this is the Bismarck, ND, phone directory. We are not a metropolis and we don't have the largest city in the country, but I could go through this phone directory and read some names. We have a lot of Olsens, by the way, and a lot of Schultzes because we are a lot of Scandinavians and Germans and so on. But I could go through all of these names and ask the question: Do you think Mr. Copeler would like to pay 5.25 percent income tax? I think so. I hope so. How about Mr. Clause? Would he be able to pay 5.25 percent? I am sure he would like it if we just cold-called him and said: What do you think about this? But no person I am aware of will be invited by this Senate to say: We would like to give you a 5.25-percent income tax rate—just the biggest companies in America, many of which move their jobs overseas, and we say: We will give you a big fat reward. We will claim that you are going to create jobs, but we know better because the studies are clear.

As for the studies that have been done about the cost of this, we don't have to debate that. This loses $29 billion in 10 years. There is no debate about that. We only have one entity that makes those estimates. This costs $29 billion in losses over 10 years.

But the major point—which I assume causes the gritting of teeth by those who believe it is demagoguery—is we have been fighting for years to say to American employers: For God's sake, stay here in this country. Don't go in search of 30-cent labor in Shenzhen; keep your jobs here. And many of them said: Tough luck. Take a hike. We are leaving. We are going to go produce Radio Flyer little red wagons in Shenzhen, China. Yes, it was produced in Chicago for decades, years, but tough luck, we are firing all of those folks and we are producing the little red wagon in China.

We are doing the same thing with Huffy Bicycles and with Etch A Sketch. I could talk about a hundred products that are all in China. We gave them all a tax break to leave. Isn't that something?

This now says to American companies that own the product that is now going to be produced in China: If you bring your money back here, we will cut your tax rate by 85 percent.

There is an old country saying, ''There is no education in the second kick of a mule.'' We don't have to relearn what we knew in 2004. Some of us made the case in 2004 that this was an unbelievably bad idea, that it rewards exactly the wrong thing. I am all for tax breaks. I would like to see on this bill a 15-percent investment tax credit that has an end date to it, which says if companies—small businesses and large businesses—make these investments now, before July 1 next year, they will get that. I would like to see a big investment tax credit and require investments in the early period. I am all for big tax breaks for consumers to buy cars and homes. I would like to see people start buying homes and cars again. I think that would help the recovery. I am not opposed to tax breaks. I want us to do things that provide incentives to keep jobs in this country, to create jobs, and we know—we don't have to guess—this amendment does exactly the opposite. I have heard numbers and studies discussed. This is not rocket science. We have the definitive analysis of what happened in 2004. We have an estimate of what this will cost now.

We lost jobs in 2004 and forward, and this will cost us $29 billion in lost income now. It will say to any other company, if you ever think about moving jobs overseas, understand there are enough people in Congress who in 2004 and 2009 will come up with another idea in 2014 and 2019 that will cut your tax rate to 5¼ percent some day and you will never have to pay your full measure of income tax on profits as an American corporation. This rewards all of the wrong things.

I don't accuse my opponents of demagoging. I think they are wrong and they are using bad facts. We disagree about that. I agree that there are very different opinions on this issue. One is wrong and one is right. Ours happens to be right. There is only one public interest here. The public interest is demonstrable here, not even a close question. I hope if we are talking tonight, on a day when 20,000 Americans lost their jobs—every day somebody comes home and says, ''Honey, I lost my job''—when we are trying to create jobs and restore jobs by creating an economic recovery package, we don't have people coming to the well of the Senate and saying count me in for providing a 85-percent tax cut to big companies that moved overseas, that we know will not create jobs and we know will further deepen the Federal budget deficit.

Mr. President, having given full measure and vent to my concern and interest, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I love this debate and I love my colleague from North Dakota. I am going to start off by saying I have a 9.2-percent unemployment rate in my State. People are struggling and suffering. That is why I support this amendment, which I was proud to work on with Senator ENSIGN, Senator BAYH, and Senator SPECTER.

First, my friend has it wrong. He has it absolutely wrong. We are bringing money home to America. We are not sending money out. It is already gone. Look what happened the last time we did this. The money came home. Now, you can argue theoretically in any way you want, but we have the proof. Here it is. We passed a law in 2004 and this money came home. I say to my friend from Michigan, eloquent on the point of defending the Joint Tax Committee—and I ask my friend from Nevada to back me up on this point. I say to my friend from Michigan, if I can get his attention, that we can worship at the altar of the Joint Tax Committee. I don't. I don't because they were wrong. They were wrong. It is not a theoretical argument. They were wrong.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. Yes.

Mr. ENSIGN. The opponents of this measure are saying the Joint Tax seems to be the experts we should trust. Is my friend from California aware, I wonder, that in 2004 when we were doing this debate, the Joint Tax Committee estimated this measure would decrease revenue by $3 billion? But is my friend from California aware this actually produced to the Federal Government a net of $16 billion in tax revenue? We were not hurting the Government revenue but helping it? I further ask, through the Chair, is my friend from California aware that the Joint Tax Committee, last year, scored this same measure at $18 billion? This year, they scored it $29 billion. Was last year's estimate right, or was this year's right? They were so wrong in 2004 when, by the way, the outside economists were right. The inside economists were wrong. Was my friend from California aware of those facts?

Mrs. BOXER. I was aware. The Senator is absolutely right. They said it would cost $3 billion from the Treasury and, in essence, $16 billion was added to the Treasury, and even now they are saying over the first 2 years there will be $5 billion added to the Treasury. My friends don't talk about that; they talk about the long range.

I also say to my friends who oppose us so vociferously, on the other side of this, you will find very respected economists who believe that the Boxer-Ensign-Bayh-Specter amendment makes sense. They are Alan Sinai—I don't know how my friend says he backtracked. He said this in December. Maybe he backtracked in the last 2 weeks. In December, he said that repatriation has spurred $280 billion in capital investments over a 5-year period, increased R&D development by $7 billion a year for 5 years, increased Federal revenue by $82 billion, and will create or save up to 425,000 jobs by 2012.

Mr. DORGAN. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DORGAN. The Senator asked me about backtracking. He made the same prediction in 2004 and then backtracked. I predict he will do the same thing.

Mrs. BOXER. Joint Tax ought to backtrack. They were flat wrong. They said maybe $200 billion will come back, and $360 billion came back. They said we would lose money. We wound up with $16 billion added to the Treasury. So it is very easy to demagog. It is very easy. But my friend has it wrong.

Then my friend says that effectively the corporate rate is only 17 percent. Well, if that is true, then this is less of a tax break than he is making it out to be. You cannot have it both ways and say, look at this giant tax break and then say the effective rate is 17 percent. I suggest to my friend, as he went through the phone book in his State, thank goodness, because of the work of this Congress, people in the $40,000 to $50,000 range don't pay any taxes.

I will tell you something. I am rarely standing up here and saying a tax cut to the business community is stimulative. But this one is, because it was stimulative. We have it right here from Robert Shapiro, who worked for Bill Clinton. He said that jobs saved or created were 1.6 million from the last tax break. So my friends come here and quote Joint Tax as if we have to say they are right, when they were wrong—just wrong—wrong on estimating what would come back, wrong on estimating what would come into the Treasury. If you read these economists, whom I have heard colleagues on this side quote constantly—Laura Tyson, Alan Sinai, and Robert Shapiro—they are saying how to stimulate the economy, and this is one way to do it. To stand up here and be against it is fine. I don't mind that one bit. But to stand up here and be against it because you were for the fact that there are corporations that have earnings offshore, I abhor that, too. I want to bring them home. No matter what my colleagues say, guess what. This is a free marketplace, and they don't have to and they won't unless they have an incentive. That is a fact. We may wish it to be another way.

Look at this chart. Year after year after year, very little came back. When we took action, all of this came back. The reports are in from these economists—and most happen to be Democrats—that it worked.

Mr. ENSIGN. Mr. President, I ask my friend from California this question. It was brought up earlier that the money is going to come back anyway. The Senator from California has a chart in front of her. I ask her if she could explain the chart and that the money wasn't coming back until we lowered the tax rate. And then it went right back up after we lowered the tax rate.

Mrs. BOXER. My friend is so right to ask that. Sometimes debates are difficult to follow. They are confusing and complicated. This is not complicated. We know the way the corporations were acting before, and we know what happened when we took this chance. We got arguments from people here that money won't come back and it will not be spent here. By the way, this is a tight bill. My friend from Michigan argues that we don't force the companies to spend the money. We don't force them to spend the money. I don't even think that is constitutional. But I have to tell you this: Even if the money sat in American banks, I say to my friend from Nevada, who is my pal on this one, wouldn't that be in and of itself a reason to do this? We are breaking the backs of taxpayers to take $770 billion, I think it is, through TARP to capitalize our banks. As my friend says, if they don't spend the money right away, they let it sit in these banks that need this capital and, hopefully, they will start lending, which we hope will happen so we can get back to an orderly market. It will make the banks healthier.

My view is that this year there is more of a reason to do it than ever before—the terrible recession. We have a tight bill that will only allow this tax break to be utilized if the money is used to create jobs, where they bring the money home. That is it. Otherwise, they cannot get the break. We have a forced audit in here, and I defy my friends to find another piece of legislation that has such an audit—a forced audit.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. I am happy to, yes.

Mr. ENSIGN. A big deal has been made of which economists we can trust. I ask my friend from California, when Joint Tax scored this last time, not only were they wrong on revenue estimates, but they estimated that about $100 billion or so would come back to the United States. The outside economists estimated between $300 billion and $400 billion would come back to the United States. According to CRS this time, according to the study the chairman of the Finance Committee quoted, $360 billion came back and $312 billion was used according to the measures we put in the bill. Was she aware that the Joint Tax Committee was that far off on their estimates, not only on revenues produced but on how much money could come back?

Mrs. BOXER. Mr. President, that is right. My understanding is they were way off by more than $100 billion. So for us to say: Oh, my God, don't vote for the Boxer-Ensign amendment because Joint Tax says A, B, and C, I say to my friend, Joint Tax has been so out to lunch on this. They didn't even come close to what happened.

We can have lots of arguments, but I can tell you this: Nobody gains in America when that money sits offshore. They did not gain in 1997, 1998, 1999, 2001, 2002, 2003, and 2004. We had Oracle buying companies that were failing. We had Cisco Systems expanding. Yes, we know there were job layoffs. Of course, we know that. If Pfizer has a problem—let's just say they have a drug on the market that is causing a problem, they are going to lay off people. They are going to have problems.

We do not allow funds to be used for dividends. We do not allow funds to be used for any kind of golden parachutes or CEO pay. We do not allow buybacks of stock. We tighten it up very much.

I hope we can get to the 60 votes. I am very confident we will get a majority. I hope we get to the 60 votes. It sends a good message. The message is we do not like money sitting offshore. We want to bring it home and help the banks. We want to bring it home and help the workers. We want to bring it home and invest it in America. That is why it is called repatriation. You can get up and you can make every argument in the book, but when you do, I think you have to explain to people why economists such as Laura Tyson, Allen Sinai, Robert Shapiro are very clear, why they say that Joint Tax was off, why they say that even the last bill that was not as strong as this actually created and saved jobs, and why they predict that if we do this, it will stimulate the economy.

I know my friends would like to have a time agreement. I have no problem with that whatsoever. If there is to be a time agreement, Senator ENSIGN and I are very happy to agree to it as long as we have full measure to respond to speakers.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time until 8:15 p.m. be for debate with respect to the Boxer-Ensign amendment No. 112, with the time equally divided and controlled by Senators BOXER and BAUCUS or their designees, and that no amendment be in order to the amendment prior to a vote in relation to the amendment; further, that the Vitter amendment No. 179 not be divisible.

Mr. LEVIN. Reserving the right to object, I believe a point of order lies against this amendment. Does that preclude——

Mr. BAUCUS. No.

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

Mr. BAUCUS. Mr. President, I might add, I ask unanimous consent that provided further, at 8:15 p.m., the Senate proceed to vote in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I don't understand what we are doing.

Mr. BAUCUS. We are going to vote at 8:15 p.m. and the time is equally divided.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I would agree to that, happily, if we can have 1 minute prior to the vote to restate.

Mr. BAUCUS. The Senator controls time so she can get that 1 minute. That is a gentleman's agreement, or gentlelady.

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

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, part of this discussion has been what message does this amendment send. I will tell you what message it would send to me if we adopt this amendment. It sends a message to all corporations that do business overseas that they are never going to have to pay the regular corporate tax in this country on any earnings overseas. They are going to have to pay those on earnings in this country. If they keep a plant here and keep hiring people here, they are going to have to pay the regular corporate tax rate. But if they move those operations overseas, then they will be assured, with pretty good certainty, that every 4 or 5 years, Congress is going to come along and give them a 5.25-percent tax rate that they can bring those profits back with. I think that is a terrible message for us to be sending to U.S. corporations.

Part of the discussion has also been that U.S. corporations have to pay too much in taxes. I know Senator DORGAN said the effective tax rate, in his view, was 17 percent. I asked research to be done, and I want to show this chart so people can know what it says. The source for this information is the Organization for Economic Cooperation and Development, OECD. What this shows is that the effective corporate tax rate in this country—this is on profits generated in this country—the effective corporate tax rate is 13.4 percent. The average OECD corporate tax rate is 16.1 percent. We are way down on the list compared to most other industrial countries we compete against as far as the level of corporate tax we impose.

This amendment would say that this 13.4 percent is too high. What we need to do is say if you are going to generate your profits overseas, we are going to give you a special deal. As an incentive to put more of your operations overseas, we are going to give you a 5.25-percent tax rate on the profits you generate over there. To me that is just contrary to exactly what we are trying to do with this underlying legislation. The purpose of this legislation should be to stimulate job creation in this country. This amendment, to my mind, has the opposite effect. It promotes and incentivizes companies to move their jobs overseas.

I strongly oppose the amendment. I hope my colleagues will vote against it. I am one of those who voted for it the first time we did it because I believed what was said at that time, which was it was a one-time tax holiday. I did not realize that every 4 or 5 years we were going to be faced with another proposal to do the same thing.

If we want to redo the corporate tax rate, that is a good debate. We ought to have that debate. We ought to have it in the Finance Committee. But we should not be in a de facto way providing for a 5.25-percent corporate tax rate for anyone who is willing to earn their profits overseas.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield to Senator ENSIGN for as much time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I wish to make a couple points. Once again, I wish to get back to some common sense. Is it better for the money to be overseas, or is it better for the money to be in the United States? If it is overseas, it creates jobs. If it is in the United States, it can create jobs in the United States. That is the bottom line.

On the chart my friend from California showed earlier, the money was not coming back to the United States in any significant amounts until we passed the 2004 ''Invest in the USA Act.'' And then the next year, $360 billion came back to the United States. After that, it went back down as far as the money coming back into the United States.

By common sense, we have to know that the money is not going to come back to the United States. By doing this, we are not encouraging companies to go overseas. Quite frankly—and I said to my friend, the chairman of the Finance Committee—if he wants to lower the corporate tax rate, I would join him right now. As a matter of fact, I may be offering an amendment to do that because I believe that our corporate tax rate, being the second highest in the industrialized world, is too high, and it encourages other companies to go overseas. But we cannot do that. We do not have enough bipartisan support to do that.

Here we have a bipartisan measure. Very few things happen on this bill in a bipartisan way. This is truly bipartisan. The four sponsors of this amendment—two Democrats, two Republicans—are working together. The last time this bill passed the Senate was a 75-to-25 bipartisan vote. That should show us right now a lot of people looked at this and said it was a good idea, and a lot of people are looking at this again. It is a good idea because it makes common sense to bring money back into the United States to create jobs in the United States.

I will just say, if Joint Tax was wrong a few years ago, they are probably wrong again. As a matter of fact, I cannot even believe the last year they scored a repatriation bill with a larger scope at around $15.9 billion. This year they are scoring a more narrowly tailored version at almost $29 billion. In one year, they are that far off, and they were totally wrong back in 2004.

The outside economists are saying this is going to save or create over 2 million jobs. Isn't that what we are about, trying to create and save jobs in this bill? This particular amendment, even if it did cost the money Joint Tax is saying, creates more jobs for the dollar than anything else in this entire stimulus package.

We ought to adopt this amendment. It is common sense, and we ought to put common sense to work when we are trying to save the U.S economy.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Finance Committee chairman. Let me suggest to colleagues why this is not common sense, and I think experience tells us it is not common sense on this bill at this time, where the purpose is to create jobs and to try to get the maximum return on our investment of the American taxpayers' dollar.

The fact is, I voted for this, too, back in 2004. This was the America Jobs Creation Act of 2004. At the time, it was argued that this was going to create jobs. I, personally, believe in macro tax policy. If we were reforming tax policy, it might make sense to suggest that repatriated profits ought to be taxed at a lower rate as part of a broader tax reform and that policy of deferral ought to be revisited but not as part of this legislation.

The reason for that is very simple. During the 1-year period during which U.S. multinational corporations were able to bring profits back at a lower rate, the result was simply not what was promised by the supporters. Yes, it did result in a substantial increase in the repatriation, but it did not increase domestic investment or employment, and that is the measure by which we ought to be making a judgment.

The 2004 provision resulted in $312 billion being repatriated. In fact, one-third of all offshore earnings was repatriated. Ten firms accounted for about 42 percent of that repatriation.

The fact is that many of the firms that benefited from this during that period of time laid off workers after they brought that money back. They passed on the benefits to their shareholders. Pfizer repatriated approximately $37 billion and cut 3,500 jobs in 2005. Another company that benefited cut 7,000 jobs.

So the bottom line is, common sense tells you, if you tried something once and it didn't work, don't repeat the same mistake.

Secondly, with respect to what the Senator from New Mexico said, don't repeat a mistake so soon after you have already made it so that the message to everybody is: Oh, you can go overseas, you can create any company you want and, eventually, Congress is going to fold and wind up giving you a much lower tax rate when you bring it home.

Moreover, the provisions in here that suggest there is some limitation on how the money is going to be spent do not get the job done. One of the limitations is that you put it into research and development. You have an existing research and development entity that doesn't create a job, certainly not in the near term. You also can do acquisitions of a business entity for the purpose of retaining and creating jobs. That could be just about anything. You can argue that is the purpose, but it doesn't necessarily have the impact and there is absolutely no enforcement mechanism and no way to measure it.

At a time when we are fighting over diminished resources and what we are going to do, it seems to me this provision is simply not going to guarantee us the kind of provision of jobs we need. Past history shows that very few companies actually benefit.

I think having this tax holiday again so soon without broader tax reform is not the way we ought to be approaching this issue.

By almost every measurement, I suggest to my colleagues that common sense says this is not the time, this is not the piece of legislation, and this is not the plan to put people to work.

I yield back whatever time I have to the chairman.

Mrs. BOXER. Mr. President, can you tell me how much time remains on each side?

The PRESIDING OFFICER. The Senator from California has 10 minutes 6 seconds. The Senator from Montana has 5 minutes 34 seconds.

Mrs. BOXER. Mr. President, if you could tell me when I use 5 minutes, please.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. BOXER. Mr. President, people stand and argue against this amendment, and they say things that are not factual. They have every right to say it. I protect and defend their right to say it, but they are not factual.

Now, Senator KERRY said there is no proof that any jobs were created. Well, Allen Sinai, Robert Schapiro, and Laura Tyson have all said jobs were created and jobs will be created. Senator KERRY said, in his forceful argument against this amendment, that companies simply didn't do anything, and now if they do R&D it will simply replace what R&D they were going to do. We don't allow this to happen. It has to be new spending, maintenance of effort must continue.

I want to call to my colleagues' attention to the report that was issued by Robert Schapiro, Under Secretary of Commerce under Bill Clinton, in which he points out that 1.6 million jobs were in fact created or retained, just in manufacturing; 102,000 jobs in wholesale and retail; in transportation he goes on and shows all the different jobs that were created for a total of 2.1 million jobs. Now, does that mean every company added jobs? No, some didn't, but it has nothing to do with this.

So the fact is, when my colleagues stand up and say, why are we doing this when it was such an utter failure, well, take your argument to Laura Tyson, take your argument to Allen Sinai, take your argument to Robert Schapiro and show them where they are wrong.

Then we are told Joint Tax has to be paid attention to. They were dead wrong the last time. I mean, they said maybe we would have $100 billion come in, maybe up to $200 billion. Well, $360 billion came in. They were way off on the revenues. The revenues they said would come in—it was $16 billion that came into Treasury. They said it would cost $3 billion. So they were wrong. So how can we stand here and try to defeat this measure?

Now, my friend from Massachusetts says this isn't the time or the place or the bill and so forth. This is a moment we can respond to this recession. We are going to do it in many other ways, and I will be supporting things and opposing things, but let me just read to you from Robert Schapiro's report—remember, a Bill Clinton Commerce Under Secretary.

> As President Obama and Congress expand the catalogue of measures to help stabilize the financial system and address the economic decline, a major untapped resource sits on the balance sheets of the foreign subsidiaries of U.S. multinational corporations. These subsidiaries hold up to $1 trillion in past earnings because current U.S. law defers U.S. corporate tax on those profits until they repatriate. If those earnings were transferred to the parent companies in the United States, they could find substantial new capital investment and employment and provide additional liquidity to the strapped U.S. financial system as companies reduce their domestic debt. In principal, the earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for designated purposes.

So my friends stand here and make an argument about how horrible it is that these companies have money abroad, and I agree. I am upset about it. I was upset in 1997 about it. I was upset in 1998 about it. I was upset in 1999, 2000, 2001, 2002, and 2003. Finally, in 2004, Senator ENSIGN and I got together and we said: Let's see if we can get that money home. So for my colleagues who are lamenting the fact that this money is abroad, we say: Join with us; bring it home.

If you are saying the effective rate is 17 percent, if we can bring it in at 5.25 percent, that is less of a loss to the Treasury.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I will take 1 more minute. Then I will retain.

So I love a debate, but I would like to debate on the facts. The facts are that this is what happened until we had the tax holiday. Now there is a new hue and cry: You did it in 2004; never do it again. Well, I think it is a good thing that Oracle bought up two or three companies that were going to go belly up and that were going to be bought out by a foreign competitor. I think that was good. I think it was good that Cisco Systems added so many jobs—more than 1,000 new jobs.

So when my friends stand and they lament the loss of jobs, I lament every job loss in this country. And I say to Cisco Systems: Good for you. You brought the money in and you did the right thing. Did every company do that? No. That is why we have tightened up this bill.

I thank the Chair, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I don't know what people are to think when they watch this or hear this debate—he said, she said, they said, we said. At the end, the question is, What is real? What are the facts? So let me see if I can uncomplicate this.

This isn't like trying to connect two plates of spaghetti. This is a place of public interest about what should we do to try to create jobs in this country. My colleagues say we are worried because there is so much foreign income overseas. That is not our worry. Our worry is that they have decided to take hundreds and hundreds of billions of overseas income that is required to pay an income tax when it comes back to this country and have said let's give those companies an 85-percent tax cut if they do what they had previously promised they were going to have to do anyway, and that is repatriate this income. That is what we are concerned about.

So let me see if I can put it in the frame of a company—Huffy bicycles. A lot of people worked at Huffy bicycles for a long time. They made $11 an hour making Huffy bicycles, sold in Wal-Mart, Sears, and Kmart, capturing 20 percent of the American bicycle market. But they all got fired. They all lost their job because that company moved to China in search of 30-cent labor in Shenzhen, China. The last day of work at the Huffy plant in Ohio, the workers, as they left their jobs and pulled out of their parking space, left a pair of empty shoes where their car used to park. Their jobs were gone, but it was the only way they could say to their employer, who moved their jobs to China: You can ship our jobs overseas, but, by God, you are not going to fill our shoes. That was the plaintiff cry of all the folks who lost their jobs who loved to make bicycles.

Guess what. Our Tax Code gives a tax break for shipping those jobs overseas. This amendment continues that very approach and says: By the way, if you ship your jobs overseas and then repatriate the income from what you have earned overseas, we will give you an 85-percent tax break.

I am telling you, it makes no sense. There is no evidence anywhere, no matter what charts you put up, that this created jobs in 2004. It did not. It cost jobs. Allen Sinai, noted economist, yes, he made the same claims then, and then backpedaled. He makes the same claims now. But let's talk a year or so from now, and he will backpedal again.

The fact is, this is a giant tax break to some of the largest companies that cut their tax bill by 85 percent without any evidence they will create jobs. In fact, exactly the opposite evidence exists because we have experienced it, and we lost jobs as a result. This also will cost the American taxpayers $29 billion in lost tax revenue at a time when we are up to our neck in debt.

So you know, let's think of what we are debating. We are debating an economic recovery program. We are going to promote recovery by dragging out a shop-worn, tired old argument that the way to do that is to give an 85-percent tax cut to companies that have earned income overseas, many of whom have fired their American workers and shipped the jobs overseas. I don't think that makes any sense at all.

In fact, if this happens—it happened 5 years ago—if it happens now and it happens 5 years from now, every company will understand, you can move jobs overseas and you will never ever have to pay the corporate tax rate when you bring foreign earnings back. You will always have somebody standing up to say we have a sweetheart deal for you.

Oh, it doesn't apply to the Joneses or the Olsens or the Larsons or the Christiansens, it just applies to the big companies that decided to park that income overseas. I say this: How about a 5.25-percent income tax rate for every American, rather than just a few of the biggest companies? How about all of us get a chance to get some of this 5.25 percent income tax rate? I don't think that is being proposed. Let me propose that.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mrs. BOXER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 3 minutes 59 seconds remaining.

Mrs. BOXER. We will call it 4, and I will take 2 and yield 2 to my friend, and we will close.

First of all, this isn't a shop-worn argument. This is an argument that is going to create jobs, if we win it. Who says it? Laura Tyson:

> Repatriation policy provides a short-run stimulus and would make funds available to support the domestic operations of U.S. companies quickly.

Robert Schapiro, Under Secretary of Commerce under Bill Clinton:

> The earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for certain purposes.

You know, here it is. If you want to get the break, these are the things you have to do. You have to hire workers. You have to use it for research and development, for capital improvements. You have to acquire distressed companies and clean energy investments.

Look, my friends. The world is the way the world is. I think Senator ENSIGN and I, Senator BAYH, and Senator SPECTER are realists. Yes, in many ways I would like to think I am an idealist. I don't like the fact that these companies are keeping their money abroad. But guess what. They are not going to bring the money back because BYRON DORGAN or BARBARA BOXER comes on the floor of the Senate and says: Please be good. Please be good. We need the capital in our banks. We need the capital to create jobs.

We need to make it profitable for them, and that is what we are doing. We did it before.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart that was done by Mr. Schapiro proving that 2.1 million jobs the last time were either created or saved.

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

TABLE 3: EMPLOYMENT EFFECTS OF REPATRIATED FUNDS UNDER THE 2004 ACT

	Average annual wage	Job creation or retention
Manufacturing	$34,241	1,694,372
Food Manufacturing	26,497	153,100
Paper Manufacturing	39,215	36,284
Chemical Manufacturing	42,626	648,585
Basic Chemical	53,873	20,507
Pharmaceutical & Medicine	46,383	489,820
Plastic & Rubber Products	30,683	5,969
Primary Metal	41,589	2,648
Fabricated Metal Product	32,698	33,832
Machinery	36,371	33,851
Computer & Electronic Equipment	36,290	364,339
Computer & Peripheral Equipment	43,713	179,944
Semiconductor & Electronic Component	33,987	91,830
Electrical Equipment, Appliance & Component	31,564	29,880
Transportation Equipment	47,453	49,647
Wholesale and Retail Trade	28,857	102,504
Wholesale trade, Durables	36,496	29,261
Wholesale trade, Nondurables	30,775	29,226
Retail Trade	19,299	51,328
Transportation & Warehousing	31,971	6,605
Information	40,417	75,130
Software Publishers	69,782	27,213
Finance, Insurance, Real Estate, Rental & Leasing	29,620	92,524
Insurance & Related Activities	39,309	16,021
Professional, Scientific & Technical Services	31,073	20,281
Management of Companies	42,785	37,758
Other Services and Industries	22,679	115,747
Total	$32,705	2,144,921

Mrs. BOXER. Mr. President, I yield the remainder of my time to my colleague, Senator ENSIGN.

Mr. ENSIGN. Mr. President, how much time is on the opposition side?

The PRESIDING OFFICER. The opposition has 1½ minutes remaining.

Mr. BAUCUS. I will take it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, there is a parade of repentant sinners here. The Senator from New Mexico said he voted for it last time; it is a bad idea, and he is going to vote against it this time. I think the Senator from Massachusetts said the same thing: He voted for it last time, he learned it is a bad idea, it didn't work, and he is voting against it this time. I confess, Mr. President, I am in that same situation. I voted for this last time, it is a bad idea, it didn't work, and I am very much opposed to it this time.

Both the Senators from North Dakota and New Mexico have stated the fact that this amendment is going to encourage companies to go overseas. That is true. But the effect is even more pernicious than that. This amendment encourages companies to go to low-tax jurisdiction countries, such as the Cayman Islands and the Bahamas. Why? Because, currently, an American company that has operations overseas, say the U.K., it pays the U.K.

tax. It does not pay the American tax until it is brought back, with the U.K. tax offsetting the American tax. That is standard law. Under this amendment, because the income coming back will be at a very low rate—5 percent—there is no incentive for these companies to go to a higher jurisdiction country because there is no need to offset. Rather, there is an incentive to go to the lower jurisdiction country—a low-tax jurisdiction country—because the tax rate is so low, such as the Cayman Islands or the Bahamas, and all that.

So not only does it encourage companies to go overseas, it encourages them to go to low income tax countries such as the Cayman Islands and the Bahamas. This is a bad amendment, and I urge its defeat.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, first of all, to set the record straight, Senators BINGAMAN and KERRY both voted no the last time.

Several other things. The Senator from North Dakota said he would like all Americans to pay a 5-percent income tax, such as in this bill. Well, that means that he would raise taxes on 40 million Americans who pay no income tax today. Let's get the facts clear. Last time, $360 billion came back into the country and created about 2 million jobs. This time, more money is going to come back. Almost double, about $565 billion the estimates are, is going to come back this time. We have to ask ourselves this commonsense question.

The opponents would argue the money came back last time and no jobs were created. From a commonsense perspective, if the companies did not do anything that they said they were going to do last time, if money is in the United States—you need capital to create jobs. Right now we have a banking system that does not have capital. Capital markets are shut down. Guess what? Jobs are not being created because there is no capital to invest to create jobs.

If $360 billion came back last time and $565 billion is going to come back this time, doesn't anybody with any kind of common sense know jobs are going to be created with that? We have to get real. Put your thinking caps on. I don't care what Joint Tax says. I don't care what the CRS says. Put your commonsense thinking cap on, and we are going to have a good piece of legislation if we adopt this amendment.

I encourage all of us to vote in a bipartisan fashion for this bipartisan amendment. I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Michigan wishes to enter something in the RECORD.

Mr. LEVIN. Mr. President, I commend to the attention of my colleagues the Congressional Research Service report R40178, ''Tax Cuts on Repatriation Earnings as Economic Stimulus: An Economic Analysis,'' that indicates what little evidence there was about new investments from the 2004 decision, which is available at www.crs.gov.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending amendment violates the pay-as-you-go section of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mrs. BOXER. Mr. President, I move to waive the relevant section and ask for the yeas and nays.

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

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

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

The yeas and nays resulted—yeas 42, nays 55, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—42

Akaka	Crapo	McCain
Alexander	DeMint	McConnell
Bayh	Ensign	Nelson (NE)
Bennett	Feinstein	Pryor
Bond	Graham	Reid
Boxer	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Shelby
Burr	Isakson	Specter
Chambliss	Johanns	Thune
Coburn	Kyl	Vitter
Cochran	Lieberman	Voinovich
Corker	Lugar	Warner
Cornyn	Martinez	Wicker

NAYS—55

Barrasso	Gillibrand	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Reed
Bingaman	Inouye	Rockefeller
Brown	Johnson	Sanders
Burris	Kaufman	Schumer
Byrd	Kerry	Sessions
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Enzi	Merkley	
Feingold	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the ayes are 42, the nays are 55. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

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

Mr. SPECTER. Mr. President, the status of the pending amendments offered by the Senator from Iowa and myself is a procedural snarl. I want to get the $6.5 billion appropriated for NIH. I am going to withdraw my amendment and join with Senator HARKIN on the amendment for $6.5 billion for NIH without an offset.

AMENDMENT NO. 101 WITHDRAWN

The PRESIDING OFFICER. Is the Senator seeking to withdraw his amendment at this time?

Mr. SPECTER. I am.

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

The Senator from Nevada.

Mr. ENSIGN. Mr. President, what is the regular order?

AMENDMENT NO. 178

The PRESIDING OFFICER. The question is on agreeing to amendment No. 178, offered by Senator HARKIN of Iowa.

Mr. ENSIGN. Is it subject to a point of order? I believe it is, and I make a budget point of order.

The PRESIDING OFFICER. The current version, as modified, does contain the element the Senator asked about.

Mr. ENSIGN. I raise a point of order on this amendment.

Mr. HARKIN. Mr. President, I move to waive the relevant parts of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ENSIGN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that the order for the yeas and nays be vitiated.

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

Mr. REID. I ask unanimous consent that the point of order be vitiated.

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

The question is on agreeing to amendment No. 178, as modified.

The amendment (No. 178), as modified, was agreed to.

Mr. SCHUMER. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, that was the last rollcall vote tonight. There will be a number of amendments offered tonight. In fact, it is my understanding that Senator FEINGOLD has an amendment he wants to offer regarding earmarks. The next Republican amendment will be an Isakson amendment regarding housing.

Tomorrow, we are going to be in session at 10:30 with no morning business. We will be in full operation. As some know, we have an appointment downtown. We will have the floor manned. There are a number of amendments already lined up to be offered tomorrow. We hope Senators will come aboard.

We have had a very good day. There have been some very good debates on various amendments. I hope tomorrow will be the same. We will work into tomorrow night. We are going to work Thursday, and, with a little bit of luck, we might be able to finish this bill this week.

I know there is a lot to do, but I hope people will understand where the votes are lined up. We have had a number of votes that have been not dominated by Republicans or Democrats, a lot of mixture. We hope that as the debate continues, people will only offer those amendments they think will really help the bill and will help us work toward finishing this legislation.

Remember, we have another big step. At this stage, unless something goes untoward, Senator MCCONNELL and I think this matter should move to conference. We have two choices that we have done before. The House can send us a message, but that has created problems in the past. We hope we do have a conference. At this stage, unless something goes awry, that is what the Republican leader and I hope to do. We would appoint conferees when the bill is passed. We have to complete this legislation, including the conference, before we leave here for the Presidents Day recess. The mere fact we have a conference doesn't mean it is finished like that. This will be a conference where Democrats and Republicans will work toward what needs to be done.

I hope everyone will come tomorrow invigorated to proceed on this legislation. This legislation is extremely important. People have differing views as to what should be in it and what should not. That is what is going on now, to try to make that determination. The only ones who can decide that are us, the Senate. I would hope everyone would look toward when they want to get out of here, having done a decent job in completing this most important legislation.

AMENDMENT NO. 106 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. I ask unanimous consent to set aside the pending amendment for the purposes of calling up amendment No. 106.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 106 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases)

Strike section 1006 of title I of Division B and insert the following:

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

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

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

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

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

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

''(b) LIMITATIONS.—

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

''(A) after December 31, 2008, and

''(B) before January 1, 2010.

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

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

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

''(3) ONE-TIME ONLY.—

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

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

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section, the term 'qualified principal residence' means a single-family residence that is purchased to be the principal residence of the purchaser.

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

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

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

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

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

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

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

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

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

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

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

''(2) EXCEPTIONS.—

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

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

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

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

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

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

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

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

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

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

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

''Sec. 25E. Credit for certain home purchases.''.

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

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

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

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

AMENDMENT NO. 140 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Wisconsin.

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

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

Mr. FEINGOLD. I have an amendment, No. 140, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, and Mr. COBURN, proposes an amendment numbered 140 to amendment No. 98.

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

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

The amendment is as follows:

(Purpose: To provide greater accountability of taxpayers' dollars by curtailing congressional earmarking and requiring disclosure of lobbying by recipients of Federal funds)

At the appropriate place, insert the following:

SEC. _____. CURTAILING CONGRESSIONAL EARMARKS AND LOBBYING DISCLOSURE.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''CONGRESSIONAL EARMARKS

''SEC. 316. (a) IN GENERAL.—On a point of order made by any Senator:

''(1) No unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b) POINT OF ORDER NEW LEGISLATION.—

''(1) SENATE MEASURE.—If a point of order under subsection (a)(1) against a Senate bill or amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) HOUSE MEASURE.—If a point of order under subsection (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT.—If the point of order against an amendment under subsection (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT BETWEEN THE HOUSES.—

''(1) SENATE.—If a point of order under subsection (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) HOUSE.—If a point of order under subsection (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) OTHER POINTS OF ORDER.—The disposition of a point of order made under any other rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subsection (a) with respect to the same matter.

''(f) SUPERMAJORITY.—A point of order under subsection (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) FORM OF POINT OF ORDER, MULTIPLE PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subsection (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

''(2) SUSTAINED POINT OF ORDER.—If the Presiding Officer sustains the point of order under paragraph (1) as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph.

''(3) MOTION TO WAIVE.—Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subsection (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

''(4) APPEAL.—After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) DEFINITION.—For purposes of this section, the term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV of the Standing Rule of the Senator—

''(1) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(2) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(i) CONFERENCE REPORTS.—

''(1) IN GENERAL.—On a point of order made by any Senator, no unauthorized appropriation may be included in any conference report on a general appropriation bill.

''(2) POINT OF ORDER SUSTAINED.—If the point of order against a conference report under paragraph (1) is sustained—

''(A) the unauthorized appropriation in such conference report shall be deemed to have been struck;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(C) when all other points of order under this subsection have been disposed of—

''(i) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the

House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(ii) the question shall be debatable; and

''(iii) no further amendment shall be in order; and

''(D) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(3) FURTHER POINTS OF ORDER.—The disposition of a point of order made under any other provision of this section, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under paragraph (1) with respect to the same matter.

''(4) SUPERMAJORITY.—A point of order under paragraph (1) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(5) SINGLE POINT OF ORDER.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate paragraph (1). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this subsection. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with paragraph (4), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.''.

(b) LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

Mr. FEINGOLD. I am pleased to be joined by the Senator from Arizona, Mr. MCCAIN; the Senator from Missouri, Mrs. MCCASKILL; the Senator from South Carolina, Mr. GRAHAM; the Senator from Connecticut, Mr. LIEBERMAN; and the Senator from North Carolina, Mr. BURR, as cosponsors of this amendment.

I now ask unanimous consent that the Senator from Oklahoma, Mr. COBURN, be added as a cosponsor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, one of the things the American people have not heard about is everything that is in this bill. I want to spend some time tonight outlining the situation we are in as a nation, the fact that we have never had a bill this large at any time, in any way, shape, or form.

I want to first start out by noting my experience as a physician. The greatest mistake physicians make is when they don't listen to the patient. One of the things we know is, if we don't listen to patients when they are sick, we end up making a lot of mistakes. The other thing we know as physicians is that if we treat just the symptoms of a disease, what we oftentimes do is worsen the disease. I want to use an example of pneumonia. I will relate to this example throughout the time I talk.

If you come to me as a physician and you have a cough, a pain in your chest, a fever, and you are ill, I can make your symptoms go away, but I won't cure the underlying pneumonia you have as a patient. I can give you a cough medicine to suppress your cough. I can give you an antipyretic to control your temperature. I can give you, with that cough medicine, something to control the pain in your chest. I can do all those things. But if I fail to diagnose your real problem, which is pneumonia, all I am doing is covering up the symptoms of the real disease.

I would contend with my colleagues and the American public that the bill we have before us is a bill that covers up the symptoms of the real disease. The real disease we have is the fact that housing and mortgages are in trouble. Everything we do that does not address that disease first, that does not attempt to solve that problem, everything we do that does not address the real disease we have is going to be wasted effort. It is not going to accomplish its purpose. As a matter of fact, there is not an economist out there right now who says if we pass this bill without fixing the mortgage problem, without fixing the housing problem—none of them agree that what we are going to do is going to have a significant impact. There is not one. You can't get one to come and testify unless you fix the real problem.

We as American citizens are on the hook for 31 million mortgages.

We have 31 million we now own—Fannie Mae and Freddie Mac—so whatever happens to those mortgages, the American people are going to pay for them. If they are upside down and they get worse or if they go worse underwater, if they get foreclosed upon, the American taxpayers are going to have to pay for them. Now, who is that American taxpayer? It is not us. We are going to be dead and gone when it comes time to pay off the massive amounts of borrowing we are putting forward in this bill. That American taxpayer is our kids and our grandkids. So we dare not make the mistake of treating just symptoms.

My contention is we are way too early with a stimulus bill. We can spend this $1.12 trillion by the time you add in the interest plus the six point some billion dollars we just added on top of it without paying for it. We can pass this bill. But we run the risk of doing exactly what the Japanese did in the 1990s. They passed eight separate stimulus bills, none of which addressed the real underlying disease of the Japanese economy. That is why it is called the ''lost decade'' in Japan. They now have a debt to GDP ratio of 150 percent of their GDP.

So what are we to do? Are we to continue down this path with a bill that is going to spend over $1 trillion or should we be about fixing the real disease, which is the housing and the mortgage problems this country faces?

Now, it is not easy to fix that. I know that. And I am not putting forward a definitive plan tonight to do that, although I think my side of the aisle is going to be offering one in the next few days that will address the real disease: housing and mortgages in this country.

We got here—and it is important to remember how we got here, how we got the ''pneumonia''—we got the ''pneumonia'' because we said we were going to socialize the risk on mortgages so people in this country could buy a home who really could not afford a home, and we were going to put that risk on the rest of the American taxpayers.

Well, that bill has come home. That bill now—besides the cost of actually being responsible for the 31-some million failed mortgages, of which probably 30 or 40 percent we are going to end up owning as American taxpayers; besides that cost, the cost in terms of lost jobs, the cost in terms of true, real pain to American citizens who are having trouble feeding their families, paying their bills, the real cost of that is enormous on our society.

What I want the American people to know is we caused that. We did that. We created Fannie Mae and Freddie Mac, and then we did not do the regulatory work we should have done. We encouraged them to be irresponsible. We encouraged them to have bonuses, by making more and more and more of the loans and guaranteeing them and packaging them and selling them throughout the world. We did that. The

Congress did that. No President did that—not President Clinton, not President Bush, and not President Obama. We did it. So we ought to be about fixing the real problem.

Until we fix this problem, we are going to stay in a recession. We can pass a bill that spends $1.12 trillion, and we are still going to be in a recession because what the economists tell us this year is that home prices are going to decline another 11 to 12 percent, which is going to put millions more Americans and their mortgages in trouble. So we can pass a bill that spends $1.12 trillion or we can say maybe we ought to address the real problem.

It is not going to be long until the Obama administration comes to this body and asks for $500 billion more to solve the problem with bank loans and mortgages. We ought to be doing that first. That is the real disease. There is not anybody in this body who will deny that the real disease is the housing and the mortgage failure in this country.

We are going to spend a week on this legislation. It is going to go to conference. It is going to come back. Most of the stuff we are able to take back is going to be added in conference because the power to do that is there, and it is incumbent on the other side of the aisle that they are going to take care of those who are on their team.

I want to make another point. In this bill we are talking about, we are making a fatal mistake. Let me tell you what that fatal mistake is. We are transferring the irresponsibility we have had over the last 6 years in this Congress—or last 8 years in this Congress—to the States because what we are telling them is: You do not have to be fiscally responsible. You do not have to live within your means because Uncle Sam is going to bail you out. That is what this bill says. We are going to bail them out.

So for the States, such as my State, that were smart enough and wise enough to create a rainy day fund and live within their means, we are going to ask all the taxpayers of all the States that have done that to pay for the exorbitant spending and growth in Government in all the rest of the States.

What is that going to do in the future? What is the signal that sends to the rest of the States? Here is what the signal says. Do not worry about it because if you get in trouble again, the Federal Government is going to bail you out.

Remember when New York City was going bankrupt? What did we do? Did we just pay for everything? Did we just send Federal money? No. We created an environment where they made the changes. We helped them. And I am not opposed to helping the States make the changes to put them back on a fiscal course to live within their means.

The other thing that is bad about this bill is every American family out there today—I do not care what their income is—they are reassessing every day what they need to do in terms of how to get by in the economic situation in which we find ourselves. They are making tough choices. There is not one tough choice in this bill. Let me explain what I mean by that.

President Obama campaigned on the fact that we ought to live within our means; that every program ought to be reviewed; that those that are not effective, those that have waste, those that have high fraud rates, those that are low priority ought to be eliminated. There is not one penny of effort placed in this bill that will get rid of less important Federal programs today.

We know there is at least $300 billion a year that is inefficiently, erroneously, and fraudulently spent by the Federal Government. We ask our children and our grandchildren to choke down $1.1 trillion more of debt when we have not done anything—not one thing—to lessen the waste, fraud, and abuse, the inefficiency, and to make choices on what is more important. What we are saying is everything we are doing now is important, everything we are doing is efficient, everything is working fine, and, by the way, we are going to add another $1.1 trillion.

I have this chart to show how we got in trouble—because we were spending money we did not have on things we do not need. That is how we got in trouble. This chart shows the deficits of the Federal Government from 2004, plus what CBO expects, without interest costs, by the way, as to what is going to happen to us.

We know, last year, under real accounting, accounting for the Social Security money we stole—and that is the only way you can say it; we stole about $160 billion out of the Social Security system—the real deficit, last year, set a record we have never seen. It was $609 billion. That is as of September 30. The estimate of CBO for this year is we are going to have—before we even talk about stimulus, before we do anything on stimulus, and before we account for the interest costs on stimulus—we are going to have a $1.2 trillion deficit.

Now, divide that out by 300 million Americans, and what you see is we are going to have a deficit of about $16,000 per family. For every family in this country, we are going to borrow $16,000 against their kids' future before we do this, before we even approach doing this. It does not get a lot better. Note these numbers: $1.4 trillion, if we add what the CBO expects to come out of this stimulus package, and only one-fourth of it is going to get spent this year.

Now, what do we know about stimulus packages in the past? Here is what we know. Only two times in our history—only two times in our history—have we ever had a stimulus package that was effective. Two times. John Fitzgerald Kennedy created a stimulus package that was effective, and Ronald Reagan, in the early 1980s, created a stimulus package that was effective. All of the others have been ineffective to fix what was ailing us.

If we do not fix the mortgage problem in this country, and housing, this money will be to no avail other than to shackle our children and our grandchildren for years to come. What does that mean when I say ''shackle''? It means stealing their future. Right now the average American has a 30-percent higher standard of living than the average European and the average Japanese. What we are about to do—and we have been doing—is to guarantee that 30-percent advantage in standard of living is going to go away.

Other people say: Well, you have to fix the finance, you have to fix the credit markets, you have to fix the liquidity markets. You cannot fix the credit markets, you cannot fix the liquidity problems we have by spending money. We have already spent $400 billion of the TARP money, and other than pulling us back from the precipice of an absolute collapse of our financial markets, we still have the credit markets tied up and frozen in this country.

I want to give you an example. I have a farmer friend who has been banking with a bank for 15 years. He has never missed a payment. He has been 100 percent on his payments every time. He has assets far in excess of what his loans are—far in excess—15, 20 times what his loans are. He was told this last week by his bank: We don't want your business anymore.

Now, this is a guy who is a premium credit risk. Why do they not want his business? Because they want the money in the bank rather than to have even a good loan outstanding.

Our credit problems are not getting better. They are getting worse. We have not solved the problem by putting money on the equity side of the balance sheets of the banks. The reason we have not solved the problem is because we have not approached and fixed the real disease, which is the mortgage markets and the mortgages that are underwater and the housing crisis in this country.

I want to spend a moment on another issue. A lot of the rhetoric we have heard in the last 3 or 4 months in this country goes after markets and capitalism. Market forces and capitalism in this country created the greatest country that has ever been or ever will be. When we hear market forces and capitalism criticized as the cause of all of our problems, we need to do a gut check.

Market forces and capitalism didn't cause this problem. Congress caused this problem, by our short-term thinking, by thinking, How do I look good politically, how do I do something that isn't based on markets? That is what Fannie Mae and Freddie Mac were all about. We were actually giving loans to people who couldn't afford them. It wasn't market capitalism that got us in trouble, it was short-term, politically expedient thinking that got us in trouble. So the next time you hear somebody attacking the very thing that generated liberty, that very thing that generated freedom, the very thing that generated the greatest standard of living in the world, you ought to ask the question: Is that true? Did market capitalism get us in this trouble?

What got us in this trouble was creating a socialized risk that abandoned the market principles and created a system of loans to people who could not afford the loans.

One of the questions I think we ought to ask—at least the American taxpayer ought to be asking every Member of Congress—is what guarantee do you have that passing this $1.12 trillion spending bill is going to solve the problem? You know what. There is not a guarantee out there. No Member of Congress can tell them that. We are going to treat the symptoms with this bill. We are going to solve some of the short-term problems. We are going to create dependency from the States. We are going to outline and do things we have no business doing. We are going to expand Federal bureaucracies. We are going to raise the baseline to $300 billion that will never go away. That is what we are going to do with this bill. We are going to emphasize and fund the most inefficient bureaucracies in the world, not on the basis of what is the best thing to do but because we will look good and we will help out somebody who needs our help right now.

I am not opposed to us helping people who are unemployed. I am not opposed to giving extra food stamps to people who find themselves, through no fault of their own, in a predicament they can't change, but that is not what this bill does. What this bill does is take a list of policy options that have been on the table for years and funds them in enormous, extravagant amounts, that will have no impact—zero impact—in terms of getting us out of a recession, and will have a 100-percent impact in guaranteeing we are going to lower the standard of living in this country and we are going to steal opportunity from our children.

Let's look at where we are right now as a nation. At the end of this year, we will have an $11.6 trillion debt, probably an $11.8 trillion debt, very close to our total GDP. We have $95 billion in unfunded liabilities we are going to place on the backs of our children and our grandchildren through Medicare, Social Security, Medicaid, and Medicare Part D—things we are going to give people that they have not paid for or we have stolen the money that was there to pay for them, and we are going to transfer that to our children.

Last year, we paid, as Americans, $230 billion in interest. Do you know what it is going to be 2 years from now? It is going to be $450 billion. How many people think the interest rates we are seeing today are going to be stable and the same 5 years from now? All of the economists tell us they are not. As the world looks toward us and we continue to borrow—we have increased our debt by $5 trillion by the time you take what the Federal Reserve has done and what the Treasury has done—how many people think we are going to be able to borrow money for 10 years for 2.6 percent? No economist thinks that. They know it is going to rise 2 or 3 percent. So we are going to go from about 16 percent of our budget for interest payments to about 40 percent of our budget for interest payments. What are we going to do then? The very real important things we need to do—not the superfluous stuff; the important things the Constitution says we should be doing—what are we going to do then? Are we going to borrow more?

What happens when we borrow more? What happens when we borrow more is interest rates go up, inflation goes up, and we have one of two choices: We can file bankruptcy as a nation or we can have hyperinflation and a marked devaluation of the value of the dollar. What does that mean? That means you won't be able to keep up with your payments, you won't be able to buy a home, the cost of any good that is imported in here will rise astronomically. This is Armageddon for us. While we are in this shape, how dare we think we can spend money we don't have now on things we don't need now and get out of a problem that was caused by the very same philosophy: It cannot happen and it will not happen.

Let me outline what we have done so far in terms of this ''economic downturn.'' Last April, we borrowed $160 billion from our grandkids and we gave everybody a tax credit under $75,000 a year or $150,000 for families. We didn't pay for a penny of it. We didn't get rid of one wasteful program. We didn't make one hard choice. What do the economists tell us we did with that? What was the net effect? The net effect was that 12 percent of it had an effect. Twelve percent. Now, crank that up to $1.1 trillion at 12 percent, which is what the estimate is of this bill in terms of what kind of effect it is going to have. We are going to have about $120 billion that is going to have a positive effect, and then we are going to have another $850 billion or $860 billion that is going to have no effect whatsoever except to steal the future from our kids and our grandkids.

We are going in exactly the wrong direction. We ought to be standing on the principles that made this country great. There ought to be a review of every program in the Federal Government that is not effective, that is not efficient, that is wasteful or fraudulent, and we ought to get rid of it right now. We ought to say, Gone, to be able to pay for a real stimulus plan that might, in fact, have some impact.

I would be remiss if I didn't remind everybody that next week we are going to hear from the Obama administration wanting another $500 billion. Outside of this, they are going to want another $500 billion to handle the banking system. Still not fixing the real disease—the pneumonia—we are going to treat the fever or treat the cough, but we are not going to treat the real disease. Until we treat the real disease, this is pure waste. It is worse than pure waste. It is morally reprehensible, because it steals the future of the next two generations.

I am going to wind up here and finish, but I wanted to spend some time to make sure the American people know what is in this bill. I think once they know what is in this bill, they are going to reject it out of hand. Let me read for my colleagues some of the things that are in this bill. The biggest earmark in history is in this bill. There is $2 billion in this bill to build a coal plant with zero emissions. That would be great, maybe, if we had the technology, but the greatest brains in the world sitting at MIT say we don't have the technology yet to do that. Why would we build a $2 billion powerplant we don't have the technology for that we know will come back and ask for another $2 billion and another $2 billion and another $2 billion when we could build a demonstration project that might cost $150 million or $200 million? There is nothing wrong with having coal-fired plants that don't produce pollution; I am not against that. Even the Washington Post said the technology isn't there. It is a boondoggle. Why would we do that?

We eliminated tonight a $246 million payback for the large movie studios in Hollywood.

We are going to spend $88 million to study whether we ought to buy a new ice breaker for the Coast Guard. You know what. The Coast Guard needs a new ice breaker. Why do we need to spend $88 million? They have two ice breakers now that they could retrofit and fix and come up with equivalent to what they needed to and not spend the $1 billion they are going to come back and ask for, for another ice breaker, so why would we spend $88 million doing that?

We are going to spend $448 million to build the Department of Homeland Security a new building. We have $1.3 trillion worth of empty buildings right now, and because it has been blocked in Congress we can't sell them, we can't raze them, we can't do anything, but we are going to spend money on a new building here in Washington. We are going to spend another $248 million for new furniture for that building; a quarter of a billion dollars for new furniture. What about the furniture the Department of Homeland Security has now? These are tough times. Should we be buying new furniture? How about using what we have? That is what a family would do. They would use what they have. They wouldn't go out and spend $248 million on furniture.

How about buying $600 million worth of hybrid vehicles? Do you know what I would say? Right now times are tough; I would rather Americans have new cars than Federal employees have new cars. What is wrong with the cars we have? Dumping $600 million worth of used vehicles on the used vehicle market right now is one of the worst things we could do. Instead, we are going to spend $600 million buying new cars for Federal employees.

There is $400 million in here to prevent STDs. I have a lot of experience on that. I have delivered 4,000 babies. We don't need to spend $400 million on STDs. What we need to do is properly educate about the infection rates and the effectiveness of methods of prevention. That doesn't take a penny more. You can write that on one piece of paper and teach every kid in this country, but we don't need to spend $400 million on it. It is not a priority.

How about $1.4 billion for rural waste disposal programs? That might even be somewhat stimulative. New sewers. That might create jobs.

How about $150 million for a Smithsonian museum? Tell me how that helps get us out of a recession. Tell me how that is a priority. Would the average American think that is a priority that we ought to be mortgaging our kids' future to spend another $150 million at the Smithsonian?

How about $1 billion for the 2010 census? So everybody knows, the census is so poorly managed that the census this year is going to cost twice—in 2010 is going to cost twice what it cost 10 years ago, and we wasted $800 million on a contract because it was no-bid that didn't perform. Nobody got fired, no competitive bidding, and we blew $800 million.

We have $75 million for smoking cessation activities, which probably is a great idea, but we just passed a bill—the SCHIP bill—that we need to get 21 million more Americans smoking to be able to pay for that bill. That doesn't make sense.

How about $200 million for public computer centers at community colleges? Since when is a community college in my State a recipient of Federal largesse? Is that our responsibility? I mean, did we talk with Dell and Hewlett-Packard and say, How do we make you all do better? Is there not a market force that could make that better? Will we actually buy on a true competitive bid? No, because there is nothing that requires competitive bidding in anything in this bill. There is nothing that requires it. It is one of the things President Obama said he was going to mandate at the Federal Government, but there is no competitive bidding in this bill at all.

We have $10 million to inspect canals in urban areas. Well, that will put 10 or 15 people to work. Is that a priority for us right now?

There is $6 billion to turn Federal buildings into green buildings. That is a priority, versus somebody getting a job outside of Washington, a job that actually produces something, that actually increases wealth?

How about $500 million for State and local fire stations? Where do you find in the Constitution us paying for local fire stations within our realm of prerogatives? None of it is competitively bid—not a grant program.

Next is $1.2 billion for youth activities. Who does that employ? What does that mean?

How about $88 million for renovating the public health service building? You know, if we could sell half of the $1.3 trillion worth of properties we have, we could take care of every Federal building requirement and backlog we have.

Then there's $412 million for CDC buildings and property. We spent billions on a new center and headquarters for CDC. Is that a priority? Building another Government building instead of—if we are going to spend $412 million on building buildings, let's build one that will produce something, one that will give us something.

How about $850 million for that most "efficient" Amtrak that hasn't made any money since 1976 and continues to have $2 billion or $3 billion a year in subsidies?

Here is one of my favorites: $75 million to construct a new "security training" facility for State Department security officers, and we have four other facilities already available to train them. But it is not theirs. They want theirs. By the way, it is going to be in West Virginia. I wonder how that got there. So we are going to build a new training facility that duplicates four others that we already have that could easily do what we need to do. But because we have a stimulus package, we are going to add in oink pork.

How about $200 million in funding for a lease—not buying, but a lease of alternative energy vehicles on military installations? We are going to bail out the States on Medicaid. Total all of the health programs in this, and we are going to transfer $150 billion out of the private sector and we are going to move it to the Federal Government. You talk about backdooring national health care. Henry Waxman has to be smiling big today. He wants a single-payer Government-run health care system. We are going to move another $150 billion to the Federal Government from the private sector.

We are going to eliminate fees on loans from the Small Business Administration. You know what that does? That pushes productive capital to unproductive projects. It is exactly the wrong thing to do.

Then there is $160 million to the Job Corps Program—but not for jobs and not to put more people in the Job Corps but to construct or repair buildings.

We are going to spend $524 million for information technology upgrades that the Appropriations Committee claims will create 388 jobs. If you do the math on that, that is $1.5 million a job. Don't you love the efficiency of Washington thinking?

We are going to create $79 billion in additional money for the States, a "slush fund," to bail out States and provide millions of dollars for education costs. How many of you think that will ever go away? Once the State education programs get $79 billion over 2 years, do you think that will ever go away? The cry and hue of taking our money away—even though it was a stimulus and supposed to be limited, it will never go away. So we will continue putting that forward until our kids have grandkids of their own.

There is about $47 billion for a variety of energy programs that are primarily focused on renewable energy. I am fine with spending that. But we ought to get something for it. There ought to be metrics. There are no metrics. It is pie in the sky, saying we will throw some money at it. Let me conclude by saying we are at a seminal moment in our country. We will either start living within the confines of realism and responsibility or we will blow it and we will create the downfall of the greatest Nation that ever lived. This bill is the start of that downfall. To abandon a market-oriented society and transfer it to a Soviet-style, government-centered, bureaucratic-run and mandated program, that is the thing that will put the stake in the heart of freedom in this country.

I hope the American people know what is in this bill. I am doing everything I can to make sure they know. But more important, I hope somebody is listening who will treat the "pneumonia" we are faced with today, which is the housing and mortgage markets. It doesn't matter how much money we spend in this bill. It is doomed to failure unless we fix that problem first. Failing that, we will go down in history as the Congress that undermined the future and vitality of this country. Let it not be so.

Mr. President, I appreciate the indulgence of you and the staff. With that, I yield the floor.

Mr. LEAHY. Mr. President, this week, the Senate is considering critical legislation to renew our economy and to renew America's promise of prosperity and security for all of its citizens. I have long held the view that American innovation can and should play a vital role in revitalizing our economy and in improving our Nation's health care system. I commend the lead sponsors of this legislation for making sure that the economic recovery package includes an investment in health information technology that also takes meaningful steps to protect the privacy of American consumers.

The privacy protections for electronic health records in the economic recovery package are essential to a successful national health IT system, and these safeguards should not be weakened. In America today, if you have a health record, you have a health privacy problem. The explosion of electronic health records, digital databases, and the Internet is fueling a growing supply of and demand for Americans' health information. The ability to easily access this information electronically—often by the click of a mouse or a few keystrokes on a computer can be very useful in providing more cost-effective health care. But the use of advancing technologies to access and share health information can also lead to a loss of personal privacy.

Without adequate safeguards to protect health privacy, many Americans will simply not seek the medical treatment that they need for fear that their sensitive health information will be disclosed without their consent. And those who do seek medical treatment assume the risk of data security breaches and other privacy violations. Likewise, health care providers who perceive the privacy risks associated with health IT systems as inconsistent with their professional obligations will avoid participating in a national health IT system.

The economic recovery package takes several important steps to avoid these pitfalls and to protect Americans' health information privacy. First, the provisions give each individual the right to access his or her own electronic health records and the right to timely notice of data breaches involving their health information. The economic recovery bill also places critical restrictions on the sale of sensitive health data and requires that the Department of Health and Human Services educates and conducts outreach to American consumers and businesses regarding their privacy rights and obligations. Lastly, the bill enhances the enforcement tools available to the States, as well as to Federal authorities, to deter lax health information privacy. These key privacy safeguards must not be weakened as the Senate considers the economic recovery bill.

Of course, more can—and should—be done in the weeks and months ahead to further improve health information privacy, such as strengthening the rights of consumers to control their own electronic health records. In Vermont, we have formed a public-private partnership that is charged with developing Vermont's statewide electronic health information system, including a policy on privacy. I believe that in order for a national health IT system to succeed, we in Congress should follow Vermont's good example and work together for the long term with public and private stakeholders to ensure the privacy and security of electronic health records.

As the Senate considers the economic recovery package, we face many difficult challenges in our Nation. The challenge of finding the right balance between privacy and efficiency for a national health IT system is just one, but it is an important test that we must meet head on. Without meaningful privacy safeguards, our Nation's health IT system will fail its citizens. In his inaugural address, President Obama eloquently noted that in our new era of responsibility "there is nothing so satisfying to the spirit, so defining of our character than giving our all to a difficult task." The privacy safeguards in the economic recovery package take an important step toward tackling the difficult but essential task of ensuring meaningful health information privacy for all Americans.

Again, I commend the lead sponsors of the economic recovery bill and President Obama for their commitment to include meaningful health privacy protections in the bill. I also commend the many stakeholders, including the Center for Democracy & Technology, Consumers Unions, the American Civil Liberties Union, and Microsoft, that have advocated tirelessly for meaningful health IT privacy protections in this legislation. I urge all Members to support the health IT privacy protections in the bill, so that our national health care system will have the support and confidence of the American people.

I ask to have a copy of a February 1, 2009, editorial from the New York Times in support of funding protections for patients' privacy entitled, "Your E-Health Records," printed in the RECORD following my full statement.

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

[From the New York Times, Feb. 1, 2009]

YOUR E-HEALTH RECORDS

As part of the stimulus package, $20 billion will be pumped into the health care system to accelerate the use of electronic health records. The goal is both to improve the quality and lower the costs of care by replacing cumbersome paper records with electronic records that can be easily stored and swiftly transmitted.

The idea is sound, but it also raises important questions about how to ensure the privacy of patients. Fortunately, the legislation would impose sensible privacy protections despite attempts by business lobbyists to weaken the safeguards.

With paper records the opportunities for breaches are limited to over-the-shoulder glimpses or the occasional lost or stolen files. But when records are kept and transferred electronically, the potential for abuse can become as vast as the Internet.

Electronic health records that can be linked to individual patients are already protected by laws that apply primarily to hospitals, doctors, nursing homes, pharmacists, laboratories and insurance plans. The stimulus bill that has passed in the House, and a similar bill awaiting approval in the Senate, would strengthen the privacy requirements and apply them more directly to "business associates" of the providers, like billing and collection services or pharmacy benefit managers, that have access to sensitive data but are not readily held accountable for any misuse.

The potential for harm was spelled out by the American Civil Liberties Union in a recent letter to Congress. Employers who obtain medical records inappropriately might reject a job candidate who looks expensive to insure. Drug companies with access to pharmaceutical records might try to pressure patients to switch to their products. Data brokers might buy medical and pharmaceutical records and sell them to marketers. Unscrupulous employees with access to electronic records might snoop on the health of their colleagues or neighbors.

The bills pending in Congress would go a long way toward preventing such abuses. They would outlaw the sale of any personal health information without the patient's permission, mandate audit trails to help detect inappropriate access, and require that patients be notified whenever their records are lost or used for an unauthorized purpose. They would also beef up the penalties for noncompliance and allow state attorneys general to help enforce the rules—a useful backup in case the federal government falls down on the job. The House version would also encourage the use of protective technologies, like encryption, to protect personal medical information that will be transmitted.

Health insurance plans and some disease management groups are complaining that the new requirements would impose administrative burdens that could actually impede the use of electronic records and interfere with coordination of care. They want to ease the marketing restrictions, notify patients only if security breaches are harmful, and keep the attorneys general out of the enforcement role.

It should be possible through implementing regulations to fine-tune the privacy requirements so that they do not disrupt patient care. Congress must make every effort to ensure that patients' privacy is protected.

Mr. LEAHY. I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

THE STIMULUS BILL

Mr. DURBIN. Mr. President, my colleague and friend Senator COBURN of Oklahoma spoke at length about our Nation's deficit. I share his concern about the impact of debt on future generations. It is an interesting moment in time when many of my friends from that side of the aisle are raising the issue of deficits and debt. We are in one of the most serious economic crises of our time—maybe the most serious since the Great Depression. This President, recently inaugurated, 2 weeks ago, inherited the worst economic situation since Franklin Roosevelt in the Great Depression in 1933. He inherited a debt that was unimaginable 8 years ago when the previous President began his administration. When President Bush came to office, our national debt was in the range of $5 trillion. When he left office, he doubled that national debt to more than $10 trillion—in an 8-year period of time. The accumulated debt of the United States of America,