

tax credit would be cut in half. Marginal tax rates will go up. Dividends and capital gains taxes will increase. It is no wonder that businesses are timid about hiring and investing and consumers are more cautious than ever about their own spending. Even if economists say we are technically out of the recession, dollars have not begun to flow because people and businesses are uncertain about what their burden will be in the coming years. They are very nervous that it will be higher.

We can eliminate some of that uncertainty and instill some much needed confidence in the economy by extending current tax law. Again, unless Congress acts, taxes will increase automatically. If the President is looking for a job stimulator, I suggest this is where to start. If he were to announce on Wednesday night that he is calling on Congress to keep taxes right where they are—in fact, if we can cut them in some areas, that would be even better—I think he would see businesses react immediately and positively to the news. But instead of increasing taxes, we need, as Zuckerman says, to draw up credible plans to bring down bloated deficits without triggering another downturn.

Let's keep something in mind about the American people: They know you can't spend what you don't have. The message this Congress and the administration have been sending to Americans is that even though they are bound by limits, Washington is not. As I said, it is time to start listening to our constituents and then act on their instructions. Stop spending, keep taxes where they are, reduce them where we can, and stop running up deficits.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

#### CONRAD-GREGG AMENDMENT

Mr. BAUCUS. Mr. President, Dr. Laurence Peter, the educator who came up with the Peter Principle, once said:

Democracy is a process by which the people are free to choose the [person] who will get the blame.

In a democracy, that is the people's right. In a democracy, the people elect us to represent them. And in a democracy, the people elect us to be accountable.

But the chairman and ranking Republican member of the Budget Committee have come up with a process to shift the blame. They have come up with a process for Congress to punt our accountability away. They have come up with a process to outsource Congress's central fiscal responsibilities to a new budget commission.

I can see that a commission may be attractive to some. It is the easy way out. Senators can blame everything on the commission. Senators can say: The commission made me do it.

But we should not shirk our responsibility. Rather, we should do the job our constituents sent us here to do. We al-

ready have a process for doing so. It is called the budget process.

The chairman and ranking Republican member of the Budget Committee have proposed a new budget process. No one has shown greater zeal in taking on the budget deficit than the chairman and ranking Republican member of the Budget Committee. I commend them for their good intentions. But we should reject their new process—not their intentions but their new process.

Senators CONRAD and GREGG have said: Everything needs to be on the table, including spending and revenues. But why stop there? If Congress is going to outsource its central fiscal responsibilities, why stop there? Why not cede to this commission all of our responsibilities? Why don't we outsource all of this year's work and then adjourn for the year?

Come to think of it, if we do cede all of our powers to this commission, what is to stop them from inserting anything and everything they choose into the commission's one, nonamendable, omnibus vehicle? They can insert anything they want—anything.

That is the catch with this commission. If we were to cede all of our responsibilities to this commission, and we were to tie our hands so we could not amend its recommendations, then we would risk setting in motion some truly terrible policy.

Under the proposed fast-track procedures, we would not be able to amend the proposal. But what if we did not like the committee's recommendations? We would not be able to replace the commission's recommendations with our own.

It is clear from the statements of Senators CONRAD and GREGG that they have painted a big red target on Social Security and Medicare. That is what this commission is all about. It is a threat to Social Security and Medicare.

That is why the first amendment this Senator offered is to protect Social Security. Senators CONRAD and GREGG have proposed a system that will not allow Senators to offer amendments to protect Social Security later, after the commission has come up with its recommendations. That is why we have to vote to protect Social Security now, while we still can offer amendments.

We already have a process to address the budget. It is called the congressional budget process. Anytime we wanted to, we could use the budget process to address the budget deficit. Since the creation of the budget process, it has been the process that Congress has usually used to address fiscal challenges.

The chairman and ranking Republican member of the Budget Committee should skip the commission. They should go straight to their recommendation. They should bring it up in their committee. That is exactly why Congress created the Budget Committee, the budget resolution, and the reconciliation bill in the first place. That was the purpose.

We do not need a commission to do our work. We do not need a new process to shift the blame. Rather, to address our fiscal challenges, let us get to work on it now. Let us do the job the people sent us here to do. Let us reject this commission.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

Mr. REID. Mr. President, what is the pending business?

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.J. Res. 45, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 45) increasing the statutory limit on the public debt.

Pending:

Baucus (for Reid) amendment No. 3299, in the nature of a substitute.

Baucus amendment No. 3300 (to amendment No. 3299), to protect Social Security.

Conrad/Gregg amendment No. 3302 (to amendment No. 3299), to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to expand future prosperity and growth for all Americans.

Reid amendment No. 3305 (to amendment No. 3299), to reimpose statutory pay-as-you-go.

AMENDMENT NO. 3305 TO AMENDMENT NO. 3299

Mr. REID. Mr. President, is amendment No. 3305 the pending amendment?

The ACTING PRESIDENT pro tempore. It is.

#### CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk with respect to that amendment.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid amendment No. 3305 to the Baucus for Reid substitute amendment No. 3299 to H.J. Res. 45, a joint resolution increasing the statutory limit on the public debt.

Harry Reid, Max Baucus, Patrick J. Leahy, Christopher J. Dodd, Edward E. Kaufman, Mark R. Warner, Paul G. Kirk, Jr., Tom Udall, Daniel K. Inouye, Jeff Merkley, Robert Menendez, Byron L. Dorgan, Jack Reed, Debbie Stabenow, Tom Harkin, Roland W. Burris, John D. Rockefeller IV, Richard Durbin.

## CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion on the substitute amendment at the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Baucus for Reid substitute amendment No. 3299 to H.J. Res. 45, a joint resolution increasing the statutory limit on the public debt.

Harry Reid, Max Baucus, Patrick J. Leahy, Edward E. Kaufman, Paul G. Kirk, Jr., Tom Udall, Daniel K. Inouye, Jeff Merkley, Robert Menendez, Byron L. Dorgan, Jack Reed, Debbie Stabenow, Tom Harkin, Roland W. Burris, John D. Rockefeller IV, Christopher J. Dodd, Charles E. Schumer, Richard Durbin.

## CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion on the joint resolution, which is at the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.J. Res. 45, a joint resolution increasing the statutory limit on the public debt.

Harry Reid, Max Baucus, Christopher J. Dodd, Patrick J. Leahy, Edward E. Kaufman, Paul G. Kirk, Jr., Tom Udall, Daniel K. Inouye, Jeff Merkley, Robert Menendez, Byron L. Dorgan, Jack Reed, Debbie Stabenow, Tom Harkin, Roland W. Burris, John D. Rockefeller IV, Charles E. Schumer, Richard Durbin.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorums with respect to each cloture motion be waived.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, today is the Senate's fourth day of consideration of the joint resolution to increase the debt limit. I remind my colleagues this is the legislation that allows the government to honor its commitments to pay its bills.

Four amendments remain pending: The substitute amendment raising the amount of the debt limit; this Senator's amendment to protect Social Se-

curity; the Conrad-Gregg amendment to create a fast-track process to consider the budget commission's recommendations; and the majority leader's amendment reinstating the statutory pay-as-you-go budget law. Up to seven other amendments remain in order to the joint resolution.

The Senator from Alaska has the right to offer an amendment on the Environmental Protection Agency's endangerment finding. We expect she will seek to address this matter through a freestanding resolution of disapproval rather than an amendment.

The remaining six amendments in order are a Coburn amendment proposing a package of rescissions; a Sessions amendment creating caps on appropriated spending; an amendment by the Republican leader's designee relevant to any on the list; an amendment by the majority leader relevant to any on the list; and two amendments by this Senator regarding the budget commission.

Under the previous order, every amendment to this joint resolution will be subject to a 60-vote threshold. The Senate will not, however, conduct any rollcall votes on the debt limit today. We are hopeful Senators with amendments on the list will offer some of those amendments today.

Under the previous order, at 5:30 this afternoon, the Senate will return to the nomination of Rosanna Peterson to be district judge for the Eastern District of Washington. At 6 o'clock this evening the Senate will conduct a rollcall vote on the confirmation of the Peterson nomination.

Under the previous order, at 11:30 tomorrow morning, the Senate will proceed to a vote in relation to the following two amendments to the debt limit: First, this Senator's amendment to protect Social Security; and second, the Conrad-Gregg amendment to create a fast-track process to consider a budget commission's recommendations.

So the Senate is open for business this afternoon for Senators to offer their amendments. We will work toward developing an agreement for the offering of all amendments by a time certain, perhaps as soon as tomorrow, and we hope to conclude action on this measure as soon as possible thereafter.

I thank all Senators.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

## BERNANKE NOMINATION

Mr. DORGAN. Mr. President, this weekend there was some discussion and writing in the papers and elsewhere in journals about the nomination of Mr.

Bernanke, the Chairman of the Federal Reserve Board, for another term as chair on that Board. The Washington Post had an editorial entitled "Scapegoat at the Fed." I don't normally come to the floor of the Senate to respond to the Washington Post editorials, but I do wish to respond to a portion of this editorial, and then in a broader way describe why I think this is an important moment for the Senate.

"Scapegoat at the Fed." The editorial begins:

There are many ways to interpret the election results in Massachusetts last week . . . But one thing Massachusetts did not represent was a mandate to make a national scapegoat out of Ben Bernanke, the Federal Reserve Board chairman.

Yet two Democratic Senators seeking reelection in November . . . plus another planning to retire . . . appear to read it that way. They took the occasion of last week's political upheaval to announce their opposition to another four-year term for Mr. Bernanke, whose current one expires January 31. These senators' attempt to burnish their populist credentials by making Mr. Bernanke the fall guy for all the sins, real and perceived, of Wall Street fuels the right-left anti-Fed chorus in Congress that has already produced troubling attempts to subject the Fed to intrusive and counterproductive audits of its monetary policy.

Well, that is a partial recitation of the editorial.

I can just condense the editorial by saying the editorial board at the Washington Post, as is always the case, has taken the position that if anybody wants to know anything about what the Federal Reserve Board is doing, it is none of their business. It is none of Congress's business; it is none of the American people's business. Stay out of it. Keep your nose out of the Federal Reserve Board. That is kind of the position of the Washington Post.

It is not since the Massachusetts election, however, that I have expressed reservations about the Federal Reserve Board. In fact, on six occasions I have given speeches on the floor of the Senate just since December 10, 2008. That day, plus on five additional occasions, I came to the floor to talk about the issues that persuaded me to say, as I did last week, that I don't even believe we should vote on Mr. Bernanke's nomination until he has decided to provide the Senate and the American people with information that he is now withholding. Let me describe what that is.

This is a Bloomberg report. It says:

The U.S. has lent, spent, or guaranteed \$11.6 trillion to bolster banks and to fight the longest recession in 70 years.

I have not come to the floor of the Senate critical of the Fed's policies by which they have lent, spent, or guaranteed \$11.6 trillion; although it is fair to say the \$11.6 trillion is not theirs. That represents the risks of the American people. That is the full faith and credit of this great country of ours.

The Federal Reserve Board has taken a number of actions to try to address this economic crisis. However, I would

suggest this economic crisis was caused, at least in significant part, by the malfeasance of the Federal Reserve Board and its previous Chairman, and, in some respects, this Chairman, who were content to take a long slumber, a very long nap, while the predatory lending was going on, the housing bubble was growing, and a massive amount of bad securities were finding their way—along with the payment of a lot of generous bonuses and fees—into the financial background of a lot of financial institutions in this country.

It says:

The Federal last year began extending credit directly to companies that aren't banks for the first time since it was created in 1913 . . . it has refused to divulge the details about the companies participating in the 10 lending programs.

For the first time in the history of this country, during this response to the economic crisis, the Federal Reserve Board did this, which previously has only lent money directly to FDIC-insured commercial banks. That is the only group of interests that can come to the Fed and get direct money from them. For the first time in history, the Fed said, during this crisis, we will open that window to allow investment banks to come and get money directly from us.

So I began coming to the floor of the Senate, and I didn't come criticizing the Fed at that point because I don't know if what they did was necessary, but they did it. I wasn't critical. We were in the middle of a crisis. Then I began coming to the floor and saying: All right. Now that we have some amount of stability, let's at least make certain the Federal Reserve Board tells the American people who got the money, who ended up with the money, and what were the terms of its being made available to these investment banks.

Well, a Federal court, as a result of a FOIA request and a lawsuit said this, and it was reported in Bloomberg:

The Federal Reserve must, for the first time, identify the companies in its emergency lending programs after losing a Freedom of Information Act lawsuit.

The judge said the central bank improperly withheld agency records. He said you have to disclose who got the money.

The Federal Reserve Board said we are going to appeal the judge's ruling. We don't intend to comply with that. We are going to appeal it and get a stay. The Federal Reserve is refusing to identify the recipients of almost \$2 trillion in emergency loans from the American taxpayers or the troubled assets the central bank is accepting as collateral.

The Federal court says you have to do it, and they appealed the court ruling and got a stay and they are saying we don't intend to do it. In the meantime, I and Senator GRASSLEY authored a letter with eight of our colleagues to the Federal Reserve Board last July and said: We want you to disclose to the Congress and the American people who got the money and how much and what the terms were.

We got a letter back from the Federal Reserve Board, dated September 16. It has a lot of paragraphs in it, but you can summarize it this way: No.

It is interesting to me that the Chairman of the Federal Reserve Board has said: We believe one of the hallmarks of what we are doing is transparency. I don't understand, if transparency means you are going to disclose things and give people the opportunity to understand what happened, why is there no transparency? Even after a Federal court said you improperly withheld records, even after Members of the Senate said make this information available, even after the American people said we deserve to know who got our money, the Federal Reserve Board said: We don't intend to tell you a thing.

There are a couple trillion dollars out there that the Fed has made available. It was a risk to the American taxpayer, and \$2 trillion is not a small amount; it is a very large amount. The Fed said: That is our business, not yours. That is the business of the Federal Reserve Board. We, in effect, have a right to operate in secret and we intend to continue to do that.

My problem with Mr. Bernanke—as I have said last week, I don't think his nomination should be voted on in the Senate until and unless he discloses to us and the American people the details about this \$2 trillion and who got it. What were the terms? We now see some of the investment banks reporting the largest profits in their history, and they are preparing now to provide bonuses, we are told, of \$120 billion to \$140 billion. These are firms, by the way, that would no longer exist were it not for the Federal Government. These are firms perched on the edge of a financial cliff, ready to go under, except for the guarantee of the Federal Government in all kinds of ways. Of course, they are the first to get well. No, it is not a company back on Main Street, not a company back in my hometown. The first to get well in this new economy are the investment banks.

Did they get well because they were able to get a couple trillion dollars from the Federal Reserve Board, probably at zero interest rate—I don't know—and invest back into Treasury securities and get paid interest on it? Were they arbitraging money? I don't know. I think we ought to know. We have a right to know.

Mr. President, the issue, from my standpoint especially, is, we have a right to know, and the chairman of the Federal Reserve Board has a responsibility to tell us and the American people. I noticed last weekend, when these writers, including editorial writers and others, were having an apoplectic seizure over this issue: Oh, My God, somebody might vote against Bernanke. Then they say: You know what. More than that being what they call Fed bashing—it is not—it is also the case that this Congress is thinking of tight-

ening the rules on financial regulations to prevent those who were doing what they did to create this crisis from ever doing it again. Shame on them. That is antibusiness.

Isn't it interesting how this has morphed into a situation where, if we want to close the gate and create rules that prevent the kind of nonsense that happened from ever happening again, which drove this country into the ditch, somehow that is antibusiness. I don't think so. I think what is antibusiness is this notion of Alan Greenspan—and I will put up his quote—came to Congress after the fact, after the collapse, and he said:

I made a mistake in presuming that the self-interests of organizations, specifically banks and others, were best capable of protecting their own shareholders and their own equity in the firms.

His point was, we don't need to regulate or oversee anything. Self-regulation will work best. They will be fine. Leave them alone and they will come home. What an unbelievable, tragic mistake by the Chairman of the Federal Reserve Board.

I made a mistake in presuming that the self-interests . . . were best capable—

It is a suggestion that somehow capitalism works and you don't need any regulatory oversight at all because the free market is best left to its own devices. The free market is the best allocator of goods and services I know of by far, and I support the free market. I also understand that, such as in any other area of competition, you need a referee, somebody with a striped shirt who blows the whistle when there is a foul. There are plenty of fouls in the free market system. That is why you need a referee. You need regulation. That is not a 4-letter word. It is called regulation. You need effective regulation to make sure the free market system works the way it was supposed to work.

There are a lot of interests in this free market system that want to clog the arteries of the free market and cause some sort of substantial problem in the free market, as long as it exists in their self-interests to do so. There are plenty of interests wanting to do it. That is why effective regulation is important. I am not talking about overregulation or underregulation; I am talking about effective regulation that is anticipated and which, for about 8 years, took a vacation by the hiring of regulators who actually boasted they were going to be willfully blind and say: You all do what you want to do in this system because we will not look.

I brought, again—and I know it is repeating—some of the things nobody looked at. The biggest mortgage company in the country that helped set up the subprime scandal that fed itself into the balance sheets of banks—commercial banks and investment banks—and caused a massive collapse and about \$15 trillion of lost value to the American people. We all have seen Countrywide's advertisements:

Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. . . .

That is unbelievable. You may think: How on Earth can that be a business model? They were advertising to say: Are you a bad credit risk? We want to do business with you. If you have missed payments or been bankrupt, come see us.

This is Zoom Credit. Here is their advertisement. We saw these on television and heard them on the radio and saw them in newspapers. We thought: How did this work? They said this:

Credit approval is just seconds away. Get on the fast track at Zoom Credit. At the speed of light, Zoom Credit will preapprove you for a car loan, a home loan, or a credit card. Even if your credit's in the tank. Zoom Credit's like money in the bank. Zoom Credit specializes in credit repair and debt consolidation, too. Bankruptcy, slow credit, no credit—who cares?

Can you imagine that? This is an advertisement from a mortgage company saying if you have been bankrupt or have slow or no credit, who cares.

Finally, this is Millennia Mortgage:

12 months, no mortgage payment. That's right. We will give you the money to make your first 12 payments if you call within the next 2 days. We pay it for you. Our loan program may reduce your current monthly payments by 50 percent and allow you no payments for the first 12 months.

We saw all these things as they were creating the rot at the bottom of this system from which the house of cards collapsed. By the way, all this put mortgages out there in the country and the result was those mortgages were wrapped into securities and those securities were then sold from mortgage companies to hedge funds and investment banks, selling the risk north so they didn't have the risk anymore. There is no underwriting at the bottom because you don't have to underwrite if you sell the risk ahead.

Then we saw the spectacle of very large commercial banks with their financial belly loaded with this rot—CDOs, credit default swaps, you name it. There were securities rated AAA that were worthless. Then we all stood around scratching our heads wondering: How did this happen? It was unbelievable, unprecedented greed. A lot of people at the top made massive amounts of money. The guy who ran Countrywide got away with about \$200 million, I believe. That is now under investigation. A lot of them got away with a lot of money. Then this country and the American people got stuck with about a \$15 trillion bill and an economy that has been limping ever since.

One asks the questions: Is it Fed bashing? Is it antibusiness? Is it Fed bashing to say the Fed owes the American people information about who got the \$2 trillion and what the terms were? Is it antibusiness for those of us who are trying to put together rules and regulations that say this cannot happen again, we will not allow that?

I wish to close with one additional quote. This one is from me. It was al-

most 10½ years ago on the floor of the Senate when we passed legislation at the request of all those big financial institutions, the investment banks, you name it. They wanted to strip away protections that were put into place after the Great Depression, saying it was old-fashioned; let's compete with the Japanese and Asians and others in commercial finance—one-stop financial service centers, create big holding companies and put it together, commercial and investment and securities, all in one big tub and put up firewalls and we guarantee you will never be hurt and we will be able to better compete.

On the floor of the Senate I said this:

This bill will, in my judgment, raise the likelihood of future massive taxpayer bailouts. It will fuel the consolidation and mergers in the banking and financial services industry at the expense of customers and others.

It certainly did that. For those of us who decide: You know what, let's begin to put some of these pieces back together, let's begin to provide some protection for this country's economy, let's get rid of this orgy of speculation, that unbelievable greed, this bubble of incompetence of people who were supposed to be regulating but didn't—yes, that includes the Federal Reserve Board. Let's do this right and put it back together. That is not antibusiness; that is probusiness. The businesspeople in this country who go to work in the morning and put a key in the door and open are going to work all day, risking everything they have. They want an economy that is working, not in collapse but one that is providing opportunity. That certainly cannot happen, and it doesn't happen, when you allow this kind of unbelievable speculation and the rancid behavior and the things that happened at the bottom with the predatory lending and exotic things such as CDOs and credit default swaps, so complicated that those on both ends of them, in many cases, didn't understand them. Will Rogers once described, a long time ago, people who bought things they will never get from people who never had them and both smiled because both made money.

That is the sort of thing that was going on in this country, and that does not work. The real economic health and the real wealth of this country is what we produce, not trading paper and especially not trading paper as a matter of speculation to try to build the bubbles we saw in the last decade or so.

We have a lot to do to fix what is wrong. I say to those who wrote the Washington Post editorial, the smallest amount of effort could have avoided that mistake in terms of the six speeches I have given on the floor of the Senate on this subject. This is not a revelation since the Massachusetts election. I have been coming to the Senate floor for a long time to talk about these problems.

Let me finally say, I think as we move from here to the issue of finan-

cial reform, aside from the Bernanke nomination, the question is: Are we going to do that right? Are we going to allow the kind of pressures that have built on the outside to influence what we do?

We should certainly know by now that if you are too big to fail in the financial industry, then you are too big and we ought to do something about it. We ought to know by now that putting together commercial banks that are insured by the taxpayers with investment banks is a recipe for disaster, and there is a way to separate them. That ought to be our business as we turn to financial reform in the years ahead.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, let me say to my good friend Senator DORGAN, first of all, we all know he has served his State for 40 years. Many of us will be talking about that service and applauding him. It has been a real pleasure to have him chairman of the Senate Indian Affairs Committee while I have served on that committee. There will be many more things I will say about him and his fine public service. I thank him because I think what he has said about the Fed and transparency is something that needs to be said. I look forward to debating that with him. I thank Senator DORGAN.

(The remarks of Mr. UDALL of New Mexico pertaining to the submission of S. Res. 396 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. UDALL of New Mexico. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3302

Ms. COLLINS. Mr. President, I rise today in support of the amendment offered by Senators CONRAD and GREGG to create a bipartisan budget commission to address our Nation's long-term fiscal crisis.

The Conrad-Gregg amendment would create an 18-member bipartisan commission which would be charged with developing a specific plan to correct our government's long-term fiscal imbalance. All options would be on the table. The commission's legislative recommendations would require expedited consideration by the Congress, a supermajority vote in both Chambers, and Presidential approval.

While I would prefer that Members of Congress have the ability to offer revenue-neutral amendments to the commission's legislative recommendations, it is imperative that we move forward on this proposal. For this reason, I am pleased to be a cosponsor of the legislation.

I would note that I have not always thought the creation of an independent commission was the right approach. I was hopeful that Congress could tackle

the issue of the looming fiscal catastrophe confronting us. But I have concluded that the only way we are going to achieve urgent action on the very serious fiscal problems we face is through the creation of this independent commission.

The fact is, America's out-of-control debt is a grave threat to our future prosperity. Just last month, the Senate voted to increase the debt limit to an astonishing \$12.4 trillion, and yet here we are again today considering another increase in the debt limit—this time by \$1.9 trillion, to \$14.3 trillion. Last year, this body approved the President's budget which will double our debt in 5 years and triple it in 10 years. In other words, we are facing an explosion in the Federal debt.

As bad as that sounds, our Nation's debt problem is actually far worse. America has nearly \$60 trillion in unfunded liabilities for programs such as Social Security and Medicare. These unfunded liabilities amount to \$184,000 per person living in our country, or \$483,000 per household. By contrast, median household income is just over \$50,000.

As David Walker, the former Comptroller General and now president of the Peterson Foundation, put it in recent testimony before our Senate Homeland Security and Governmental Affairs Committee:

It doesn't take an economist or a mathematician to realize that this is unsustainable.

We are talking about debt levels that are unsustainable and threaten the very future economy of our country. Our problem, in a nutshell, is that government has promised more than our citizens can afford to pay.

One columnist described this as the collision between the high and rising demand for government services and the capacity of the economy to produce the tax revenues to meet those demands. Historically, Americans have paid about 18 percent of gross domestic product in Federal taxes. But with the explosion in entitlement spending tied to the retirement of the baby boom generation, plus interest on the national debt, Americans would need to pay taxes equal to 34 percent of GDP to keep pace with spending 25 years from now. That is right, the tax burden would have to soar to 34 percent of our gross domestic product.

I am looking at the young pages who are on the floor right now. It is their future we are talking about. They are the ones who are going to be faced with this enormous debt.

Even if it were possible to raise taxes in order to finance this rate of spending, that remedy would do tremendous damage to our economy. It would crush job creation, devastate our already battered small businesses and dash the aspirations and can-do spirit of our people. Thus, our decisionmaking must begin by reconsidering spending that, although popular, simply cannot be justified during this fiscal crisis. It is

wishful thinking to hope we can simply grow our way out of this problem. Economic growth helps, there is no doubt about that, but it is itself endangered by this enormous debt.

Becoming more efficient and productive helps reduce our long-term financial challenges, but economic growth alone will not rescue us from the predicament we face. If we fail to stop this approaching tsunami of red ink, then the futures of our children and our grandchildren will be swamped by our negligence. The American dream as we know it, where each succeeding generation can achieve a higher standard of living and quality of life than the previous generation, will be over. It will not be easy, even with this commission, but we must confront the conflict between what we want and what we can afford. It is time to reassess our priorities, to make the hard decisions and to set a new fiscally responsible course for our country.

The budget reform commission proposed by Senator GREGG and Senator CONRAD would begin to move us forward as a nation in facing these serious financial challenges. I know it is not easy for many of my colleagues to give away some authority to this commission. I remind them that the commission's recommendations would still come back to us and could not become law without our voting for them and without the President deciding to sign the recommendations into law. But I have concluded that the only way to jump-start the process, to do what needs to be done, to right the fiscal boat, to help us face these challenges, to help us move forward as a nation, is to enact the Conrad-Gregg amendment. I urge all my colleagues to support their effort.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I notice other speakers who wish to speak are on the floor now. I will make a very short statement here and defer to those Senators.

I ask unanimous consent the pending amendments be temporarily set aside so I can call up one of my amendments under the previous order.

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

AMENDMENT NO. 3306 TO AMENDMENT NO. 3299  
(Purpose: To establish a bipartisan task force for responsible fiscal action, to assure the long-term fiscal stability and economic security of the Federal Government of the United States, and to expand future prosperity and growth for all Americans)

Mr. BAUCUS. Pursuant to the previous order, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 3306 to amendment No. 3299.

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

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

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

Mr. BAUCUS. Mr. President, I will briefly explain my amendment. This amendment would achieve all of the same objectives of the Conrad-Gregg amendment but with one exception, and this is an important exception. In the amendment I just offered, there are no fast-track procedures for consideration of the commission's recommendation. Thus, for Senators who want to have a commission consider our fiscal situation and report back to us, this is your alternative. But this alternative would protect the rules of the Senate and the prerogatives of the Senators. I urge my colleagues to support this alternative.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

RENOMINATION OF CHAIRMAN BERNANKE

Mr. BINGAMAN. Mr. President, I want to speak for a few minutes about the upcoming confirmation vote on Chairman Bernanke of the Federal Reserve Board. I should begin by stating very clearly that there is no way to overestimate the severity of the economic downturn that began in this country in 2007. To date, our Nation has lost 7.2 million jobs. In my home State of New Mexico, unemployment is now 7.8 percent. That is more than twice the rate it was 2 years ago. But even at that it is considerably lower than the unemployment rate in many States—in fact, in a majority of States. American households have lost \$12.6 trillion in wealth; more than 5 million American families have seen their homes foreclosed, many have lost their businesses, and many have lost their farms. In short, there are millions of families across our country who are and have been experiencing severe economic pain and dislocation. While indicators suggest the recession has officially ended, our economy is hardly out of the woods.

In the face of such pain, it is tempting to grasp for ways to demonstrate disapproval of the economic downturn or to put distance between ourselves as elected officials and the policies involved with the economic downturn. It is tempting, particularly in this political climate, to want to seize on a particular individual to take the brunt of the criticism.

I rise today to urge my colleagues not to use Federal Reserve Chairman Ben Bernanke's renomination for any such exercise. I rise to offer my strong support for his reconfirmation. With the benefit of hindsight, it now seems the Fed might have done more to prevent the economic downturn. Some have pointed to financial institution bailouts and have argued that the Fed should not have provided financial support or guarantees to vulnerable financial institutions. Some have argued that the Fed's support should have

been structured differently. Historians, with 20/20 hindsight, will be able to argue those issues for years to come. But hindsight also tells us that without the bold and aggressive actions Chairman Bernanke in fact took, the outcome of this economic downturn could have been considerably worse. I can imagine no Fed Chairman since the Great Depression who has faced such a Herculean task. If ever there were praise for averting a disaster, then in my view Chairman Bernanke deserves that praise. He deserves praise for working effectively with other domestic and foreign agencies to ensure the continuity of our global banking system, for taking significant steps to boost banks' access to funding, and for establishing targeted lending programs to restart the flow of credit in critical markets.

It is because of this skillfulness and aptitude that Chairman Bernanke demonstrated he has had the strong support of President Obama for reconfirmation to his position. President Obama said the Chairman's "bold, persistent experimentation, has brought our economy back from the brink."

Similarly, in nominating Chairman Bernanke to his first term, President George W. Bush said he was choosing Chairman Bernanke for his "reputation for intellectual rigor and integrity" and the "deep respect he enjoyed in the global financial community."

It would be shortsighted for this Congress to second-guess the judgment of our current and our former Presidents in this regard. President Obama's call for the reappointment of Chairman Bernanke is echoed by some of our Nation's most distinguished economic thinkers. Former Chairmen Alan Greenspan and Paul Volcker have both said it would be irresponsible not to extend Chairman Bernanke's term. Douglas Holtz-Eakin, who was Senator McCain's chief economic adviser in the 2008 election campaign, says "it would be a disaster not to confirm" Bernanke.

Warren Buffett has said if he could vote for Mr. Bernanke's confirmation he would—twice. As Mr. Buffett explained:

We talked about [the economic downturn] being an economic Pearl Harbor, and he did what should have been done in response to that Pearl Harbor.

These respected economic thinkers know that emerging from our Nation's deepest and most protracted economic downturn since the Great Depression will require continuity of policy. Financial conditions might now suggest that our economy is in fact turning around, but a complete turnaround will require that families and businesses, investors and financial markets see consistent policy actions. Central to that consistency and that continuity is leadership at the helm of the Federal Reserve Board. If we were to change chairmen now, we would add considerable uncertainty to our already fragile business and financial markets and al-

most certainly trigger a sell-off of the dollar and a sell-off of equities. This could have the unfortunate effect of prolonging the economic downturn we are now experiencing.

Finally, while I rise to support Chairman Bernanke's reconfirmation, I also renew my call for policymakers in all positions, ourselves included, to make job creation the centerpiece of any economic recovery agenda. We in the Congress must also press forward with the urgent task of reforming our financial regulatory infrastructure, the cracks and holes of which have been exposed by this recession.

Our Nation faces considerable and urgent challenges. In my view, that is why it is essential that Ben Bernanke be confirmed for another term as Chairman of the Federal Reserve Board.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3302

Mr. VOINOVICH. Mr. President, I rise today to urge my colleagues to support the Conrad-Gregg amendment. I believe the issues this amendment is designed to address—our national debt and deficits as far as the eye can see—are two of the most important issues Congress and our Nation face. Our failure to address these issues will damage our economy, our Nation's security, peace in the world, and the kind of future we leave to our children and grandchildren.

The greatness of the issue has resulted in the chairman and ranking member of the Senate Budget Committee, Senators CONRAD and GREGG, coming together and introducing the Bipartisan Task Force for Responsible Fiscal Action Act, which is supported by 29 Senators—14 Democrats and 15 Republicans. I am pleased to say I am one of those 15 Republicans.

I think those who followed the recent operations of the Senate will appreciate that in this Balkanized Senate, where nothing seems to get done on a bipartisan basis, this commission has significant bipartisan support. The Conrad-Gregg proposal would create a statutorily based commission of 18 members, 16 of them Members of Congress, who would study the long-term fiscal imbalance of the Federal Government and submit recommendations as a legislative proposal that would receive expedited consideration by Congress resulting in an up-or-down vote. The commission would consider all options on both sides of the ledger and would require the approval of 14 of its 18 members, ensuring a bipartisan product.

I want to emphasize to my Republican colleagues who may be skeptical of this bipartisan commission, half of the congressionally appointed members will be appointed by the Senate minority leader and the House minority leader, which guarantees that the Conrad-Gregg commission will protect the concerns of my colleagues.

For example, large tax increases are unlikely, given the makeup and procedures of the commission. And, finally, three-fifths of the Senate and three-fifths of the House must vote for passage of the recommendations, ensuring strong bipartisan support from both Chambers.

The bipartisanship is the key to success because this is not a Democratic or Republican problem. It affects everyone. I believe this special process is the most practical and effective method to deal with the looming debt crisis that endangers the economic future of all of us.

A commission to address our Nation's fiscal issues has been recommended by outside budget experts from across the political spectrum. These experts have declared that the regular process is incapable of dealing with long-term fiscal issues. Just ask me. This is my 12th year in the Senate. The regular process does not work.

In February 2009, groups including Brookings, the Urban Institute, the Peter G. Peterson Foundation, the Concord Coalition, AEI, Progressive Policy Institute, and the Heritage Foundation issued a statement calling for the establishment of a commission to address our fiscal issues.

I ask unanimous consent to have this letter printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. VOINOVICH. Recently, on PBS's nightly business program, Maya MacGuineas, president of the Committee for a Responsible Federal Budget, who has been working on this problem for a dozen years, made a strong statement in support of a commission. I ask unanimous consent to have printed her full statement in the RECORD at the conclusion of my remarks, and I would highlight that in her statement Ms. MacGuineas notes her early opposition to such a commission, but she has changed her mind based on the urgency of our Nation's fiscal situation.

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

(See exhibit 2.)

Mr. VOINOVICH. David Walker, President and CEO of the Peter G. Peterson Foundation, former Comptroller General of the United States, has long advocated a special process to get our Nation's fiscal house in order. Mr. Walker has testified:

Clearly escalating Federal deficits and debt levels, combined with our growing dependency on foreign lenders and the deepening Federal financial hole, represents challenges that must be addressed. A commission could make recommendations in connection with needed statutory budget control, social insurance program reforms, tax reform, additional health care reforms, and other appropriate areas.

Importantly—

This is the most important thing—everything must be on the table with the commission to be credible and to have a real chance of success.

Recently, Mr. Walker released a book entitled "Comeback America: Turning the Country Around and Restoring Fiscal Responsibility." In his book, Mr. Walker explains the nature of the crisis and why we must act now. Rather than describe all of the frightening statistics myself, and many people have heard those statistics, I would recommend this book to my colleagues if they have any doubts about the seriousness of this fiscal crisis facing our Nation.

Of course, throughout the debate on their amendment, Senators—and I heard them earlier today—CONRAD and GREGG have described the dire fiscal future our Nation faces without action. We just heard another presentation from my distinguished colleague from the State of Maine. I have, in my prior floor speeches on this topic, which probably are dozens, described the significance of this fiscal crisis our Nation faces. For any of my colleagues or members of the public, you can access these speeches on my Web site.

I would note that the American people agree. This is important. The American people agree with Senators CONRAD and GREGG. In fact, the latest bipartisan public opinion poll commissioned by the Peter G. Peterson Foundation this past November indicates that 80 percent—80 percent—of American voters are concerned about escalating debt and deficits.

Voter concern about debt and deficits exceeded concern about health care access and affordability by 24 percent—by 24 percent—and 70 percent of Americans believe the regular order in Washington is broken. They think the regular order is broken, and it is time for a fiscal reform commission to become a reality.

I was pleased last year that the distinguished minority leader, the senior Senator from Kentucky, spoke eloquently about the merits of the bipartisan Conrad-Gregg Commission. In a July statement on the Senate floor, Senator MCCONNELL said:

This means that in order to face our problem head on, we will have to address the problem of entitlement spending. And the only serious option on the table is the Conrad-Gregg proposal which would provide a clear pathway for fixing these long-term challenges by forcing us to get debt and spending under control.

He goes on to say:

I have had a number of good conversations about this proposal with the President. Based on those conversations, I am hopeful it will be given serious attention. For the safety and security of our Nation, the Conrad-Gregg proposal deserves broad bipartisan support.

That was the minority leader of the Senate. Senator REID has been silent on his support, but based on conversations I have had with him, I believe he also appreciates the dire financial situation our Nation faces. Still I want to say that I have been disappointed there has not been more of a recent effort by leaders of both parties embracing the Conrad-Gregg Commission, which is

one of the most bipartisan pieces of legislation we have seen in the Senate during this Congress—in fact, I believe the most bipartisan legislation that has come before this session of Congress.

My question to Senators REID and MCCONNELL is, If you are not in favor of the Conrad-Gregg Commission, what bipartisan proposal are you for? In other words, if you do not like the commission, then what bipartisan proposal are you for?

I was also disappointed that the President initially threw in the towel on the Conrad-Gregg Commission on the grounds that he understood the votes to pass this proposal were not there. Instead the President proposed issuing an Executive order establishing a debt commission. An Executive order commission, I believe, will be looked upon by many on my side of the aisle as nothing more than an exercise in political messaging. But I say to my colleagues on this side of the aisle: If you are not for the Conrad-Gregg proposal, what are you for? What are you for?

Thus, I am grateful that this Saturday the President has changed his position and stated:

The only way to solve our long-term fiscal challenge is to solve it together, Democrats and Republicans. That's why I strongly support legislation under consideration to create a bipartisan fiscal commission to come up with a set of solutions to tackle our nation's fiscal challenges, and call on Senators from both parties to vote for the creation of a statutory, bipartisan fiscal commission.

The President of the United States made it clear. He wants this bipartisan statutory commission to pass the Senate. The beauty of creating the commission through legislation is it would force Congress to deal with the Nation's looming fiscal catastrophe, rewarding the work of the commission's members by ensuring that if their proposal gets 14 out of 18 votes, the bill will not be placed on a shelf to gather dust.

I can tell you, as I watched this Senate during the last 11 years, if someone would ask me to sit on a commission and spend the time I would have to spend to deal with the problems that would be confronting the commission, I would want a guarantee. I would want a guarantee that if the majority, 14 out of 18 members were for it, it would get expedited procedure; that I would get a vote, up or down, on that labor of work in which I had participated.

I think the President understands if we are going to respond to the fiscal crisis facing our Nation, it has to be bipartisan. I am prayerful he will use his political capital with Senator REID and Senator MCCONNELL to secure the 60 votes needed for this landmark legislation and then urge our House colleagues to do the same.

Some of my colleagues have other proposals. Many of them are worthy of consideration. However, none of these proposals is bipartisan. In the end, such proposals might result in great messaging. Boy, we do a lot of mes-

saging around here. For some it would provide a way to cover their behinds or, more tactfully, to provide a fig leaf to cover their unwillingness to support something that is bipartisan and ultimately good for the country. Moreover, of course, these folks would save themselves from heartburn, heartburn that they might suffer when special interests complain, and perhaps give ammunition to someone who might be running against them in a Republican or Democratic primary for the Senate.

Since the possible passage of this commission has become a reality, it is interesting how this starts to work. Special interest groups on both sides of the aisle have assailed it as terrible. The taxpayer organizations on the right warn that the commission will increase taxes. The liberal groups on the left warn it will result in cuts to Social Security, Medicare, and other government programs.

You know something. If the left and the right are so unhappy with this, this has to be good legislation. Others, frankly, want to use the debt limit issue to embarrass our friends on the other side of the aisle because of the large increases we have approved, particularly as a result of the recession and the collapse of our financial markets. Other members continue to blame President Bush and earlier Congresses.

The truth is, none of us, Republicans or Democrats, has clean hands. Since 2002 there have been nine votes, nine votes to increase the debt limit. They have occurred both under Democrats and Republicans when they controlled Congress. In that time, our debt has gone from \$6.4 trillion to roughly \$12.4 trillion. All of us, all of us have done it.

The American people know the chickens have come home to roost, and we better understand that. That is what I hear when I go back to Ohio. If one thing came out of Massachusetts, the people are tired of the—to put it in the vernacular—BS coming out of Congress. Congress's numbers continue to be among the worst they have ever been because the folks back home think we are more interested in protecting our political hide and who is going to control the next Congress than working in a bipartisan way to solve our Nation's problems.

They know when their elected representatives are scrapping, their interests are scraps falling off the table. They also know, as I know, that even when we work together, it is often difficult to get things done because many of us have sincere differences of opinion. I learned both of those lessons as mayor of the city of Cleveland and Governor of Ohio.

The eyes of the American people are focused on what we are doing. The American people will be watching to see if we got the wake-up call from Massachusetts. They are telling us they are mad as hell with business as usual and they are not going to take it anymore. The American people want us

to work together. They do. They want us to work together. They do not want messaging and back-room deals that favor one group or another.

Americans always hear from politicians about how they will work for bipartisan solutions to America's problems that will strengthen our future. How many times have they heard that on the floor of this Senate? Well, here is the opportunity for Members of the Senate, the House, and President Obama to show when they make such statements they are serious.

I came here in 1999, and one of the major reasons I came here was to deal with paying down our Nation's debt and balance budgets. I can remember back in 2000, I was the only Republican that voted against the Republican legislation to reduce taxes because I said that money should be used to pay down debt.

I am leaving the Senate at the end of this year, as is the Presiding Officer. I have three children and seven grandchildren. The wife of my youngest son Peter is expecting their first child. I have always believed it is my responsibility to try to leave this world and particularly our Nation in better shape than how I found it. It was something that was ingrained in my first-generation parents: George, you have a responsibility to leave this country a better place than that which you found. I am running out of time to do something. So is the country. On too many occasions, Congress has been unwilling to experience short-term pain to achieve long-term gain. We have been unwilling to do without or pay for things that many folks have wanted us to do.

Our Nation has put the financial costs of the two wars on the credit card, even while the soldiers and their families continue to bear the human cost of these wars. To me, this lack of effective action is absolutely immoral. It is absolutely immoral. I recently talked with my oldest son George, the father of four beautiful girls, who genuinely feels there will be no Social Security for him, that Medicare may not be there either. He understands the global competition facing his generation and his daughters' generation is greater than at any other time in our Nation's history, that global competition is greater than at any other time in this Nation's history. The burden we have created because of our fiscal irresponsibility brings into question whether his children will enjoy the same opportunity for a standard of living that we have had.

I said in the beginning of my speech, I believe the issues this amendment is designed to address, our national debt and deficits as far as the eye can see, are two of the most important issues Congress and our Nation face. Our failure to address these issues will damage our economy, our Nation's security, peace in the world, and the kind of future we leave to our children and grandchildren.

The future of our Nation is in our hands. The future of our Nation is in the hands of these 100 Senators. I pray the Holy Spirit will come down and inspire us to make the right decision. My two mottos have been over the years: "Together we can do it" and, Ohio's motto, "With God all things are possible." Working together on a bipartisan basis and with God's help, I am positive we can solve our problems, meet our challenges, and take advantage of the opportunities before us.

I yield the floor.

#### EXHIBIT 1

#### STATEMENT ON THE FISCAL RESPONSIBILITY SUMMIT

FEBRUARY 19, 2009.

President Obama's intention to convene a fiscal responsibility summit is a very welcome development. It offers a valuable opportunity to focus public attention on our nation's unsustainable budget outlook and to highlight various approaches to meaningful action.

As a group of budget analysts and former senior budget officials, we view this summit as the first step to addressing the enormous long-term fiscal problem facing the United States. Without decisive action this problem will lead to serious harm to our economy and a huge financial burden on our children and grandchildren.

Tackling these problems will require a degree of sacrifice impossible under the existing policy process, which discourages bipartisan compromise and encourages procrastination and obstructionism. Unless those procedures are modified, and the American people are engaged in the process, future legislative attempts to address the looming fiscal crisis will almost certainly fail.

In our view, the American people are ready to confront the challenge. For the last three years several of us have traveled around the country as a group, discussing these issues with thousands of Americans in dozens of cities, in a bipartisan effort known as the Fiscal Wake-Up Tour. We have found that when Americans are given the facts and options in a neutral and bipartisan way, they want action and are willing to make difficult trade-offs.

We therefore urge the President to lead a major public engagement effort—beyond a one-day summit—to inform Americans of the scale and nature of the long-term fiscal crisis, explain the consequences of inaction and discuss the options for solving the problem. This should be bipartisan, and involve a serious conversation with Americans to help guide action in Washington. As a group with some experience in this domain, we stand ready to assist if needed.

We also believe that for this policy commitment to produce tangible results, the President and others who share the goal of fiscal responsibility must address the fact that the regular political process has been incapable of dealing with long-term fiscal issues. We see no alternative but to create an independent and truly bipartisan commission or other mechanism capable of bringing about decisive action that has broad public support. We therefore urge the President to support such a commission. For this commission or some other mechanism to break through the legislative logjam it will need four key elements:

It must be truly bipartisan and develop solutions that command wide support.

It must have a broad mandate to address all aspects of the fiscal problem while fostering strong economic growth.

There must be no preconditions to the deliberations. All options must be on the table

for discussion. Nobody should be required to agree in advance to any option.

Recommendations must go before Congress for an up-or-down vote with few if any amendments. Such a game-changing process is not without precedents; controversial military base closings or the ratification of international trade agreements, for example, have long been governed by special rules along these lines, not by business as usual.

We are deeply worried about the long-term fiscal imbalance and the dangers it carries for the economy and for our children and grandchildren. We know the President is concerned as well, as are many Members of Congress in both political parties. We are ready to help in building public understanding of the problem and the options, and in crafting an approach that will enable the legislative process to deal with the problem.

This statement is offered by members of the Brookings-Heritage Fiscal Seminar. The views expressed are those of the individuals involved and should not be interpreted as representing the views of their respective institutions. For purposes of identification, the affiliation of each signatory is listed.

#### Signatories:

Joe Antos, American Enterprise Institute; Robert Bixby, Concord Coalition; Stuart Butler, Heritage Foundation; Alison Fraser, Heritage Foundation; William Galston, Brookings Institution; Ron Haskins, Brookings Institution; Julia Isaacs, Brookings Institution; Will Marshall, Progressive Policy Institute; Pietro Nivola, Brookings Institution; Rudolph Penner, Urban Institute; Robert Reischauer, Urban Institute; Alice M. Rivlin, Brookings Institution; Isabel Sawhill, Brookings Institution; C. Eugene Steuerle, Peter G. Peterson Foundation.

#### EXHIBIT 2

[PBS Nightly Business Report, Jan. 12, 2010]

#### "COMMENTARY"—BUDGET COMMISSION

SUSIE GHARIB: Tonight's commentator says with a budget deep in red ink and a Congress that hasn't cut spending, she's taking a fresh look at things. She's Maya MacGuineas, president of the Committee for a Responsible Federal Budget.

MAYA MACGUINEAS, PRES., COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET: For years there has been a push to create a budget commission and even though many of my fellow fiscal worry warts liked the idea, I just didn't. I couldn't avoid the nagging feeling that coming up with a workable plan to fund our national priorities is supposed to be the core work of Congress and that Congress should just do its job. Well enough time has gone by without that job getting done and the recent deterioration in the country's fiscal health has caused me to change my tune and so I say bring on the commission. We no longer have the luxury of time. For every year we wait, we dig the deficit hole billions of dollars deeper. Recently a heated fight over creating a commission has broken out with those who oppose it on the left arguing it is a secret, well-funded plot to cut entitlements and those on the right arguing it is a devious strategy to raise taxes. Well, yeah, we are going to have to do both. Creating a commission won't make those policy choices much easier, but at least it will lend an important layer of political cover. I will say that the need to create a commission is a poor reflection on politicians more generally. So as a reluctant budget commission supporter and an avid congressional reform supporter, I'd suggest that once a budget commission comes up with a plan, Congress turn the mirror on itself and ask what it is doing there if it can't perform

its most basic job. Perhaps the next commission policymakers create should be one to reform Congress. I'm Maya MacGuineas.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I ask unanimous consent for 5 minutes to speak on the judicial nomination coming before us at 6 o'clock.

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

(The remarks of Mrs. MURRAY are printed in today's RECORD under "Executive Session.")

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I ask unanimous consent to speak as in morning business for up to 8 minutes.

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

#### UNFUNDED MANDATES

Mr. NELSON of Nebraska. Mr. President, I rise to discuss a serious problem with the way Washington has done business for years. The problem is passing unfunded Federal mandates on to the States that throw State budgets into disarray. Everyone in Congress has to decide how to best look out for their State. A little over a month ago, I decided to look out for all their States and mine too. But the efforts I made to protect my State and all other States should not be the issue. The issue should be, why wasn't everyone taking steps to protect their States and why weren't the critics reacting to the real issue rather than coining names to describe this effort to protect State budgets from the effects of yet another unfunded Federal mandate?

The reason is, all along they wanted to derail health reform. Misrepresenting this issue would help that goal. So it was too easy, too convenient to come up with a catchy name and to impugn motives. It was too easy, too convenient to ignore the problem facing Nebraska and every other State—another mandate without money.

Unfunded Federal mandates are not just bad for Nebraska; they are bad for all States, from sea to shining sea. They are a fiscal injustice that I fought for two decades during my tenure as a Senator and through two terms as Governor. They are a burden on the States that I will keep fighting to eliminate as long as they continue.

Unfunded Federal mandates are pretty simple, but they appear in many unexpected and unwanted ways. They are orders that arrive from Washington on State Capitol doorsteps with too little or no money to carry them out. Unfunded Federal mandates force States all across the country into no-win choices: cut spending on State priorities or raise revenue with tax hikes. They are a fiscal injustice States have no option to avoid. Unfunded Federal mandates are both bad Federal policy and bad fiscal policy.

As a Senator, I have said I will put Nebraska first, Nebraska always but not Nebraska only. That remains the case with questions about how the Sen-

ate health care bill dealt with an underfunded mandate for expanding Medicaid. First, my goal has always been to draw attention to and fix, with one approach or another, any unfunded Federal mandate that would be passed on to every State through the Senate's health care bill. The bill sought to expand Medicaid to provide health insurance to millions of Americans who do not have it today. The Federal Government would pay 100 percent of the cost for the first 3 years through 2016. In 2017 and thereafter, States would have to pick up a portion of the cost. In other words, they would pay for a new unfunded Federal mandate.

I sought an opt-in or opt-out for all States to ease the Federal unfunded mandate. But because there was no Congressional Budget Office analysis for that approach, a provision was placed into the bill for Nebraska. It is not something I sought. It is something I accepted to launch the larger battle against the unfunded mandate affecting all States. I have taken criticism over this issue. If I have received it because I drew attention to unfunded Federal mandates, fine. But the larger question is: How do we in Congress eliminate this practice of passing these mandates on to the States? Rather than criticize me, others should join in fighting the war to stop all these burdens on the States. It is an effort I welcome the Governors to join in, too, for they have a direct interest in the success of this battle.

The Nebraska provision was a victory in the battle against unfunded mandates necessary to win the war. What otherwise had gone completely unaddressed is now part of the debate, not only in the Nation's Capital but in State capitals across America.

We only have to look back a few years to see what trouble unfunded mandates cause for States. When Congress passed the No Child Left Behind Act, it was hailed as a landmark that would improve education nationwide. It established new standards to measure educational achievement in our schools and required States to develop assessments in basic skills to be given to all students in certain grades. States had to make sure that happened for their schools to receive Federal aid. But the law provided far too little money to meet its requirements. This was a fact acknowledged by its chief sponsor, the late Senator Kennedy.

He said:

The tragedy is that these long overdue reforms are finally in place, but the funds are not.

Was that ever a true statement. States have paid and paid and are still paying for that whopper of an unfunded mandate. In fact, No Child Left Behind, which I opposed largely because of its being an unfunded Federal mandate, has cost my State of Nebraska at least \$382.7 million. Nationwide, it has cost all States a total of \$70.9 billion from 2002 through 2008, according to U.S. Department of Education data. Those

costs have kept piling up ever since, and that is not right.

I fought another unfunded Federal mandate in the 2003 major tax cut bill. At the time, cutting Federal taxes would also have forced cuts in State taxes. That, in turn, would have blown holes in State budgets. So I teamed up on a bipartisan basis with my colleagues, Senator COLLINS from Maine and Senator ROCKEFELLER from West Virginia, to help the States. We won a provision that provided \$20 billion in Federal funding to the States to make up for the lost money they needed to pay their ongoing Medicaid costs.

Today, here we are again hearing from financially strapped States across the country asking for additional Federal money to pay for other previous unfunded Medicaid mandates. I do not blame them for asking. The government tells them they have to pay a share of certain social services and medical expenses, and in tough economic times such as these they just do not have the money. Unfortunately, neither does Washington. Then, while States are currently seeking aid from Congress, we are busy creating this new unfunded mandate set to hit States beginning in 2017. When would that one be addressed? In 2018, 2019, sometime later? Talk about the left hand not knowing what the right hand is doing.

I have been asking: Why not deal with that now in this health care reform legislation and change the paradigm from unfunded mandates and do it in a different way? Just last week, we learned how big this unfunded mandate would be. The Congressional Budget Office estimated that covering the Medicaid expansion costs for all States would cost the Federal Government \$35 billion. That means Congress was about to pass a \$35 billion unfunded Federal mandate on to the States—until I got wind of it. Let me say that again. Congress was about to send a \$35 billion bill to the States, until I blew the whistle.

We need to stop this madness of passing these fiscal timebombs on to the States. I would hope my colleagues, on a bipartisan and a bicameral basis, would work with me to make sure Congress stops passing unfunded mandates of any kind on to the States and that the Governors would join in also. They certainly do not like Washington telling them how to spend State money.

I hope people put aside the spin, the partisan talking points, and misrepresentation they have heard on this issue, including the media. I hope people stop citing the inaccurate interpretation of it as an excuse to avoid working for health care reform that provides coverage to millions of Americans who today do not have insurance and lower costs to all other Americans who pay ever-rising costs for health care. I hope we can also stop the practice of Washington burdening the

States with unfunded Federal mandates which are truly bad for every single State—not just mine but every State—from sea to shining sea.

Mr. President, with that, I yield the floor.

Mr. BAUCUS. 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.

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

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

#### EXECUTIVE SESSION

NOMINATION OF ROSANNA MALOUF PETERSON TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Rosanna Malouf Peterson, of Washington, to be United States District Judge for the Eastern District of Washington.

The PRESIDING OFFICER. Under the previous order, the time until 6 o'clock shall be equally divided between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS.

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, we are about to vote on the nomination of Rosanna Malouf Peterson to the District Court for the Eastern District of Washington.

I am pleased to be able to support the nomination, as I have most of the nominations President Obama has submitted. I think we are moving in a rather expeditious way in the process to confirm Federal judges. Less than a week ago, we confirmed Judge Beverly Martin to serve on the Eleventh Circuit Court of Appeals. Frankly, we failed to confirm her before Christmas because the Democratic leadership, for some reason, would not bring her nomination up. I cleared it on our side on several different occasions and made sure there were no objections. At any rate, she was confirmed and she is now on that bench.

Before the recess, we confirmed two judges, seven U.S. attorneys, and five U.S. marshals.

We are moving faster than we have previously—at least in comparison to President Bush's tenure. This chart shows the average number of days to confirm President Bush's circuit court nominations. We waited an average of 350 days for confirmation. President Obama's nominees are being confirmed

about 4½ months faster, which is a good bit faster. In addition, the Judiciary Committee has held hearings for every single circuit court nominee.

This chart shows that during President Bush's tenure, it was 350 days, and for President Obama, it is a little over 200 days. For President Clinton, it was under 250. The others in the past were quicker. But these are lifetime appointments. We have had some more intense scrutiny of nominees, which I think is appropriate. But most of the nominees are coming through well and should move on to confirmation at a reasonable pace.

I will note that if a judge who is about to obtain a lifetime appointment fails to convince Members of the Senate that they are committed to faithfully following the law, being a neutral umpire, not favoring one side in the "ball game" over the other—if they are not committed to that, then they should not be confirmed. Or if they have other weaknesses, such as lack of skill, or a demonstrated bias, or a lack of background and ability, then I think they should be examined closely and not confirmed.

On the district court nominees, you can see that President Obama's district court nominees are being confirmed, on average, a little over 100 days after being nominated. Whereas, President Bush's were at 180. Under President Clinton, it was about 130. So President Obama is doing well there as well—pretty close to President Bush 1—for nominations moving forward.

I am pleased with this nominee. I think she has the skills and gifts necessary to be a good Federal judge. I hope so. She has the support of her Senators. She has been moved through committee, and I believe she will be confirmed when we vote. I urge my colleagues to support her nomination.

I yield the floor.

Mr. LEAHY. Mr. President, today the Senate considers the nomination of Rosanna M. Peterson to fill a judicial vacancy in the Eastern District of Washington. While I am pleased that we will consider, and I am confident the Senate will confirm, this nominee, I remain disappointed by the Republican delays and obstruction.

This is only the 14th Federal circuit or district court nominee considered since President Obama was inaugurated over 1 year ago. By this date during President Bush's second year in office, the Senate had confirmed more than double that number, having confirmed 30 of his judicial nominees to lifetime appointments on the Federal courts.

Last Friday the majority leader tried to secure an agreement to take up the next judicial nominee on the Senate Executive Calendar, but Republican objection continued to stall consideration of Judge Joseph Greenaway's nomination to the Third Circuit. That is a shame. He is a good judge. His nomination was reported unanimously by the Senate Judiciary Committee al-

most 4 months ago, on October 1 last year. Senator SESSIONS praised him at his confirmation hearing. I do not know why he is being stalled, and no one has explained. His is one of the many outstanding judicial nominations reported by the Senate Judiciary Committee that remain stalled on the Senate Executive Calendar. They should have been confirmed last year, and would have been, but for Republican objection. When considered they will be confirmed, but not before being needlessly delayed for months.

I saw last week's statement by the Judiciary Committee's ranking Republican member, when the Senate finally considered the long-delayed nomination of Beverly Martin to the Eleventh Circuit. He was misinformed about that nomination, as he was about the history of other nominations. In fact, I expedited consideration of Judge Martin's nomination. The Senate Democratic leadership sought an agreement for prompt consideration of Judge Martin's nomination but was rebuffed by Republicans who were in no hurry to consider it. Indeed, we have been seeking time agreements for the consideration of both Judge Martin and Judge Greenaway for weeks and months. Republicans finally agreed at the end of last year to consider Judge Martin's nomination after the recess. I had pressed for Judge Martin and the many other judicial nominees who had been reported unanimously by the Senate Judiciary Committee to be considered and confirmed before Christmas last year. Republicans would not agree. I asked repeatedly that we act on all the judicial nominees on the Senate Executive Calendar in December. The reason the Senate did not was not because any Democratic Senator objected. It is solely because Republicans would not agree.

The efforts of the Democratic leadership to seek a time agreement for prompt consideration of Judge Martin's nomination were rebuffed by Republicans, just as they are now refusing to consider the nomination of Judge Greenaway.

The Republicans unsuccessfully filibustered the nomination of Judge David Hamilton last November, having delayed its consideration for months. Republicans insisted on hours of debate for the nomination of Judge Andre Davis, who was confirmed with more than 70 votes. They insisted on debate on the nomination of Judge Gerard Lynch, who was confirmed with more than 90 votes. As the Senate Democratic leadership was forced to work through a number of nominations denied consent for prompt consideration, the last Federal circuit court nominations considered before Judge Martin was Judge Hamilton in November. It is true that Judge Davis and Judge Hamilton were considered and confirmed by the Senate before Judge Martin, but they were also considered three months earlier by the Senate Judiciary Committee than Judge Martin. They had