

After 3 months of delay, today we finally considered the nomination of William Conley. Mr. Conley is a partner in the Madison, WI, office of Foley and Lardner, where he is widely recognized as a top antitrust and appellate lawyer. He has represented clients before the U.S. Supreme Court, the Wisconsin Supreme Court, and the Seventh Circuit, among others. Mr. Conley attended the University of Wisconsin, where he earned his B.A. and J.D. with honors. Mr. Conley also served as a law clerk for Judge Thomas Fairchild on the Seventh Circuit. I congratulate Judge Conley on his confirmation today. I look forward to the time when the 17 additional judicial nominees being stalled are released from the holds and objections that are preventing votes on them and their confirmations.

I, again, urge Senate Republicans to reconsider their strategy and allow prompt consideration of all 18 judicial nominees awaiting Senate consideration, not just William Conley of Wisconsin but also the following nominees: Jane Stranch of Tennessee, nominated to the Sixth Circuit; Judge Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; Judge Denny Chin of New York, nominated to the Second Circuit; Justice Rogerie Thompson of Rhode Island, nominated to the First Circuit; Judge James Wynn of North Carolina, nominated to the Fourth Circuit; Judge Albert Diaz of North Carolina, nominated to the Fourth Circuit; Judge Edward Chen, nominated to the Northern District of California; and Justice Louis Butler, nominated to the Western District of Wisconsin; Nancy Freudenthal, nominated to the District of Wyoming; Denzil Marshall, nominated to the Eastern District of Arkansas; Benita Pearson, nominated to the Northern District of Ohio; Timothy Black, nominated to the Southern District of Ohio; Gloria M. Navarro, nominated to the District of Nevada; Audrey G. Fleissig, nominated to the Eastern District of Missouri; Lucy H. Koh, nominated to the Northern District of California; Jon E. DeGuilio, nominated to the Northern District of Indiana; and Tanya Walton Pratt, nominated to the Southern District of Indiana.

The PRESIDING OFFICER. A motion to reconsider is considered made and laid on the table. The President shall be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate returns to legislative session.

The Senator from New Hampshire.

#### TAX EXTENDERS ACT OF 2009— Continued

Mr. GREGG. Madam President, I understand the Senator from Illinois is planning to speak. I wish to speak after he completes his remarks. I ask unanimous consent he be recognized and then I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois.

Mr. BURRIS. Madam President, after I speak I ask unanimous consent that the Senator from Delaware be able to speak for a period of time.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. The Senator is speaking after me?

Mr. BURRIS. Yes, after the Senator from New Hampshire.

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

#### AMENDMENT NO. 3388

Mr. BURRIS. Madam President, I rise to speak on H.R. 4213. One amendment has already been dropped. I do plan to submit a second amendment. This amendment is dealing with the Recovery Act funds.

During my three terms as State comptroller of Illinois, I worked very hard to maintain accountability for the money we spent from our State. I have been contacted by my State officials, the various auditors, comptrollers, and treasurers, to say the stimulus money that is coming into the States is coming in and they have no funds to do all this transparency and accountability. I put an amendment on this bill to say that we should. I filed amendment No. 3388 which addresses currently underfunding the costs of tracking and reporting the stimulus money.

This measure would set aside up to one half of 1 percent of all existing stimulus funds and allow States and local governments to use this administrative expense reserve to distribute and track this money as it is received and spent. It would allow the American people to hold their representatives accountable and it would help ensure that every dollar is targeted effectively and spent wisely, without waste, fraud, or abuse.

Agreeing to this amendment will restore oversight to this process and will keep Americans on the road to economic recovery without incurring a dime of new spending.

In addition to restoring accountability, I believe we need to take an active role—as my second amendment would do, which I have not dropped yet; it is coming, though. It would deal with small businesses. I believe we should take an active role in supporting small and minority businesses because Main Street will be the engine of the American economic recovery. That is where jobs will be created. That is where the rubber meets the road—where we can turn this crisis around. That is why I am proud to offer another amendment which will require the Transportation Security Administration, the TSA, to award contracts to small businesses and disadvantaged businesses wherever and whenever possible. This amendment would ensure compliance with existing standards of government contracts and subcontracts and would keep dollars flow-

ing into real communities rather than to the corporate treasuries.

By strengthening reporting standards and forcing participation goals for TSA projects, we can target Federal spending to the capable worker who has always been at the center of the American economic prosperity.

We are also saying we need these two amendments. They will strengthen and improve upon the key provisions of our jobs bill as well. I ask my friends in this Chamber to join me in renewing our commitment to transparency, honesty, and accountability. I ask them to stand for small businesses and minority subcontractors so we can make sure Main Street has a major share of our ongoing economic recovery.

The issue is the amendment to H.R. 4213 which would be the amendment No. 3388, and also the other amendment I am getting ready to drop which will deal with small and minority businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I rise to go over, for the sake of the record and also for those people who may be listening and may be reading this dialog, where we stand relative to the health care debate. I think it is important for people to understand what has happened. There has been a lot of talk about a lot of different things, with reconciliation, the term "reconciliation" taking a front row seat.

What is happening here essentially is this. The House of Representatives is going to have to make a decision whether they want to pass the bill that passed here in the Senate. Remember, the bill that passed here in the Senate was a bill that was produced and delivered to the Senate on a Saturday afternoon, for all intents and purposes—the core of the bill, the managers' amendment. No amendments were allowed after that Saturday afternoon and a final vote was taken 3 days later on Christmas Eve.

It was a bill that expanded the size of the government by \$2.5 trillion, when fully implemented. It was a bill that reduced Medicare by \$1 trillion when fully implemented and was scored at \$500 billion in the first 10-year tranche, by \$1 trillion when fully implemented, and took those savings from Medicare, from Medicare recipients, and used them to fund a brandnew entitlement which had nothing to do with Medicare, it didn't involve the people who receive Medicare, and to extend dramatically an already existing entitlement called Medicaid.

It was a bill that basically said to small employers we are going to make it so darned expensive for you to keep the insurance you presently give to your employees that a lot of you are going to decide to throw up your hands, stop insuring your employees and send your employees down the street to something called an exchange. It was a bill that basically set up a structure

which would manage, in a very micro-managed way, the delivery of health care in this country from a top-down situation so essentially it put a bureaucrat between you and your doctor and you and your hospital.

It was a bill which was going to create so much new spending and grow the Government so much that we would now have, after this bill is fully implemented, the largest government, as a percentage of our gross national product, we have ever had at any time when we have not been engaged in a world war. Think about that. That bill takes the size of our government and grows it from its historic level, which is about 20 percent of GDP, up to around 25, 26, 27 percent of GDP when it is fully implemented. Most of that, although allegedly paid for—those paid-fors will never come to fruition because we know this Congress doesn't have the courage to stand up and raise taxes at those levels or cut spending at those levels. So most of that, in my opinion—and granted, this wasn't CBO's score because they had to take the statements as though Congress would do something such as cut Medicare by \$1 trillion—most of those pay-fors would not come to fruition and therefore this would fall on the deficit and become debt our children would have to pay off.

In addition, it did nothing, absolutely nothing, about reducing the cost of health care in this country. In fact—again according to CBO—the cost of health care went straight up under this bill. A lot of Americans, also under this bill, would still not be insured because the estimate was 24 million, I believe, would still have no insurance, even after we had spent \$2.5 trillion.

So this bill, in my opinion, was and is and remains a disaster from a fiscal standpoint, because it will so massively expand the size of the Federal Government and throw those costs onto our children's backs in the form of debt; and from a health care standpoint, because it will undermine, in my opinion, the delivery of health care. But more important, it doesn't do anything substantively to bend the out-year health care costs.

So now this bill, this giant bill on health care, this asteroid headed toward Earth, is sitting in the House of Representatives. They do not have the votes to pass it. Why? Because the American people have spoken. They spoke when they elected SCOTT BROWN in Massachusetts, they have spoken in polls across the country, and they have spoken in town meetings. They have spoken in letters to Senators and e-mails to Senators and House Members.

They are upset. They know this is bad policy. They know we cannot afford it, and they know we should not do it. So there are a lot of House Members who are a little queasy about voting for this bill. So what does the administration come up with and the House leadership, Speaker PELOSI? They have come up with this sidecar to this huge

bill, and this sidecar is called reconciliation. It is a littler bill.

What is the purpose of this bill? The purpose of this bill is to go around to the different constituencies in the House, the different liberal constituencies in the House, ask them what they need to get their vote for the big bill, and then put it in this little bill. It is a purchasing process. It is a going-out-and-buying-votes process done behind closed doors, as this bill was.

This bill was designed in a back room. The big bill was designed in a back room. This is a back room, behind the back room, behind a hidden door, where they are negotiating with all of these folks: What do I need to do to get you to vote for this big bill, which nobody wants?

Someone says: Well, you have to spend more money, so they put in something that spends more money, or you have to raise taxes on somebody, so they put in a tax increase, or you have to change the benefit structure, so they change the benefit structure. They put all of these little changes, which are fairly significant but are nothing compared to the bigger bill, in this smaller bill called reconciliation.

Why did they choose that bill called reconciliation to do this—or why will they? Because under the Senate rules anything that comes across the floor of the Senate requires 60 votes to pass. It is called the filibuster. That is the way the Senate was structured.

The Senate was structured to be the place where bills which rushed through the House because they do not have rules that limit—they do have a lot of rules that limit debate and allow people to pass bills quickly, but they do not have any rule called the filibuster which allows people to slow things down.

Bills can rush through the House, and they come over here. Sometimes they are pretty bad ideas, and the Founding Fathers realized when they structured this government they wanted checks and balances. They do not want things being rushed through. They had seen the parliamentary system. They knew it did not work.

So they set up the Senate as the place, as George Washington described it, where you take the hot coffee out of the cup and you pour it into the saucer and you let it cool a little bit and make people look at it and make sure it is done correctly. So that is why we have the 60-vote situation over here to require that things that pass the Senate get thoughtful consideration.

Unfortunately, it was totally ignored—the 60 votes were not because 60 votes were used to override thoughtful consideration. But when the big bill was passed, it was done in a way that basically limited the ability of the Senate to debate it and to amend it.

But now they know they cannot go through that route again because they know there is no longer 60 votes on the other side of the aisle with the election of Senator BROWN, who was elected, in

large part, because of people's outrage over what happened when they basically tried to jam the Senate, or did jam the Senate procedure, and did not allow amendments, did not allow a debate on the biggest piece of social policy and fiscal legislation in history—in my experience, in the history of my experience in the Congress, the big bill.

When they jammed us, jammed that thing through here on Christmas Eve, the American people got outraged. Senator BROWN made that point. As a result, people agreed with him in Massachusetts, and they elected him. So there are no longer 60 votes on that side of the aisle. They cannot use that railroad approach. So they decided to go back to an arcane Senate procedure called reconciliation and use that approach.

Under reconciliation, which is a Senate process, that is the only bill around here, the budget and reconciliation, that has the right to pass with 51 votes and a time limit on debate, and basically a time limit on debatable amendments, although not on amendments generally.

So this reconciliation is a hybrid vehicle in the Senate. And what is it? Well, reconciliation was structured so that when a budget passed the Senate, there would be a way for the Budget Committee to say to the committees that were supposed to adjust spending or adjust taxes in a way to meet the budget that they had to do it. So if your budget was coming out \$10, \$20, or \$30 billion over where it was supposed to be, the reconciliation structure would say: Change the law to bring it back to where it is supposed to be.

It has been used around here on numerous occasions. I think 19 times reconciliation has been used since the Budget Act instituted reconciliation in 1976. But it has always been used for the purposes of adjusting issues which either, A, were bipartisan, or, B, were pretty much purely issues of adjusting numbers, numbers on the tax side, numbers on the spending side.

So of the 19 times that reconciliation has been used, every time except two times, reconciliation has been a bipartisan bill. Twice it was not bipartisan. Twice it was run through here on a partisan vote: once on the tax increases that President Clinton passed, and once on a reconciliation bill dealing with adjusting spending. I believe it was in 1985; otherwise, there has always been a bipartisan vote for the bill. So 89 percent of the time it has been bipartisan. It has always been, when it has been partisan, used for the purpose of making these numbers adjustments, not for the purpose of creating massive new policy that affects every American in very personal ways in the way they deal with their doctors and their hospitals and their health care treatment.

It was never conceived as a concept where the real legislation involving substantive issues of policies would be done. Tax rate adjustments have occurred under it. Absolutely. But when

you move tax rates from 39 to 35 percent, as the Bush tax cuts did, or tax capital gains from 20—I think they went from 25 percent to 15 percent—that is not a complex issue. That is just, you know, taxes are either going to go up or go down. It takes about 100 pages of actual legislative language. Everybody knows the issue. It is an up-or-down vote. Pretty clear.

In fact, in these instances, there were opposing positions presented, and in those issues, there was actually more than one—people of both parties voted for them. That is not like passing an entire rewrite of the health care system of America.

The health care system is 17 percent of our economy, one of the most complex issues we have to deal with. You pull a string over here, and a string 10,000 miles away is affected. It is just a matrix of exceptionally complicated interrelated issues with all sorts of policy language that is necessary.

So reconciliation was never conceived of, and its purpose was never to take on big policy like that. Big policy is supposed to be taken on the floor of the Senate in an open procedure where there is debate and there is amendments, and the amendments are debatable.

So reconciliation is certainly not the appropriate vehicle to use. But I think the point I am trying to make is that reconciliation is not the real game. I mean, after the House of Representatives—after they have gone around with this reconciliation bill and they bought up the votes they need and said to these people: Well, we will just fix that in reconciliation if you will just vote for the big bill—after that has happened and the big bill has passed, this \$2.5 trillion monstrosity in spending and government dominance of the health care sector, after that is passed, the game is over. That is the law. I do not think there will be much incentive at all for the White House or my colleagues on the other side of the aisle to take up reconciliation. There certainly will not be any energy needed to pass it.

Because this big bill, which America basically rejects—every poll in America says it has a maximum of about 25 percent approval of that bill and somewhere around 60 to 70 percent disapproval, at different levels, “strongly” or “fairly strongly”—that bill will have become law, and basically what we will have done, or what will have occurred, then, is we will have created a government program that is so large and so burdensome that it is very unlikely that this country will be able to pay for it. As we move into the out-years, our children are going to get these bills. In order to pay those bills, they are either going to have to have a massive event of inflation to pay for them or a massive tax increase. Either one of those events, of course, undermine the quality of life and the standard of living of the next generation.

In addition, of course, we are going to get a health care system which has

become basically a ward of the government, for all intents and purposes, for the bureaucracy that is very dominant and that makes it very difficult for citizens to have the choices they need to develop a health care delivery system that is tailored to their needs.

A lot of small businesses will just simply give up on the idea of supplying health care. We also know, of course, that the health care prices will not come down but will continue to go up. So this is a really dangerous time. It is a time when the House of Representatives has to take a hard look at what actions it is going to take, obviously, and I am sure they will.

But they have to recognize that voting for that big bill and hoping that the Senate will bail them out with a little bill—well, I would take a second look at that. First, it will be hard to run a reconciliation bill across this floor and have it end up with the way it started out because of all of the points of order that will be available against it.

But, secondly, I am not sure there will be all that much energy to do it to begin with because once you pass the big bill, those who want to essentially dramatically expand our government, and in the end nationalize the health care system with a single-payer approach, will be well on their road to accomplishing those things.

There is not going to be a whole lot of energy to do much else. So I think it is important to understand that as much as reconciliation is an interesting and entertaining point of topic for discussion around here as to whether it is appropriate and whether—which I do not think it is under this type of scenario—and whether the reconciliation bill will actually survive the challenging on this floor from points of order, that is an interesting issue too.

That is not the question. The question is, is reconciliation even relevant once the big bill passes? I think it is probably not. So if I were a House Member depending on reconciliation, looking to that bill as the way that I am going to justify voting for this bigger bill, which is such a disaster, I would think twice.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

#### RECOVERY ACT SUCCESS

Mr. KAUFMAN. Madam President, it has been just over a year since I took office and since President Obama was sworn in. I think it is a good time and appropriate to reflect on just how far we have come. A year ago, the Presiding Officer and I came into office in the midst of the worst economic crisis since the Great Depression.

We had been spiraling deeper and deeper into recession for over a year. Almost three-quarters of a million jobs were lost in the month of January 2009 alone. Our credit markets were frozen, major edifices of our economic landscape had collapsed or were tottering on the brink, from Lehman Brothers to

General Motors. Alarms were still ringing. Emergency policies were thrown in to the breach, things were bad, and there was no way to know how much worse they were going to get. We were on the precipice.

We could have fallen into the abyss, if not for the extraordinary actions we took. Those actions saved us from another full-blown depression. We are still not out of the woods, of course. Although we have had some good news recently, too many families, too many communities have been hit hard by job losses and falling home values. But we are nevertheless beginning to see evidence that we are finally turning the corner as a nation. While things are still not good, they are no longer getting worse and, in some areas, we have actually seen real improvement. I wish to share with my colleagues some of that evidence.

Here I have a chart showing the Dow Jones industrial average since October 2008. We all know it is not always the best indicator of economic health, but since the downturn was precipitated by turmoil in our financial markets, I will start with this.

As you can see, the market bottomed out just weeks after the Recovery Act was enacted, and it has been climbing ever since. The chart clearly shows we stopped the free-fall, we stabilized the market, and we are allowing it to grow again.

Here is another chart showing the Purchasing Managers Index. This is a survey of purchasing managers who report whether business conditions are better than, the same as or worse than the previous month. A score of 50 means no change, so anything over that should mean the economy is expanding. Anything below indicates the economy is shrinking. In this chart, it is clear business confidence plummeted in the fall of 2008. Only four times in the postwar period has this index fallen so low and never in the last quarter century. We can see it was not until March of last year, right after the Recovery Act took effect, that manufacturing confidence began to return. With other data, we know this occurred as businesses began rebuilding inventories, confident they had weathered the cash crisis of the winter.

This next chart shows our GDP growth over the last 3 years, from the beginning of 2007 to the end of last year, the last date for which we have good data. I have added a smoothing line to show the trajectory our economy has taken. As you can see, in 2008, the bottom fell out. It wasn't until last spring that we began to restore order. I will not pretend 6.3 percent growth for one quarter is good enough for me. Without jobs, it isn't. But it is clearly better than what was happening 12 months ago.

My last two charts, which address jobs, tell the most important tale. We know from past experience that job growth lags behind economic recovery. This chart shows how long that took in

previous postwar recessions. In every single postwar recession, jobs have lagged the economic recovery, whether it is 1 month in July 1908 or 22 months in November 2001 and everything in between.

There is a reason for this. Businesses need to use up their existing capacity, and they need to feel confident in the economic climate before they start expanding again. This process can be especially painful following a financial collapse, where businesses and households are forced to pare down their savings and reduce their spending. By doing that, they tamp down economic recovery, reduce spending, and that is why jobs have been slower to return than anyone would like. Also remember, if you are running a company and you have laid off people, that is a very traumatic experience. You don't want to do that again. The worst situation of all is to start hiring people back and then have to lay them off again. Businesspeople, especially those who care, don't want to hire people back until they are sure they can offer them a job they can keep. Can you imagine putting somebody through this twice?

It is important to remember this lag. Economists suggest we may be around 8 months into economic recovery, and the jobs are coming. We are 8 months into economic recovery, and the jobs are coming. While the record of recent recoveries is a sobering one, the last chart I have shows the beginning of our good news. With announcements over recent weeks, we have seen that unemployment is stabilized and may even be turning around. We have staunchened the bleeding. All those charts show things started picking up right after we passed the stimulus bill.

That is not the only thing we did. There were extraordinary efforts to stabilize the financial sector through direct assistance and low interest rates. But passage of the Recovery Act marked the beginning of the turnaround. That is indisputable, looking at the data. Passage of the Recovery Act marked the beginning of the economic turnaround. We cannot be satisfied until we have all our jobs back, until our economy is working for everyone. But one thing we know for sure is that without the Recovery Act, we would be a lot worse off.

I wish to stress, this will not be a smooth path back to a healthy economy. There will be good days and bad days, good news and bad news. But these indicators show we have turned the corner, thanks in no small way to Recovery Act money that is still going out. Nationally, nearly 2 million jobs have been saved or created by activities funded by the Recovery Act. This is not something I alone am claiming. Economic experts from Moody's, CBO, Macroeconomic Advisers and more are telling the same story. But that is not all the Recovery Act has done. It has also given a helping hand to millions of Americans out of work by expanding and extending unemployment insur-

ance. Meanwhile, 95 percent of working Americans benefited from tax relief. Under the Recovery Act, 95 percent of all working Americans benefited from the tax relief.

State and local governments received badly needed fiscal relief that allowed them to maintain essential services, including health coverage for millions of Americans, and retain workers which kept cops on the beat and teachers in the classroom. We will never know how bad the economy would have been if we had not acted. That is the nature of things. But the charts I have shown all tell the very same story, of an economic free-fall that has been slowed, stopped, and reversed.

Do any of my colleagues believe we would be in a better situation today without the Recovery Act? The timeline is clear. The data are clear. The Recovery Act is what brought the economy back.

The challenge we faced 1 year ago was a roughly \$2 trillion hole in the economy. Consumer spending, fully two-thirds of the whole economy, was in free-fall. Failing to plug the gap would have continued the free-fall or, just as badly, condemned us to a lost decade similar to what Japan saw in the 1990s. During 1990s, the Japanese did not come back with a major effort such as the Recovery Act, and they had GDP level for a decade. You can imagine what that did to revenues, their deficit, and their jobs. That is what we would have been condemned with, if we had not gone with the Recovery Act.

Let's tell the truth about how we got here. It is absolutely essential to remember what the situation was 1 year ago when the administration came into office, not to go back and go over things that happened in the past but to make sure we don't do it again and to understand what caused this recession. The circumstances we inherited at the end of 8 years of the prior administration were the worst we have seen in generations. When the Bush administration came to office in 2001, the Federal budget was not only balanced, it was in surplus, in surplus to the tune of \$236 billion, the largest surplus in half a century. Remember that. That was not that long ago. We were actually debating how quickly we were going to be free of debt as a country. We were on a path to financial independence, able to save for retirement of the baby boom generation, able to set aside something for a rainy day. That was only 10 years ago.

Tragically, that inheritance was squandered. Instead of a surplus of \$710 billion that was projected in 2001 for last fiscal year, 2009, we wound up with a \$1.6 trillion deficit. I hear my friends on the other side talk about deficits. This \$1.6 trillion deficit didn't just develop. It came out of the policies of the last 8 years.

Two major factors account for the bulk of this reversal of fortune. First were the economic and budget policies of the last administration which gave

no thought to paying for tax cuts or spending increases. We just had a debate about paying for the \$10 billion for an employment extension. But we actually passed tax cuts, Medicare, other things that were never paid for that were hundreds of billions of dollars, not \$10 billion, hundreds of billions. Tax cuts primarily for the wealthy and the wars in Iraq and Afghanistan together accounted for more than \$500 billion of the 2009 deficit and \$7.1 trillion over the next decade and none of it was paid for.

Second, we had the regulatory failures which permitted, even encouraged, the financial excesses that brought our markets down. They not only permitted it; they encouraged it. There was a feeling you didn't have to do any kind of regulation, only self-regulation. Alan Greenspan himself said he was dismayed self-regulation didn't work. That financial collapse battered our economy, reducing revenues and increasing necessary spending on unemployment insurance, food stamps, and other support programs. Here we are on the floor debating unemployment insurance, food stamps, and other support programs, when in the previous administration, when Congress was controlled by the other side, they didn't talk about these issues that cost over \$7.1 trillion. They were not funded. There was no funding for the Medicare prescription drug program. There was no funding for the tax cuts. It is true the budget for next year will not be as close to balance as we all would wish, but I believe that is because of the hand we were dealt.

The best way to bring the budget back into order over the long run is to grow our economy. This is something everybody in this building believes in. Our inheritance from the previous administration was tax cuts, overwhelmingly tilted toward those who were already well off, unfunded new entitlement programs, and two wars paid for with borrowed money. All these transformed our country's finances, leading us down the path to where we are now, potentially on the brink of fiscal ruin. Instead of saving for the future, we are borrowing billions from China, Japan and other countries and falling deeper into debt.

There are two kinds of deficits, and we have not done a good job explaining this. Economists will agree. There is the deficit you create in good times by profligate spending and tax cuts. That is one kind of deficit. When the economy is going well, you should be building surpluses. However, once you are in the hole, you have to get out of the hole, and that is a different kind of deficit. For that kind of deficit, you need to get the economy moving again because growth is the only way you are going to get out of the hole.

President Bush inherited a balanced budget, a vast fiscal surplus projected at the time to be \$5.6 trillion over 10 years. Instead, he left office having added nearly \$5 trillion to the national

debt. That is a swing of \$10 trillion. That means the Bush years cost roughly \$30,000 for each and every American. I hear people from the other side talk about the deficit. This was a \$10 trillion swing starting just 10 years ago and going up 2 years ago. What amnesia. Take a look at what happened. What I am telling you are the facts. We can argue about policy but, in fact, we were in surplus and had a projected \$5.6 trillion surplus when President Clinton left office. We ended up with a swing of \$10 trillion, adding \$5 trillion to the national debt. Those are facts. Senator Moynihan from New York used to say everybody is entitled to their opinion but not to the facts. The facts are, there was a \$5.6 trillion projected surplus when President Bush took office, and we are left with a \$5 trillion deficit. That adds up to \$10 trillion. In fact, it adds up to \$10.6 trillion.

I think those of us who supported the Recovery Act need to own up to our own mistake: We have done a lousy job of explaining why the Recovery Act was needed and how it is working. We are doing a good job explaining the Web sites, but we have not done the macroeconomic explanation of why you cannot have jobs come back until the economy comes back. You cannot have the economy come back without having the Recovery Act.

To start with, I will say I know it increases the deficit in the short term. I don't like it, but that was an unavoidable byproduct. The best long-term solution to our debt problems is not a little frugality that cuts down on growth. It is a robust, healthy, growing economy. That is why most economists believe—when I say “most,” I should say the vast majority—that in spite of the short-run deficit hit of the Recovery Act, it will bring us closer to fiscal balance over the long term.

I know some of my colleagues on the other side of the aisle will take issue with this statement. I would simply remind them it is economic growth—something they have talked about for years—and economic growth alone, that will get us out of our present mess.

There is another mistake we made. As we were diligently working to ensure accountability for the program—and we have done a great job of that; and that is important—and connected specific parts of the Recovery Act to specific jobs created, we have missed the forest for the trees in our explanation. We have lost track of the real objective: to jump-start the broader economy. That is where the jobs are going to come from—the main jobs.

While the Recovery Act itself has created or saved 2 million jobs—independent analysis confirms this—perhaps its most important impact has been the renewed confidence it has given to our economy. I absolutely totally, completely believe that. The jobs will come. The jobs will come. They always lag behind the economy. When the economy goes up, the jobs are not far behind.

The charts do not lie. We are rebounding. By returning faith to our consumer economy, the Recovery Act has had a much greater effect than the sum of its parts. To those who opposed the Recovery Act, I ask: What was your plan? Some said—and I presided and listened to the arguments—we should fill a \$2 trillion hole in our economy with \$200 billion. That was a plan doomed to failure. That is what the Japanese did, and they were faced with a decade of no growth.

Economists far and wide said that a \$200 billion Recovery Act would have failed to halt a fall into depression. No reputable economists—none—said this would have taken us from where we were—where we were a year ago, with 730,000 jobs being lost—to a 6-percent growth in gross domestic product for the fourth quarter of last year.

We have come a long way in this past year. We have not come far enough yet. We have a long way to go. But I believe to move forward we must remember how bad things were when we began, just how deep a hole we were in, and we are pulling ourselves out of it now. The Recovery Act has done its job and will continue to do its job.

Madam President, I yield the floor.

AMENDMENT NO. 3354 TO AMENDMENT NO. 3336  
(Purpose: To encourage energy efficiency and conservation and development of renewable energy sources for housing, commercial structures, and other buildings, and to create sustainable communities)

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to lay aside the pending amendment and call up amendment No. 3354, and at the conclusion of my remarks that amendment No. 3354 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. Thank you, Madam President.

My amendment, cosponsored by Senators SCHUMER, BINGAMAN, and MERKLEY, would authorize a series of new programs designed to encourage energy efficiency in homes. I am offering this amendment—based on S. 1379, the Energy Efficiency in Housing Act—to the job creation bill we are debating today because of the enormous potential of green housing to grow the economy, create jobs, and, of course, save energy.

Clean energy is the next big global industry. According to the U.S. Green Building Council, buildings account for 39 percent of all energy consumption and 38 percent of carbon dioxide emissions. Clearly, the housing sector must be a vital part of our energy efficiency efforts.

Venture capitalists and companies from Google to General Electric have testified before the Senate that this revolution—the clean energy revolution—could be even bigger than the digital revolution. The countries at the forefront of this clean energy revolution will be the economic powerhouses of the next century. Right now, the

United States is at risk of falling behind in the race to lead this new economy.

Of the top 10 solar companies in the world, only one is from the United States. Of the top 10 wind power companies in the world, only two are from the United States.

When President Obama met with Senate Democrats a few weeks ago, he told us:

China is not waiting, it is moving. Already the anticipation is that they will lap us when it comes to clean energy.

Well, we can do better than that. We are a country of innovators, a nation that has always sought to be on the cutting edge, always sought the new frontier. All we need is for the Congress to put the right policies in place to promote energy efficiency and encourage the growth of the green economy so our companies can compete head to head with their international competition.

My amendment is endorsed by over 35 groups, including Enterprise Community Partners, the Alliance for Healthy Homes, and the Local Initiatives Support Corporation. The U.S. Green Building Council has included it in its list of “Top 10 Pieces of Green Building Legislation in the 111th Congress.”

These groups know that the provisions included in this legislation will boost the green housing sector in a number of different ways.

First, it would jump-start the market for green mortgages by directing HUD to develop incentives for buyers—such as reduced rates and greater lending ability—and by boosting the secondary green mortgage market.

Second, it would establish a revolving loan fund for States to carry out renewable energy activities, such as retrofits and incentives for green construction. It would also encourage the participation of community development organizations in our most hard-hit neighborhoods in the recession by authorizing a grant program that can be used to help those organizations train, educate, and support the workforce for these green energy, clean energy projects.

The final provision I will highlight would provide incentives for public housing entities to achieve substantial improvements in their own energy efficiency. I believe we can maximize energy efficiency savings when we can split the incentives between landlords and tenants. The landlords will take an interest in pursuing the clean energy initiatives because of the savings they can make from the upgrades, and the tenants can participate in the savings through their conservation efforts. It has to be joint to be at its most effective.

As we continue to debate ways to put Americans back to work, I encourage my colleagues to take a serious look at the green housing sector and at my amendment. I think it merits our attention. I hope it will have my colleagues' support on an appropriate bill

in the near future—I hope—and I speak on it today to put a spotlight on it so I have that opportunity.

I thank the Chair and thank my colleagues.

I yield the floor.

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

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

The clerk will report the previous amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for himself, Mr. SCHUMER, Mr. BINGAMAN, and Mr. MERKLEY, proposes an amendment numbered 3354 to Amendment No. 3336.

(The amendment is printed in the RECORD of Tuesday, March 2, 2010, under "Text of Amendments.")

#### AMENDMENT NO. 3354 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the amendment is withdrawn.

The Senator from Michigan.

### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. LEVIN. Madam President, I ask unanimous consent that the Senate now proceed to executive session to consider the following nominations on the Executive Calendar: Calendar No. 560, the nomination of Terry Yonkers to be an Assistant Secretary of the Air Force; Calendar No. 563, the nomination of Frank Kendall to be Principal Deputy Under Secretary of Defense; Calendar No. 564, the nomination of Erin Conaton to be Under Secretary of the Air Force; Calendar No. 663, the nomination of Paul Oostburg Sanz to be General Counsel of the Department of the Navy; Calendar No. 664, the nomination of Malcolm O'Neill to be an Assistant Secretary of the Army; Calendar No. 665, the nomination of Jackalyn Pfannenstiel to be an Assistant Secretary of the Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF DEFENSE

Terry A. Yonkers, of Maryland, to be an Assistant Secretary of the Air Force.

Frank Kendall III, of Virginia, to be Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

Erin C. Conaton, of the District of Columbia, to be Under Secretary of the Air Force.

Paul Luis Oostburg Sanz, of Maryland, to be General Counsel of the Department of the Navy.

Malcolm Ross O'Neill, of Virginia, to be an Assistant Secretary of the Army.

Jackalyn Pfannenstiel, of California, to be an Assistant Secretary of the Navy.

Mr. LEVIN. Madam President, I thank the Presiding Officer.

I thank my colleagues and the leaders who have been involved in facilitating this. It is long overdue, but I want to thank my colleagues for at least helping to make this happen this afternoon. This will be good news for the Defense Department, good news for our troops. Again, I thank all who have been helpful in this regard.

I yield the floor.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

#### TAX EXTENDERS ACT OF 2009— Continued

Mr. LEVIN. 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. 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.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3080 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Madam President, in the absence of any other Senator seeking recognition, 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. BURRIS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BURRIS. Madam President, I ask unanimous consent to speak as in morning business.

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

#### HEALTH CARE REFORM

Mr. BURRIS. Madam President, my colleagues and I have spent much of last year debating the issue of health care reform. After nearly a century of false starts and broken promises, Democrats came to Congress determined to enact comprehensive reform. We were confident that this time we would not fall short as our predecessors had done; this time we would deliver the changes the American people have been demanding for so many years. But

over the course of the debate an unfortunate pattern emerged, a pattern of obstructionism and delay and scare tactics designed to derail our efforts to make a difference.

My Democratic colleagues and I worked hard under President Obama's leadership to craft sweeping legislation, but our Republican friends were not interested in passing health care reform. They had no desire to take action and no plan of their own. Instead, they found every opportunity to stall, to clog up the Senate, and score political points by attacking those who supported our efforts. They spread misinformation about death panels and higher costs and rationing coverage even though they knew these things were not in our bill. But they kept repeating this bad information and repeating it until it finally started to take hold.

The ordinary folk who heard these distortions had no reason to believe their elected officials would try to misinform them, so they retained this bad information and they did exactly what our Republican friends wanted them to do—they got angry. They held rallies. They called their Senators and Representatives. They regurgitated the talking points that had been written for them by obstructionists and special interests and the insurance lobby.

As a result, our Republican friends succeeded in holding up our health reform bill. By misinforming the American people, they stirred up an opposition that was tailor made to create confusion and gridlock no matter how hard some people tried to explain the truth because the facts are these.

No Democratic health care proposal has ever included a so-called "death panel."

None of our legislation would result in rationing of any kind.

And, rather than driving costs up, as my Republican friends have argued, nonpartisan analysis consistently shows that the Senate bill would lower costs significantly.

It would reduce the deficit by more than \$130 billion in the first 10 years, and almost \$1 trillion in the decades after that.

In addition, our bill would extend health coverage to 31 million Americans.

It would prevent corporations from discriminating against their customers because of pre-existing conditions.

And it would reduce health premiums for individuals and families, to the tune of hundreds, or even thousands, of dollars per year, depending on income level.

From the very beginning of this debate, I have called for a bill that fulfills the three goals of a public option:

A bill that creates competition in the insurance market. A bill that gives us the tools to hold insurance companies accountable. A bill that will provide cost savings to millions of Americans.

I believe our current proposal can accomplish all of these things. This legislation is not perfect, but it represents