

perhaps criminal acts of BP is that 11 people are dead; 11 people were killed. That seems to be overshadowed a lot of times. Eleven people are dead. Brothers, fathers, and sons were killed on the night of that terrific explosion. I hope we do not, in spite of the horrible conditions that have been caused to our environment, lose track of the fact that this is a personal tragedy for lots of people. Eleven people were killed and many others were injured. The American people are going to have to not forget the personal tragedies of these people who were lost. I am sure they will not.

I thought it important this morning to remind everyone that this is certainly an environmental disaster. But for the persons involved as a result of the cutting of corners that BP did—it is not just me talking. We see it on TV shows and the evidence is coming in. I talked with one oil executive over the weekend, and he is flabbergasted. He is flabbergasted as to what had taken place. There was no redundancy. This company simply did not follow rules that are in place to prevent things like this from happening.

#### RECOGNITION OF THE MINORITY LEADER

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

#### HEALTH CARE

Mr. McCONNELL. Madam President, amid all the various crises Americans face at the moment, one of the most exasperating has to be the increasingly high cost of health care. The American people do not understand how an administration that devoted more than a year talking about health care could end up with a bill that actually raises the cost of care instead of lowering it.

Seniors are particularly upset about this legislation, and that is why the White House is staging an event today aimed at convincing them they are actually getting a good deal. But seniors are right to be skeptical. They were told this law would strengthen Medicare, when, in fact, it takes \$½ trillion out of Medicare to fund a new government program. They were also told that if they liked their plan, they could keep it. Yet now we hear that millions of seniors will lose their Medicare Advantage benefits they already have and like as a result of the Democratic health care bill.

The centerpiece of today's event is a \$250 rebate check the administration will pass out to the fraction—fraction—of seniors who qualify for it. I am sure anyone who gets these checks is happy to take that extra cash, especially in the current economy. What the administration, however, will not mention at today's event is that for every senior who gets a check, more than three other seniors will see an increase in their prescription drug insur-

ance premiums. In other words, behind every \$250 check is more than three seniors who will be paying more as a result of this bill. The reason for this is that the health care bill Democrats forced on Americans earlier this year requires higher government-mandated minimum standards for everyone. Those who opted for anything below that minimum will now see their premiums go up, and the number of seniors in this category far, far outnumber those getting a check. The administration can tout the check it is giving out to some seniors, but by failing to mention those seniors for whom it is causing rates to go up, it is hiding the whole truth.

That has been the story all along about this bill—a lot of promises that could not be kept. That is why the story now is not the bill itself but the administration's broken promises. Americans never wanted this bill. They never wanted it in the first place. And they are reminded every day why they opposed it.

Madam President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

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

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

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam 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.

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

Mr. BAUCUS. Madam President, I ask that the Chair lay before the Senate a message from the House with respect to H.R. 4213.

The Acting President pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agrees to the amendment of the Senate to the bill (H.R. 4213) entitled "An Act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes," with the House amendment to the Senate amendment.

#### MOTION TO CONCUR WITH AMENDMENT NO. 4301

(Purpose: In the nature of a substitute)

Mr. BAUCUS. Madam President, I move to concur in the House amendment to the Senate amendment to the House bill with an amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4301 to

the House amendment to the Senate amendment to H.R. 4213.

Mr. BAUCUS. Madam President, I ask unanimous consent that the reading of the amendment be waived.

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

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

Mr. BAUCUS. Madam President, a few moments ago, the Republican leader sought once again to throw mud at the new health care law that Congress enacted earlier this year. Let me take a moment to set the record straight.

The Republican leader said the premiums would go up for some Americans. What the Republican leader did not say is the nonpartisan Congressional Budget Office found that health care reform would lower premiums for the overwhelming majority of Americans. After taking into account the tax credits to help buy insurance, health insurance will cost less for 9 out of 10 Americans—no small amount.

The Republican leader mocked the new payments to seniors the President is highlighting today; that is, the \$250 for drug benefits. The President made the point that that is important for seniors. The truth is, seniors will welcome the help they will soon be receiving to pay for prescription drugs in their coverage gap, the so-called doughnut hole. Starting very soon seniors will receive \$250 to help pay for their prescriptions. By the time health care reform is fully phased in, we will have completely eliminated the doughnut hole. This is something seniors care about very much.

No longer will seniors have to choose between their rent and the prescriptions they need. No longer will seniors have to cut their pills in half just to get by. No longer will seniors live in unnecessary pain just because of drug costs. So the fact is, health care reform will help to control the costs in health care. Health care reform will reduce costs for the taxpayer over the decades to come. That is not my assertion, it is that of the Congressional Budget Office. Health care reform will increase access to lifesaving medical treatments for millions of Americans who all too often now must do without.

Madam President, on the matter before us today, 15 million Americans have lost their jobs during this great recession. Although the unemployment rate came down some last month, it remains near 10 percent. At the depth of the great recession, during the first months of last year, the economy lost an average of 750,000 jobs a month. That is practically the population of my State. We have come a long way since then. Even if we exclude temporary census jobs, in the first 5 months of this year the economy has created nearly half a million new jobs. But we still have a lot more to do. We have to get more Americans back to work.

We began doing just that with the Recovery Act. We enacted that as one

of the first things the new Congress did in February of last year. According to the nonpartisan Congressional Budget Office, the Recovery Act increased by between 1.2 million and 2.8 million the number of Americans employed.

We continued getting more Americans back to work with the Hiring Incentives Act that we enacted in March of this year. The HIRE Act should help to bolster job creation in coming months.

We are continuing again today with the American Jobs and Closing Tax Loopholes Act. This bill would create jobs by improving our Nation's infrastructure. It would reduce the cost to local governments to build roads, bridges, and water treatment facilities that would create jobs.

This bill would also extend provisions that expire at the end of May. These provisions would provide important relief for many Americans.

Americans who are out of work are depending on our job creation efforts. This bill extends the needed lifeline of unemployment benefits to more than 5 million Americans who would not be able to support themselves or their families without this help.

We are talking about people who have worked, want to work, and will work again. These are our neighbors. And they need our help.

In my home State of Montana, we have seen some promising signs of recovery. In Yellowstone County, unemployment is down from 6 percent in March to 5.2 percent in April. That is good news. But there still remain people who need our help.

Some counties in Montana have unemployment as high as 16.8 percent. In Montana, as with the rest of country, we have seen an increase in people looking for work.

Unemployment rates will continue to hover around 10 percent even as the economy improves. As the economy adds jobs, many unemployed people grow more hopeful and resume their search for work. That is one reason why economists call unemployment a lagging economic indicator.

The bill that we are considering today includes improvements to the unemployment insurance program. This bill would eliminate the penalty in unemployment insurance for getting part-time or temporary work. Under current law, if people who are unemployed take part-time or temporary jobs, and then lose that job, they receive lower benefits than people who did not take short-term work. This bill corrects that inequity.

This bill also expands the Trade Adjustment Assistance Community College and Career Training Program. The bill would broaden the program to include workers who are eligible for unemployment insurance. This will help more Americans who are looking for work to get the education and looking career training that they need.

If we do not pass this bill, doctors who see Medicare and TRICARE pa-

tients will take a 21 percent pay cut. More and more physicians are threatening to leave the Medicare and TRICARE programs if this happens. Seniors and military families could lose access to their doctors.

We cannot keep postponing this issue every month or two. Seniors worry they will lose their doctors. And physicians cannot run a business with this much uncertainty.

We need to pass a long-term reform. I would like to fix the problem permanently. But the votes are not there today. We will permanently reform Medicare's system to compensate doctors as soon as we can.

In the meantime, this bill provides security to doctors and the patients they see for the next year and a half through 2011. It provides a modest payment increase to physicians for the rest of this year and next year.

This multi-year provision would prevent the untenable cut in physician payments. And this bill would provide a pathway to a permanent change in how doctors are paid.

The budget rules have to score a permanent reform as a cost. But we all know that this is something that we have to do for America's seniors, military families, and doctors.

This bill would also provide tax relief for American families and businesses. This bill would help communities that have suffered a natural disaster. And this bill includes important tax incentives to improve America's energy independence.

For individuals and families, this bill provides much-needed tax relief in a time of economic uncertainty.

This bill would extend the teacher expense deduction for teachers who buy school supplies for their classrooms. And it would extend the qualified tuition deduction to help with college costs.

This bill would extend much-needed relief for communities that have suffered from natural disasters.

And it would extend important business tax provisions to help create jobs and make our companies competitive in a global economy.

The bill would extend the research and development credit to help businesses to continue to be on the cutting edge.

The bill would also extend important energy tax incentives. For example, the bill would extend the dollar-per-gallon credit for biodiesel and renewable diesel. And the bill would extend the manufacturer's credit for the construction of new energy-efficient homes.

In addition to these important provisions that provide direct assistance in job creation, the bill includes other proposals that will provide relief for businesses and individuals.

One such provision is pension funding relief.

With the weak economy, American employers are faced with the need to make higher pension contributions.

Several factors have combined to require these higher contributions.

There is the funding changes of the Pension Protection Act of 2006.

There is the slide in the stock market in 2008.

And then there is the ensuing great recession.

These requirements for higher contributions are coming upon employers just when they are facing lower asset values and lower cash flow. Meeting the new funding rules could divert resources that employers could use to keep workers on the payroll.

We addressed this bind temporarily in 2008. But employers are still facing the prospect of closing plants and stores. Employers are still faced with the possibility of letting workers go in order to make up for lost asset values.

This bill contains additional temporary, targeted, and appropriate relief for these employers. And at the same time, the bill still maintains the pension security system.

These tough economic times have hit the States hard, as well. In last month's employment report, for example, State and local governments cut 22,000 jobs.

So, included in the substitute amendment is a 6-month extension of the additional Federal financial assistance for State Medicaid programs. This would allow States to plan for their next fiscal year with the greater certainty.

Additional Federal Medicaid match money, known as FMAP, helps the economy grow. According to the economist Mark Zandi, this funding has a return on investment of about \$1.40 for every dollar invested.

The nation's governors have repeatedly asked for an extension of this Federal assistance. And this bill answers their pleas.

With so many Americans out of work, our country needs Congress to enact this legislation.

This bill continues valuable tax incentives to families and businesses that will help them in these difficult economic times. And the bill sustains vital safety-net programs that will also help foster economic growth.

This legislation is important to the American people. It would prevent millions of Americans from falling through the safety net. It would extend vital programs that are set to expire. It would put cash in the hands of Americans who would spend it quickly, boosting economic demand. And it would extend critical programs and tax incentives that create jobs.

And so, let us help America's businesses to create more jobs. Let us join together to work across the aisle on this common-sense legislation. Let us enact these tax incentives and safety-net provisions into law.

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

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

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam 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.

#### HEALTH CARE REFORM

Mr. ALEXANDER. Madam President, I get a fair amount of mail. I received the other day a nice envelope from the Department of Health and Human Services addressed to Andrew L. Alexander, Jr., in my Nashville residence, with a nice brochure here: Medicare and the New Health Care Law; What It Means to You.

I am one of those 40 million Americans who is 65 or older, so I am a part of Medicare. I was very interested to read the brochure, because I spent a lot of time, as did the Senator from New Hampshire, and the Senator from Montana probably spent even more, on the new health care law.

As I read through this brochure, it did not bear very much relationship to the way I understood the law I voted on Christmas Eve at the end of last year when we passed this health care law.

This brochure, which has been mailed at taxpayer expense to more than 40 million Americans, is an attempt by the administration to explain that the health care law does what it does not do or does not do what it does. Let me be specific about why I say that. Throughout the debate, those of us on the Republican side of the aisle said the health care law would cut Medicare, raise premiums, raise taxes, pass Medicaid costs on to States, and add to our national debt. Those on the other side said we were wrong. Since they had the votes, they passed the bill. It is now law. But let me take two or three examples from the mail I got the other day. The brochure claims, in the first paragraph, that the new health care law will result in "increased quality health care." Well, that would mean, to me, I would think, as I read that, that I, an individual on Medicare, or that any individual in the United States, would continue to have at least the coverage I am having today and hopefully more.

Yet Medicare's own Chief Actuary noted in an April 22 memorandum that without intervening legislation to correct a payment cut in the new law, some providers would "end their participation in the program"—that is Medicare—with the effect of "possibly jeopardizing access for beneficiaries."

It looks to me if you want to be accurate in writing 40 million Americans about what is happening with Medicare, you would add that in there and say there is another view by the Chief Actuary of Medicare in the Obama administration.

The Chief Actuary also concluded that 15 percent of Part A providers—we mean by that hospitals, skilled nursing facilities, hospices, home health agencies—may be unable to sustain their operation in the next 10 years as a result of drastic Medicare cuts in the new

law. That does not sound like "increased quality health care" to me.

No. 2, the second paragraph of the brochure says: The new health care law will keep Medicare strong and solvent.

Here is the truth, at least as we see it. The \$529 billion in cuts to Medicare—no one disputes that we have those—are being used to pay for a \$1 trillion—when fully implemented over 10 years—health care bill, not to shore up Medicare.

According to the same people who put out this brochure, the CMS Chief Actuary, you cannot double-count the Medicare cuts as both paying for expanding the health care delivery system and increasing the solvency of the program. I mean, common sense says if you take \$529 billion out of Medicare over the first 10 years, or \$1 trillion out of Medicare over 10 years, when it is fully implemented, and you spend almost all of that on something other than Medicare, that is not the way to make Medicare more solvent, even if it is a new Medicare Program. Any savings from Medicare, we believe, ought to be spent on Medicare, rather than running up the fiscal deficit in Medicare.

No. 3, on the second page, the brochure says if you are in a Medicare Advantage plan, you will still receive guaranteed Medicare benefits. This is one of the most disingenuous comments in the brochure. If you read that and are one of the more than 11 million people on Medicare Advantage, you would think: My Medicare Advantage must be OK. The truth is, Medicare Advantage plans will have less generous benefit packages, according to the CMS, the group that puts this out, according to the Chief Actuary. He says it will result in less generous benefit packages. The Congressional Budget Office Director Doug Elmendorf testified that fully half the benefits currently provided to seniors under Medicare Advantage would disappear under the proposal in the earlier bills offered by the Senator from Montana, which were virtually the same as this bill.

Here is the difference. They will come back and say: But we said "guaranteed benefits." They would be right about that. But guaranteed Medicare benefits are what everybody has. If one wants Medicare Advantage, which they pay a little more for to cover dental, vision, and hearing, or other extra benefits, that is why they buy Medicare Advantage. The truth is, the Medicare cuts in the health care law will limit plan choices and reduce benefits for almost 11 million seniors enrolled in Medicare Advantage on those extra benefits. That is relatively one-fourth of all seniors in Medicare, and there are 40 million of us in Medicare. In my State of Tennessee, there are nearly a quarter of a million on Medicare Advantage who will lose those benefits. So it is not true—or at least it is disingenuous—that benefits will not change. Guaranteed benefits won't, but extra benefits likely will.

Finally, it says the new law preserves and strengthens Medicare. That is also disingenuous, because the new law does not include paying doctors who serve Medicare patients proper compensation. We call this the sustainable growth rate, the SGR. Some people call it the doc-fix. One would think a comprehensive health care law would include proper compensation for doctors who serve Medicare patients, but it does not. Why? It would have, according to the President's budget, added \$371 billion to the cost of the bill and made it add to the debt, which we said it would.

So what did we do instead? We simply passed a health care law, the majority did, and claimed it doesn't add to the debt, expand the health care delivery system—which we all know costs too much already—and went on our way. And we still have with us the big cut in payments to doctors which will increasingly create, for those on Medicare, a sort of health care bridge to nowhere or to the emergency room, as we find Americans who are on the big government programs, Medicare and Medicaid, unable, in the case of Medicaid or Medicare, to find doctors who are willing to serve them at the lower rates and, in the case of those who go to Walgreens in Washington State, a drugstore company that won't fill present description drugs for Medicaid patients because of the low rates.

I am disappointed that the administration, in its effort to make the health care law sound better, would send out what amounts to propaganda. There is a Federal law against propaganda. It says annual appropriations can't be used for publicity or propaganda purposes within the United States. I know a little about that. When I was Education Secretary in 1991 and 1992, I sent out what I thought was a very carefully written article to teachers about President Bush's, the first, education program, and the Democrats in Congress hauled me up before the committee and had the General Accounting Office investigate me and castigated me for putting out publicity and propaganda in violation of the law. Some House Members have written the General Accounting Office and said this violates the law. I don't know whether it violates the law, but it doesn't tell the truth in the way we Medicare beneficiaries deserve to have the truth told to us about what the health care law does. I am disappointed in it. I hope the Center for Medicare and Medicaid Services will be more accurate in the future and present a more balanced characterization of the law. I am sure during the rest of this year there will be a great many Americans who will take a closer look at the law and agree with Republicans who said no to this because it will raise premiums, raise taxes, and it will send new costs to States and will cut Medicare.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, it is with interest that I listened to my colleague from Tennessee for several reasons. One, he is debating a law that has already passed. It is strange to me that he wants to relitigate health care reform. But it is not so strange because I know that that is the tack the other side is going to be taking for the rest of this year. At every opportunity, Senators on the other side of the aisle, all of whom voted against health care reform, will sow the seeds of doubt in the minds of the American people. They don't come up with constructive ideas on how to improve the work of something that has already passed into law. Rather, they stand on the law and tear down something that has passed, sowing the seeds of doubt with misinformation.

It is unfortunate, because it has caused the American people to wonder who they can trust, especially when one side only speaks ill of a major program such as health care rather than trying to come up with constructive ideas. That is what is happening right now. We heard a statement from a Senator who is trying to basically score points in the November elections by sowing the seeds of doubt and confusion over health care reform.

The truth is not what the Senator just said. The Senator from Tennessee takes issue with efforts of the government to explain the new health care law. He is implying that it is disingenuous, that it is not fair, that it is one-sided. I remind all my colleagues that when the drug benefit came out, proposed by the administration of a different political philosophy, they didn't pay for it—all unpaid for, every red cent. They put all kinds of literature out, all kinds of brochures to tout the drug benefit. There were some who thought it wasn't fair. There were some who thought it was biased. I will not litigate that issue, but I do know that charge was made many times when the administration of a different political persuasion was touting the drug benefit legislation that passed not too long ago.

I have spoken with this administration several times about getting the proper information out; that is, not to tilt, gild the lily, bias. At hearings I have made that clear to administration officials. I for one do not want this administration or any administration to be unfair in explaining the program to the American people. I think the brochure the Senator talks about is fair and straightforward. I just happened to pull up the Web site yesterday and looked at it to see what it said. I was impressed. There is a lot of information there I didn't know about. It didn't at all come across to me, trying to be objective and fair, as one-sided. It was an honest effort to explain to the American people what health care reform is.

The new law takes steps to improve the quality of health care. Let me go back to what the Senator said. No. 1,

he took issue with the paragraph that said the new law increases the quality of health care. Of course, the new law increases the quality of health care. The Senator from Tennessee is sowing the seeds of doubt as to whether this new law actually does increase the quality of health care. Let me explain how it does. First, there is delivery system reform. We get rid of a lot of the waste in the American health care system. It is paid on the basis of quality, not on the basis of quantity and volume. Every expert who has looked at the American health care system knows we have to move in this direction. This bill does that. It is going to reimburse doctors, hospitals, and health care providers more on the basis of quality outcomes than on the basis of the number of services provided or the quantity of services.

The doughnut hole will be filled. That will increase the quality of health care for seniors. The statement that the Senator refers to from the HHS Actuary actually says that health care reform will extend the life of the Medicare trust fund for another decade. I think that improves the quality of health care. Anyone who objectively has looked at the health care reform legislation and attempted to determine one issue; that is, the life of the Medicare trust fund, has concluded that the passage of health care reform will extend the life of the Medicare trust fund for 8 to 10 years. That clearly gives seniors a little peace of mind. It is going to be there. It gives peace of mind to people who are about to be seniors, that it is going to be there. That is a major improvement in quality.

It is true what the brochure says. It does increase the quality of health care. There is no doubt about it. Anyone who thinks otherwise should think through the entire legislation and be objective about it.

No. 2, he refers to the assertion that it keeps Medicare strong and solvent and claims that is not true. The Actuary says that health care reform will extend the life of the Medicare trust fund for another decade. That is 100 percent refuted.

Third, the Senator from Tennessee quibbles with the assertion that Medicare Advantage beneficiaries will continue to receive their guaranteed benefits. The Senator at first admits this is true, but the larger point is that health care reform reduces overpayment to Medicare Advantage plans. And why should other beneficiaries pay extra for the overpayments made to some people who are beneficiaries of Medicare Advantage plans? I have talked to a lot of executives who work for Medicare Advantage plans in the last week or so. They are interested, and they like it. They like the change in the law. Why? Because they know they are going to be reimbursed now more on the basis of quality.

Medicare Advantage plans will be paid more if they can show better out-

comes, higher quality, not just the standard "you get the same rate" benchmark compared with fee for service and so forth. A CEO of a major Medicare Advantage plan said: Senator, we think that is good policy. We like that. We are ready. We are anxious. We want to do a real good job. We think that is a good change in the law. That is going to, frankly, help seniors—higher quality, better benefits under Medicare Advantage plans. That will help.

Essentially, I want to make it clear, the Senator from Tennessee complains the health care law did not correct for payment of doctors. Here is his opportunity. He could vote for this bill today. If he doesn't want doctors to take a 21-percent cut, if he doesn't want that, he should vote for this bill. This bill before us today would prevent that cut from taking place.

I very much look forward to seeing the Senator from Tennessee voting for this bill so that doctors do not get a cut in their payment. That would be the right thing to do, support this bill so doctors don't get cut.

Again, the Senator takes issue with the assertion that health care reform would help keep Medicare solvent. The fact is, the nonpartisan Medicare Actuary said health care reform will extend the life of the Medicare trust fund for a decade longer.

I return to my first point: The health care reform law has passed. The President signed it. My gosh, why don't we work together constructively, both sides, with good points, praise, criticism, both sides of the aisle, all constructively to help the American people? Why are we here? We are here to help the American people. We are not here to score political points. We are the hired hands. We are the employees. We work for the American people. The American people want good health care reform. They want costs lower, and they want higher quality care. So let us work together to help the American people get that. That is what we should be doing here, not trying to score political points and cause disruptions for the American people for the upcoming elections in November.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Florida is recognized.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VENEZUELA

Mr. LEMIEUX. Mr. President, I am here again today to talk about my concerns that are emerging from the problems we are seeing in Venezuela.

Last May 25—just a couple weeks ago—I wrote a letter to the Secretary of State, Secretary Clinton, that was signed by 11 of my colleagues and myself. Senator ENSIGN from Nevada and I wrote this letter together, and we were

welcome to have 10 other Senators join in the letter to Secretary Clinton to speak about our concern—in fact, what we would call a gathering storm of concern—about the country of Venezuela.

The letter seeks to have a review by the Secretary of State and the Department of State as to whether Venezuela should be added to the list of states that we consider state sponsors of terror. The letter goes through a number of issues I have spoken about on the floor before concerning some very questionable behavior by Hugo Chavez and Venezuela.

One of the issues it talks about is the support of Venezuela for the narcoterrorists in Colombia, the FARC. Evidence has come forward that Venezuela's weapons have found their way into the hands of these narcoterrorists.

Another of the things we talk about in the letter is the concern with a plot that was revealed by a Spanish judge in March of this past year—a plot to assassinate President Uribe in Colombia, where the Spanish judge has accused Venezuela of being behind that plot, along with a Spanish terrorist group called the ETA.

The letter also speaks about Hezbollah's activities in Venezuela—Hezbollah, the Middle Eastern terrorist group, supported by Iran.

The letter also speaks of the troubling new information that for at least 3 years Venezuela and Iran have been putting factories together in remote areas of eastern Venezuela, which is the area believed to be rich in uranium.

In December of 2008, Turkish customs authorities caught one of these joint companies, literally called VenIran—“Ven” for Venezuela—a “tractor factory,” attempting to smuggle 22 containers of explosive materials labeled as “tractor parts.”

Since 2007, we have pointed out, there have been direct flights between Caracas, Venezuela, and Tehran, Iran, without proper controls or customs verifications.

We have also pointed out in the letter there are increasing paramilitary Iranian forces operating in Venezuela.

We know from recent reports from the IAEA, the International Atomic Energy Agency, that Iran now looks to have the nuclear fuel which will give them the capability to build nuclear weapons. We have had open testimony in front of the Armed Services Committee that within 3 to 5 years Iran may have the intercontinental ballistic capability to deliver those weapons across the ocean and put the United States in jeopardy.

But Venezuela is a lot closer. There is no need for an ICBM from Venezuela. In fact, a flight from Venezuela to Florida is about the same length in time as a flight from Florida to Washington, DC.

So we brought this letter to the attention of Secretary Clinton on May. We wrote this letter on May 25, 2010.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, May 25, 2010.

Hon. HILLARY RODHAM CLINTON,  
Secretary of State, U.S. Department of State,  
Washington, DC.

DEAR SECRETARY CLINTON: We are deeply concerned about Venezuelan President Hugo Chávez' growing ties with U.S.-designated foreign terrorist organizations and state sponsors of terrorism. This letter is to present you with a number of questions that we believe should be thoroughly addressed within the Department of State's 2009 Country Report on Terrorism which was due to Congress on April 30, 2010. We realize that thorough answers to some of these questions may require a classified annex.

#### PRESIDENT CHÁVEZ' SUPPORT OF FARC

The Revolutionary Armed Forces of Colombia (FARC) is South America's oldest and best armed terrorist group. As pointed out in the 2008 Country Report on Terrorism, the FARC is notorious for carrying out a full range of terrorist activities to include kidnappings, murders, mortar attacks, hijackings, and bombings against Colombian political, military, and economic targets.

On March 1, 2008, a Colombian military strike against a FARC camp in Ecuadorian territory successfully killed senior FARC members, including Luis Edgar Devia Silva (aka Raúl Reyes). Silva was a known terrorist responsible for numerous atrocities within Colombia, and his death and the subsequent capture of his computer laptop provided a treasure trove of intelligence. Chávez mourned the loss of Reyes and eulogized this terrorist as a “good revolutionary” while amassing troops on the Colombian border in an attempt to intimidate his Latin American neighbor.

In light of what the U.S. government has discovered from the “Reyes” documents and other sources, we ask that the annual terrorism report provide attention to the following questions:

What does the information found on Reyes' computer reveal with regard to the depth of the relationship and support that the FARC receives from high-ranking officials in the Chávez government? Based on information gleaned from the laptop, what type of surface-to-air missiles or man-portable air defense systems (MANPADs) has Venezuela provided to the FARC or enabled the FARC to obtain, and what threat do those systems pose to Colombia and U.S. counterdrug efforts in the region?

In September 2008, the U.S. Department of the Treasury's Office of Foreign Assets Control designated two senior Venezuelan intelligence officials, Hugo Armando Carvajal Barrios and Henry de Jesus Rangel Silva, and one former senior security official, Ramon Rodriguez Chacin, for materially assisting the FARC's illicit activities.

What types of weapons have these three senior Venezuelan government officials enabled the FARC to acquire? To what extent does the FARC use proceeds from illicit drug trafficking to acquire weapons from the Venezuelan government?

In late July 2009, the government of Sweden requested an explanation from Venezuela about how the FARC obtained Swedish-made anti-tank rocket launchers that had been sold to Venezuela in the 1980s. Three of the launchers, matched by their serial numbers, were recovered from a captured FARC arms cache in October 2008.

Do we have the intelligence resources in place to properly monitor the flow of guns and money from Venezuela to the FARC? Are known FARC officials, such as Rodrigo

Granda, Marin Arango (aka Ivan Marquez), and Rodrigo London Echeverry (aka Timochenko or Timoleon Jimenez) able to operate and move freely within Venezuela?

Do you agree with Director of National Intelligence (DNI) Dennis Blair's March 2009 testimony before the Senate Armed Services Committee in which he stated that despite setbacks brought about by the Colombian government's tireless efforts “the FARC leadership has shown no signs it seeks to end hostilities or participate in serious peace talks” and further, that the FARC benefits from cross-border sanctuaries in Venezuela?

It is well known that cocaine trafficking funds FARC operations. The United Nations World Drug Report for 2009 revealed that nearly one-third of all cocaine produced in the Andean region passes through Venezuela. To what extent does the Venezuelan government's involvement in the international drug trade allow for millions of dollars to flow into the coffers of narco-terrorists?

Recently, the Treasury Department, in an unprecedented move, labeled an active foreign military official as an international drug “kingpin” for enabling massive shipments of cocaine from Venezuela into West Africa. Americans are now banned from doing business with Ibraima Pap Camara, the Air Force Chief of Staff in Guinea Bissau and the former head of Guinea-Bissau's Navy and Jose Americo Bubo Na Tchuto, and any assets the two might have had in the United States are now frozen.

To what extent are drugs from Venezuela flowing into West Africa, and what impact does that have on political corruption, drug smuggling, and terrorist operations in the region? Should President Chávez be held accountable under the Kingpin Act for his role in the flow of drugs to the rest of the world?

How much do terrorist groups such as Al-Qaida in the Islamic Maghreb (AQIM) profit from trafficking drugs that originate in or flow through Venezuela? What specific steps is the United States taking to cooperate effectively with countries in South America, North Africa, and the Sahel to blunt the trafficking of drugs across the Atlantic and into West Africa?

#### HEZBOLLAH'S ACTIVITIES IN VENEZUELA

Prior to September 11, 2001, no terrorist group had killed more Americans than Lebanon-based Hezbollah. On June 18, 2008, the U.S. Treasury Department's Office of Foreign Assets Control announced that it was freezing the U.S. assets of two Venezuelan based supporters of Hezbollah—Ghazi Nasr al Din (a Chávez employed “diplomat”) and Fawzi Kan'an for providing direct support to Hezbollah. According to the Department of Treasury, these two individuals were involved in the planning of Hezbollah operations, including terrorist attacks and kidnappings.

What is your assessment of the presence and activities of Hezbollah inside Venezuela? What is your assessment of the purpose and implications of a meeting in Beirut on or about February 1, 2010, between Adel El Zabayar and Imad Saab, deputies of the Venezuelan National Assembly, and Nawaf Musawi, director of international relations of Hezbollah?

On November 3, 2009, our Israeli allies stopped the cargo ship MV Francop before it could reach its destination in Syria, which is a state sponsor of terrorism. The Francop was loaded with 36 shipping containers holding 500 tons of Katyusha rockets, mortars, grenades, and a half-million rounds of small-arms ammunition suspected to be bound for Hezbollah.

Is there information confirming that the Francop had stopped in the Venezuelan port of Guanta before sailing for Syria and at the

same time that Venezuelan Foreign Minister Nicolas Maduro was in Damascus visiting with Syrian President Bashar Al-Assad? Are there any indications of a substantial Iranian security presence in Guanta?

PRESIDENT CHÁVEZ SUPPORT FOR STATE SPONSORS OF TERRORISM

In addition to his documented support for Hezbollah and the FARC, President Chávez has closely aligned himself with Cuba and Iran, both of which are already on the State Sponsors of Terrorism List.

Venezuela's financial support for state sponsors of terrorism is evident by Chávez's extensive support of the Castro regime in Cuba, which is calculated to amount to \$1 billion a year. To what extent does Venezuelan assistance to the Cuban regime facilitate the regime's ongoing repression of the pro-democracy movement and forestall a transition to democracy in Cuba? How deeply are Cuban advisors involved in the intelligence and security apparatus of the Venezuelan government?

What is your assessment of the role of long-term Castro confidant Ramiro Valdez as a special advisor to the government of Venezuela and the impact it will have on pro-democracy leaders and movements in Venezuela? What role, if any, did Valdez play in the recent purge of over 100 Venezuelan military officers?

With respect to Iran, President Chávez has repeatedly expressed support for that country's covert nuclear program and announced in September 2009 a plan for the construction of a "nuclear village" in Venezuela with Iranian assistance.

In your judgment, to what extent is Venezuela supporting Iran's covert nuclear enrichment program development? What is the current state of Venezuela's nuclear program, and to what extent is Iran providing nuclear knowhow to Venezuela? Under the present conditions, does Venezuelan-Iranian nuclear cooperation violate the Nuclear Non-Proliferation Treaty and United Nations International Atomic Energy Agency protocols?

We have seen reports of suspicious Venezuelan-Iranian companies sprouting in remote areas of Venezuela, including the VenIran "tractor factory." In December 2008, Turkish customs inspectors intercepted 22 shipping containers bound for VenIran that were labeled "tractor parts" but instead contained an "explosives lab" and chemicals that could be used to manufacture explosives. What is your assessment of the activities carried out by VenIran? Is it possible that its facilities are a front for illicit, possibly even nuclear, technology-related activities?

Congress is close to authorizing a comprehensive set of sanctions aimed at restricting Iranian access to refined fuels in a bid to stop Iran from acquiring nuclear weapons. At the same time, Iran has a growing financial presence in Venezuela, and President Chávez has pledged to provide Iran with 20,000 barrels of gasoline per day.

To what extent are Venezuela's financial institutions assisting the Iranian nuclear enrichment program? Are you concerned about the activities of the Venezuelan Banco Internacional de Desarrollo and the Banco Binacional Irani-Venezolano? To what extent could Venezuela's financial institutions and energy resources help Iran undermine bilateral or international sanctions designed to stop its covert nuclear program?

The 2008 Country Report on Terrorism confirmed that Iran and Venezuela continued weekly flights connecting Tehran, Syria, and Caracas and that passengers on these flights were only subject to " cursory immigration and customs controls." What is the U.S. gov-

ernment's understanding of the number of passengers and nature of their travel as well as the type of cargo transported on these flights? Is the Administration concerned that these flights are being used for nefarious purposes?

On April 21, the Secretary of Defense issued a report regarding the current and future military strategy of Iran. The report states that Iran's Islamic Revolutionary Guard Corps-Qods Force maintains worldwide operational capabilities and that "recent years have witnessed an increased presence in Latin America, particularly Venezuela."

What threat does the Islamic Revolutionary Guard Corps-Qods Force presence in Venezuela pose to the United States and our interests in Latin America? What if any measures is the Administration taking to verify the extent of terrorism activities in Venezuelan territory? How is the Administration ensuring that all appropriate branches of the U.S. government are aware of these key findings?

IMPLICATIONS OF ADDING VENEZUELA TO THE STATE SPONSORS OF TERRORISM LIST

The State Department currently designates four nations—Syria, Cuba, Sudan, and Iran—as state sponsors of terrorism. These countries provide ideological support and material assistance to terrorist groups. Once you consider the evidence behind Venezuela's substantial ties with U.S.-designated terrorist organizations and state sponsors of terrorism, we would like to know the strategic implications of designating Venezuela a state sponsor of terrorism. We would also like to know the implications for the integrity of this list if Venezuela continues to evade designation.

Looking into the future—and short of designating Venezuela a "State Sponsor of Terrorism"—what other concrete measures are available to curb President Chávez' threatening ties with terrorist groups and state sponsors of terrorism? Under what conditions would the Administration apply such measures? Does the U.S. government have a contingency plan to respond to a sudden and prolonged unavailability of Venezuelan oil exports to the United States?

Given that Chávez is expected to receive a \$20 billion loan from the Chinese Government and his government has just signed yet another multi-billion dollar arms deal with Russia for weapons that far exceed any rational analysis of Venezuela's national defense requirements—it is clear that this is the time to revisit our policies within the region. We encourage you to work with all appropriate federal agencies in obtaining thorough answers to these questions. We look forward to further discussions about what steps the Administration plans to take in order to address these disturbing developments within our hemisphere.

Sincerely,

John Ensign,  
George S. LEMIEUX,  
James M. Inhofe,  
Jon Kyl,  
John McCain,  
James E. Risch,  
Roger F. Wicker,  
Sam Brownback,  
Jim Bunning,  
Scott Brown,  
Robert F. Bennett,  
John Cornyn.

Mr. LEMIEUX. We hope to receive a response from the Department of State. I know firsthand that Secretary Clinton is focused on Latin America. I have spoken to her on several occasions. I know she knows we need to do

a better job promoting democracy in Latin America. She shares that concern. We have had those conversations.

For too long, Latin America has been neglected by the United States in our diplomatic relations. For a variety of reasons, some of them with good merit, we have been focusing to the east. But we cannot neglect our friends in Central and South America. We cannot neglect our friends in Colombia, for example, or in Panama. That is why I have come to the floor on several occasions and called for the ratification of the free-trade agreements between our country and those countries that only makes sense. It not only makes sense for jobs and commerce, but it also makes sense in terms of our good relations with our friends in the region. No better friend do we have than in Colombia, right next door to this very concerning state of Venezuela.

The reason I come to the floor specifically today is that when we sent this letter on May 25, we expected to receive a response. Yet just last Friday, Assistant Secretary Arturo Valenzuela, Assistant Secretary of State for Western Hemisphere Affairs, was asked about this letter because there was an upcoming trip by the Secretary of State to South America.

Secretary Valenzuela was asked why Secretary Clinton was not going to Venezuela, and he explained. Then the question of this letter came up, and his response was:

Oh, I don't—because I was traveling. I don't know anything about that letter, so I'd have to find out.

Now, I know they get a lot of letters over at the Department of State, but this letter is signed by 12 Senators. It has been widely covered in the media. It was relevant enough that someone would ask the question at a press conference. Yet Mr. Valenzuela, through some oversight, was unaware of the letter.

I look forward to getting a response from Secretary Clinton and Assistant Secretary Valenzuela to this letter. There is a gathering storm in Venezuela. As much as we have to look across the ocean to our fears about Iran, their development of nuclear weapons and what they are going to do with those nuclear weapons, there is a concern to our south, very close to our shores in Venezuela, and a dangerous combination which is occurring between Iran and Venezuela, Ahmadinejad and Hugo Chavez.

If we do not stay focused on it, mark my words, 3, 5 years from now we are going to be seeing all the same developments in Venezuela we have seen in Iran. We are going to see them starting to develop a nuclear presence for "peaceful" purposes. They are going to be playing from the same playbook Ahmadinejad has played from in Iran.

We have to take aggressive measures against Iran. I have called, as many Senators have, for this administration to get to work in a more expeditious way to impose those sanctions—meaningful, hard sanctions on Iran to stop



their nuclear program. We are reading in the newspaper today about Iran—all the circuitous efforts it takes to reflag ships, rename ships so they can get weapons back into Iran and avoid our sanctions. We have to crack down on that. That is the diplomatic and foreign affairs problem of today. But the diplomatic and foreign affairs problem of tomorrow is Venezuela, and steps should be taken right now to work ahead of that problem so that 3 to 5 years from now we are not having all the same troubles with Venezuela that we are now having with Iran. Yet they are far closer to the United States than Iran is.

So we sent this letter, and we look forward to the response. There are a lot of ramifications of declaring a country a state sponsor of terror. I am not asking that be done today. But I am asking it be seriously evaluated. That is why Senator ENSIGN and myself, along with 10 other of our colleagues, sent this letter, and we would like to hear a response. We would like it to be taken seriously. We would like this administration to focus on Venezuela before it is a problem that gets ahead of us, before it is a problem we do not have enough time to address in a proactive and thoughtful manner.

Little problems become big problems. This problem is already beyond being little. Let's get on top of it. Let's evaluate it. We hope we get a response to this letter as soon as possible, from the Secretary of State and the Assistant Secretary of State for Western Hemisphere Affairs.

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

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

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

#### GULF COAST OILSPILL

Mr. DORGAN. Mr. President, I wish to say a few words about the oilspill in the gulf and what has or has not been happening recently. I don't think there is an American citizen who can really avoid seeing on television or hearing on the radio or reading in the newspapers about the devastating consequences of the oilspill in the Gulf of Mexico.

The fact is, we have drilled for oil and have been producing oil in the gulf for a long time, dating back to the 1940s. I believe something like 50,000 wells have been dug offshore. So it is not a surprise that there has been oil development offshore in this country, and we have achieved drilling a fair amount of oil for the needs of this country. But it is also the case that deep well drilling—in this case, a well that is drilled into the ocean floor a full mile below the surface of the water and then down another 30,000 feet below that—is a very different situation.

It is also now clear that this company, the company that was engaged in drilling this well, did not have the wherewithal, the technical capability to decide: If something disastrous happens, we should be able to shut down the gusher of oil. I would have thought and would have expected that the company would have covered the worst possible circumstances. What if the worst thing happens? Do we have the capability to address it? The answer at this point is no.

This is the 50th day in which oil has been gushing out into the Gulf of Mexico from this oil rig blowup. It is pretty clear to everybody that, after trying a series of different things, the BP Corporation does not know how to address this gusher of oil into the gulf.

I was reading this morning another news story about this.

I confess to my colleagues that I don't live on the gulf. I am not from one of those States. They would, perhaps, know much more about it than I would. But most of us in this country are learning from the investigations that are being done, and we are learning more and more about not only what has happened, but what the consequences are.

The story this morning: "Rate of Oil Leak, Still Not Clear . . ." So 50 days later, we don't understand how much is coming out of the faucet, how much is spilling from this gusher into the Gulf of Mexico.

It is difficult or almost impossible to measure what has been the effect in recent days of some amount of containment that has been successful. We know they are not containing all of the oil, but they are gathering some of the oil. The question is, What amount? What percentage of the oil that is gushing into the gulf is being contained?

One of the things that bothered me a fair amount is I am quoting now from a New York Times piece:

On Sunday, engineers halted their efforts to close all four vents on the capping device, because even with one vent closed, the amount of oil being captured was approaching 15,000 barrels a day, the processing capacity of the collection ship on the surface.

If you are going to be able to collect more oil, why would you not have enough ships on the surface to be able to allow you to close more of those vents and to capture more oil and have the requisite number of ships on the surface to deal with it? I don't understand that at all. But it seems to me that every time we read something new about this, it is that somebody didn't plan properly to try to address this issue.

The story goes on to say:

Some scientists involved in the Flow Rate Technical Group say they would like to produce a better estimate, but they are frustrated by what they view as stonewalling on BP's part, including tardiness in producing high-resolution video that could be subjected to computer analysis, as well as the company's reluctance to produce a direct measurement of the flow rate.

Continuing to quote:

They said the installation of the new device and the rising flow of oil to the surface had only reinforced their conviction they did not have enough information.

A Dr. Leifer said:

It's apparent that BP is playing games with us, presumably under the advice of their legal team. It's six weeks that it's been dumping into the gulf, and still no measurements.

Again, that is a direct quote from Dr. Leifer in this article.

All of us understand that the consequences of this are devastating. We stand here and debate and talk and we go to hearings, yet there are people at the end of a dock in some small town who look out, and all of those fishing boats are idle, sitting at the dock, because it has destroyed the fishing in that area. The shrimpers who would normally be out dealing with the shrimp beds, their boats are idle, their nets are idle. Those are people who are losing money every day, the people who can't make a monthly payment on their boat that is sitting on the dock because they can't go out because their fishing industry is gone. Those people have to make payments at the end of the month. The person with the cafe or the restaurant on the dock that has very few people visiting these days is losing money hand over fist. You could go on and on about the consequences of what this has meant to the gulf—to the families, to small businesses, to the fishing industry, the shrimpers, and so on.

So it seems to me it is time now, after 50 days, to ask a couple of other questions, and I am going to make a suggestion. I asked at a hearing recently whether the BP commitment, which says: We will pay or reimburse for all "legitimate" costs—I asked the Justice Department in a hearing: Is this pledge by BP a binding commitment? Does it bind anybody? The answer by the Justice department representative is that, no, it is not binding. It is a pledge.

I think that is certainly better than not having a pledge—to have a company whose rig has caused this gusher of oil, this unbelievable spill into the Gulf of Mexico—if that company makes a pledge, it is better than having a company walk away. On the other hand, a pledge without a binding commitment doesn't mean very much.

What I suggest at this point is that we, after 50 days, decide to go beyond that pledge. I have seen people interviewed who have said: we have submitted to BP what is happening to our small business, our families, and our boats, and haven't gotten a response, or we got turned down, or this or that. It seems that we ought to understand the consequences of this, and the depth of the costs is going to require something very different.

What I propose is the following: I think on this 50th day of the spill, what I believe should happen is that the Justice Department should go to BP and

say: Let us formalize an agreement in which you put the first \$10 billion from BP into a gulf coast recovery program. That gulf coast recovery fund would be available and would be run by two interests. One would be a special master who would represent the public interest, and the second would be a counselor who would represent BP's interest, and they would jointly manage the \$10 billion gulf coast recovery funds—and it may need much more than that. At least the first step is that you have \$10 billion in a fund, and you have some public interest that is now involved in making judgments. Look, BP has its own interests at heart. I don't doubt that it wants this gusher stopped. I understand that. I don't doubt at all that BP wants to minimize the damage. I am not suggesting otherwise.

I am suggesting this: When presented with a range of alternatives, or of opportunities, or of actions, that a company will have to act in its best interest. That is the requirement for its shareholders. That may well not be in tandem or may not travel parallel with what is in the public's interest. That is why I think that it is now time to say to BP that you have made a pledge; is the pledge binding? Does it have real money behind it?

We read and see that they have spent \$1.5 billion at this point. This is a company that made \$150 billion in net profit in 10 years. That is \$15 billion a year. Again, what I suggest is a \$10 billion payment into a gulf coast recovery fund, which the company would have a part in the management of, and a special master representing the public interest would have the management of, and that we proceed from there and determine how much more is required.

Perhaps if the \$10 billion is not all required, the company gets reimbursed. My own expectation is that the cost of this spill will far exceed the \$10 billion when it is all done. This is going to last for years. We know that. This is not something that will be resolved in the next 6 months. I am talking now about the costs. Let us hope that finally, at long last, this spill, this gusher, gets shut down. But when that happens, there is so much more to do to try to understand what this means to the families who made their living on that coast. What does it mean to them? How do we go forward and recover? With what? That is why I think this gulf coast recovery fund, with BP's money and a special master involved in at least bringing the public interest into the discussion about what kind of outlays from that fund are made and to whom and for what purposes, is critical.

I am going to write to the Justice Department today suggesting that this is an approach that should be taken. Look, if BP is approached and BP says, you know what, we don't intend to put money into a fund, that tells us a little something, doesn't it? Is the money going to be there, or isn't it? That is a partial answer to that. If the company

says we don't intend to put money into a gulf coast recovery fund—if that is the case, then we have legislation on the floor with which we could address that issue. There are ways to address this with fees and other applications to the company that caused this damage. Better, it seems to me, to take the company at its word when it pledges that it will reimburse legitimate costs; but also say to them, as a result of that pledge, let's now make it binding and let's begin to put together this gulf coast recovery fund that represents a binding commitment from the company.

If the company ultimately doesn't pay these costs, we know what would happen. It will go on the backs of the American taxpayer. That is not a fair way to resolve this, and it is not acceptable. It is a very large company. It has made a substantial amount of money. It made \$6 billion, as reported, in the first quarter of this year alone. Surely a \$10 billion initial commitment into a gulf coast recovery fund is not too much to ask, to begin the construction of a fund that would merge both the public interest, which is important, with the private interest of BP, to make sure the funding is not only made available but that it is used in a way that addresses the significant costs that have been visited upon the people who live and work in that region.

I know there are many ideas that are being kicked around in the Congress and elsewhere to try to address a wide range of issues. Many of them have great merit. It seems to me that we need to do something for the family this morning who is wondering whether it is going to survive, whether its business can survive, whether it can make its boat payment on the fishing boat at the end of the month when there are no fish to catch. When the restaurant pulls the shades because it has no customers and it is right near the dock—all these folks, and so many others, who have lost their jobs and who confront this questions of: What about us? What are we going to do? Will there be recovery for us, for my family, and for our small town?

I think the best way for us to address this is to say let's make sure the pledge made by BP becomes a binding one. I think that can be done without legislation. It can be done by this administration and the Justice Department reaching out and signing an agreement creating such a fund, creating a special master with BP, having BP deposit the money so it could begin a robust, significant, and real recovery fund. If this company says that is not their intent, that they don't intend to do that, or they are not interested in doing that, then it seems to me a binding requirement is one we should take up here on the floor of the Senate, and very quickly. There are plenty of ways—and I will not go into them now—for us to address the question of whether the company that caused this

spill, this gusher of oil, which is certainly the most significant disaster in the gulf in the last century and perhaps more—if the company that caused that—whose rig caused that, says we don't intend to be a part of something like this, then there are approaches we can use here in the Senate to make that company responsible for it in a binding way.

Mr. President, with that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 4303 TO AMENDMENT NO. 4301

(Purpose: To establish 3 year discretionary spending caps)

Mr. SESSIONS. Mr. President, I call up the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. McCASKILL, proposes an amendment numbered 4303 to amendment 4301.

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

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

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

Mr. SESSIONS. Mr. President, Senator McCASKILL and I are again offering this amendment that would place a cap on discretionary spending in which we participate in every day but that tends to violate the budget.

Our budget is a critically important component of our financial management. I have been a member of the Budget Committee for a number of years, and it is very frustrating to see how it has gotten around the budget. The legislation that is before us is just another example of violating the budget in ways that are not responsible. For example, the unemployment compensation and the payments to physicians are not emergencies. They are just not. Any responsible household, any responsible city, county, or State government knows that. When those leaders deal with financial crises, they have to figure out how to handle them.

What we are doing with this legislation before us is borrowing money to pay a fundamental obligation of the United States of America, which is to pay doctors an adequate wage for doing Medicare work. They are already paid less for Medicare than private insurance pays them for doing the very same procedures, but we have another shortfall here. If Congress does not pass legislation, physicians will take a 21-percent cut in the amount of money they are paid. That cannot work because our physicians are already, in



many cases, losing money on Medicare treatment of our seniors. They cannot take a 21-percent cut. They will quit doing the work. This is not a matter of debate. It will collapse the Medicare system. We need to do this, but that is the kind of expenditure that is fundamental. It is part of the obligation we have had for many years to pay physicians to do Medicare work. They do not do it for nothing. It ought not to be paid for by borrowing the money on top of all the debt we are now running up in this country.

Our national debt just hit \$13 trillion. We will, in 5 years—now 4—double the national debt, and in 10 years we will triple the national debt. Why? Because we are taking items that are baseline requirements of this government and miraculously converting them to emergencies and then breaking the budget. If anybody objects, such as Senator BUNNING did on behalf of his 40-some-odd grandchildren, he is attacked as being against physicians or against the unemployed. Senator COBURN has raised these issues. I support both of them. They are both right.

If the American people understood how irresponsibly we are managing their money, they would be even more upset with us than they already are. The American people are right to be upset with us. We are converting fundamental governmental obligations to emergency spending. Why? Because we do not have to pay for it; we can just borrow it. That is not right.

Senator MCCASKILL, my Democratic colleague, is concerned about these issues. We have worked together to offer this amendment that would make it harder to violate the budget caps, to make it more difficult and to help us to be more responsible in our spending. Quite a number of my Democratic colleagues joined with us in this amendment and voted for it. Fifty-nine Senators voted for it on one of our previous votes. We were one short of what is necessary to make it law—just one vote short.

We are offering this amendment again. We have taken quite a number of steps to make this legislation palatable and to respond to concerns that some have raised, such as, would it impact the military? No. Would it impact legitimate emergency spending? No.

We have done some things that some may believe weaken the amendment a bit, but it still adds some real strength to it and real value. This kind of budget cap legislation is what allowed us to balance the budget in the late 1990s. I know President Clinton has touted that he balanced the budget. If I recall, Congress—which appropriates every dollar that is spent—shut the government down at one point to try to contain President Clinton's proposed spending, and succeeded in doing so. That eventually led to a balanced budget. The legislation that was in effect at that time, which was very similar to this proposal, expired, and this is one reason spending has surged.

I thank the Chair for the opportunity to offer this amendment. We will talk on it again later. I hope that we can enact these provisions into law and that we will get that one extra vote necessary to make a real bipartisan statement. We had bipartisan support for this amendment last time, and it would make a real bipartisan statement to the whole financial world that we are beginning to take seriously our responsibility to reduce this surging deficit. Only then will we begin to see the kind of stability in our economic markets that we must have.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, today, our body starts debate on expiring tax and health provisions. Around this Capitol building, the nickname of these items is called extenders. I wish to make a couple of points on the process before I get into the substance of the substitute. My first point will reflect on how much the Democratic leadership has avoided a simpler, clearer, bipartisan approach. My second point will consider all of the other time-sensitive, unfinished tax legislation that appears to be abandoned with only a few weeks left in this session.

My first point deals with a conscious decision to use a partisan process for bipartisan issues. What I find surprising is that we are taking up a package that, like the HIRE Act jobs bill of a few weeks ago, absolutely belongs to the bicameral House and Senate Democratic leadership. It was negotiated between House and Senate Democratic leaders, with some input from their tax-writing committees and staff. These discussions occurred entirely behind closed doors. As far as I know, it was a Democrats-only discussion. It is not a conference agreement, where things are worked out in a sophisticated conference committee made up of people from the House and Senate.

Then, in addition, at the very last minute, the compromise took on the properties of an amoeba. In that amoeba fashion, the House Rules Committee split the bill into two pieces, one dealing with the so-called Medicare doctor fix and the rest of the bill dealing with the balance of that package. Then, under the magic of the House Rules Committee, this amoeba-like bill was reconstituted into one legislative product, and that is the underlying bill Leader REID has brought before the Senate this very day.

I am relieved to see that it appears the Senate will process extenders in a way that is different from the way the HIRE Act jobs bill was handled. It looks as though we Senators will have a chance to represent our constituents and shape this bill, because Leader REID has not filled the amendment tree or filed cloture at the start of debate. That is a real relief around this body, where amendment trees have been filled and cloture has been filed.

Back home, folks wonder why it is taking Congress so long to deal with these routine extenders. As an example: As I left church Sunday in Cedar Falls, IA, a person who has investment in a biodiesel plant wants to know when we are going to pass the biodiesel tax credit bill. Most of the tax provisions expired almost a half a year ago, on December 31, 2009. Folks are angry that Congress seems to be dithering, among other things, on the '71 tax provisions. In my State, it is a biodiesel tax credit that always comes up, but people are wondering about the dithering generally. And, of course, we even have physicians across the country being frustrated that this Congress has allowed a 21-percent cut in payments to go into effect again this year. Payment cuts of this magnitude severely impact physicians and health care providers and practitioners throughout the country, and they significantly threaten beneficiary access to care.

Medicare beneficiaries' access to physicians and other needed medical care has been jeopardized this year as never before because Senate Democratic leadership has once again failed to pass an essential physician update in a timely manner. We could have wrapped up this time-sensitive legislative business 4 months ago. We could have taken up a bipartisan package that I put together with my friend, Finance Committee Chairman BAUCUS of Montana. To be sure, some of the structure in this package reflects the agreement that my friend and I reached. But this package, in terms of the impact on the deficit, is likely several times the size of the package we agreed upon. Virtually all of the additional cost is due to proposals I would not have agreed to in representing my Republican Conference.

I was under the impression that the Senate Democratic leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic leadership was highly involved in the development of a bipartisan bill, they arbitrarily decided to replace it with a bill that skews toward their liberal wing. That is why we are where we are this very day. There is a liberal agenda that exalts open-ended deficit hiking, spending, and tax increases, and doing it above everything else. Angry vocal members with that view seem to have dominated the decisionmaking of the Democratic leadership in resolving routine items.

The actions in the House a couple of weeks ago go on to further prove my point. The Senate Republican leaders backed the Baucus-Grassley compromise of last February. To them, it seemed to be a balanced package. It was largely offset, it was leaner than most Democrats wanted, but it was thicker than most Republicans wanted. Republicans preferred a fully offset package using spending cuts; Democrats resisted most spending cut offsets.

and wanted many multiples of the level of spending with which Republicans were comfortable. So it is ideal, because this is the way it works most of the time between Senator BAUCUS and me.

The Baucus-Grassley compromise was a genuine middle ground. But for the liberal core of the Democratic caucus, it was their way or the highway. Leader REID responded to that pressure and scuttled the Baucus-Grassley compromise. Ironically, almost 4 months later, it looks as though the Democratic caucus is moving closer to the structure of the Baucus-Grassley compromise of last February.

The Senate Republican Conference, seeing the alarming growth in deficits and debt in the intervening 4 months, will press hard for a fully offset package. For those in my conference, several fiscal events—and these all occurring in the intervening 4 months since the Baucus-Grassley bill was scuttled—have been compelling on my side of the aisle viewing this legislation a little bit differently.

The first event is the second opinions we are receiving on the fiscal impact of the health care bill. The Congressional Budget Office has revised the official spending upward.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the CBO's May 11 letter to Congressman JERRY LEWIS. The letter is accompanied by two tables that identify explicit authorizations of discretionary funding. These tables are available along with the full text of the letter on the CBO's website at [www.cbo.gov](http://www.cbo.gov).

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, May 11, 2010.

Hon. JERRY LEWIS,  
Ranking Member, Committee on Appropriations,  
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested, the Congressional Budget Office is providing additional information about the potential effects of H.R. 3590, the Patient Protection and Affordable Care Act (PPACA, Public Law 111-148), on discretionary spending. The following analysis updates and expands upon the analysis of potential discretionary spending under PPACA that CBO provided on March 13, 2010. In particular, it provides an update of the earlier tally of specified authorization amounts, as well as a list of programs or activities for which no specific funding levels are identified in the legislation but for which the act authorizes the appropriation of "such sums as may be necessary."

Potential discretionary costs under PPACA arise from the effects of the legislation on a variety of federal programs and agencies. The law establishes a number of new programs and activities, as well as authorizing new funding for existing programs. By their nature, however, all such potential effects on discretionary spending are subject to future appropriation actions, which could result in greater or smaller costs than the sums authorized by the legislation. Moreover, in many cases, the law authorizes future appropriations but does not specify a particular amount.

CBO does not have a comprehensive estimate of all of the potential discretionary costs associated with PPACA, but we can provide information on the major components of such costs. Those discretionary costs fall into three general categories:

The costs that will be incurred by federal agencies to implement the new policies established by PPACA, such as administrative expenses for the Department of Health and Human Services (HHS) and the Internal Revenue Service for carrying out key requirements of the legislation.

Explicit authorizations for a variety of grant and other program spending for which specified funding levels for one or more years are provided in the act. (Such cases include provisions where a specified funding level is authorized for an initial year along with the authorization of such sums as may be necessary for continued funding in subsequent years.)

Explicit authorizations for a variety of grant and other program spending for which no specific funding levels are identified in the legislation. That type of provision generally includes legislative language that authorizes the appropriation of "such sums as may be necessary," often for a particular period of time.

CBO estimates that total authorized costs in the first two categories probably exceed \$115 billion over the 2010-2019 period, as detailed below. We do not have an estimate of the potential costs of authorizations in the third category.

Implementation Costs for Federal Agencies—The administrative and other costs for federal agencies to implement the act's provisions will be funded through the appropriations process; sufficient discretionary funding will be essential to implement this legislation in the time frame called for. Major costs for such implementation activities will include:

Costs to the Internal Revenue Service (IRS) of implementing the eligibility determination, documentation, and verification processes for premium and cost-sharing credits. CBO expects that those costs will probably total between \$5 billion and \$10 billion over 10 years.

Costs to HHS, especially the Centers for Medicare and Medicaid Services, and the Office of Personnel Management for implementing the changes in Medicare, Medicaid, and the Children's Health Insurance Program, as well as certain reforms to the private insurance market. CBO expects that those costs will probably total at least \$5 billion to \$10 billion over 10 years.

Explicit Authorizations of Discretionary Funding—Explicit authorizations are identified in Tables 1 and 2. Table 1 presents a list of items for which PPACA specifies the authorized amount of funding for at least one year. It also includes items for which initial specified funding levels existed under prior law but for which PPACA extends the authority for continued spending. The specified and estimated amounts shown in Table 1 total about \$105 billion over the 2010-2019 period.

Table 1 differs from CBO's table of specified authorizations provided on March 13, 2010, in the following ways:

Certain provisions that extend (existing) authorizations with a specified level have been added. (In the previous version of that table, only new authorizations were included.) Also, provisions that provide mandatory grants for 2010 but authorize future spending of such sums as necessary (subject to appropriation) have been included. Those provisions are noted in the updated table.

Table 1 includes an estimate of the cost of section 10221 of PPACA, which incorporates the provisions of S. 1790, the Indian Health

Care Improvement Reauthorization and Extension Act by reference. (CBO had not completed an estimate of the Indian health provisions for the March 13 version of the authorization table.) Those provisions authorize the appropriation of such sums as are necessary for the Indian Health Service (IHS) for carrying out responsibilities broadly similar to those in law prior to enactment of PPACA. As a result, the amounts included in Table 1 reflect recent appropriations for those IHS programs, with adjustments for anticipated inflation in later years.

Table 1 also includes a few corrections to the table provided on March 13. For example, section 5207, which authorizes funding for the National Health Service Corps, was inadvertently left off the March 13 table but is included in Table 1.

Table 2 presents a list of new activities for which PPACA includes only a broad authorization for the appropriation of "such sums as may be necessary." For those activities, the lack of guidance in the legislation about how new activities should be conducted means that, in many cases, CBO does not have a sufficient basis for estimating what the "necessary" amounts might be over the 2010-2020 period.

Although Tables 1 and 2 provide more information about the discretionary costs associated with PPACA, they do not represent all of the potential budgetary implications of changes to existing discretionary programs—including both potential increases and decreases relative to recent appropriations. Some of those changes could affect spending under existing authorizations or may lead the Congress to consider making changes—up or down—in the funding for existing programs. Moreover, some of the potential new costs for individual provisions of the legislation may be covered by the broad estimate of \$5 billion to \$10 billion for administrative costs to HHS.

I hope you find this information useful. If you have any questions about this updated analysis of PPACA's implications for future discretionary appropriations, please contact me or CBO staff. The primary staff contacts for this analysis are Jean Hearne and Julie Lee.

Sincerely,

DOUGLAS W. ELMENDORF,  
Director.

Mr. GRASSLEY. That letter documents CBO's projections that health reform will result in at least \$115 billion in additional spending beyond what was previously included in the total of last March.

In addition, Douglas Elmendorf, Director of the Congressional Budget Office, recently indicated that the landmark health care reform bill would not accomplish its primary fiscal objective of reducing Federal health expenditures.

Dr. Elmendorf made this point in a presentation to the Institute of Medicine on May 26, of this year. The presentation is titled "Health Costs and the Federal Budget" and is available on the CBO website as well.

The second event is the record buildup of public debt. Last week, the Federal public debt passed \$13 trillion. On that monstrous number, \$1 trillion was added in the last year all by itself.

The third event is the continuous mounting of the cost of the stimulus bill. Recent Congressional Budget Office scoring shows that policy, instead

of being roughly \$800 billion, is now exceeding \$1 trillion.

The fourth event is the fiscal troubles in the country of Greece. Too much spending and public debt has put Greek public finance in a state of distress.

The fifth event is the troubling developments in States with large open-ended social spending programs and already very high income taxes. The people who send us here are also reading these reports and they are rightfully worried about these fiscal troubles. They are sending one message to Washington, and it is as clear as any bell. They are saying: Reverse course on deficits and debt. They say we in Congress ought to restrain ourselves and our policies; pull back on extra spending. Republicans heard that message a while ago, and it looks to me as though Democrats are hearing the same thing.

To sum up at this point, on the first point I have been speaking about—on process—the Democratic leadership, by avoiding a genuine bipartisan compromise, is continuing to take a very long path to resolving this overdue unfinished business. The bipartisan path to succeed was set forth almost 4 months ago—early February—and that was the Baucus-Grassley compromise.

Unfortunately, the tax offsets—largely noncontroversial—were lifted from that compromise and used for something totally unrelated, but to cover the bloated spending in the health care bill. To retain the spirit of that compromise, those offsets would need to be replaced by restraints on spending. Republicans, in our alternative, will show the way to achieve those savings.

As has been the case for the last year and a half, those who pay income tax and those who receive government checks aren't treated similarly.

Even with those revisions, keep in mind on net, the taxpayer is paying at least \$40 billion more in this bill. Spending constituents receive almost \$100 billion in new spending.

My second process point goes to time-sensitive legislative business that is yet unfinished in terms of revenue and taxpayers affected. The other unfinished tax legislative business dwarfs the measures in this bill now before the Senate.

There are three major policy areas that need to be addressed. I do not know when they are going to be addressed. These three issues are the death tax, the current alternative minimum tax fix—that is an annual process we go through—and, three, the bipartisan 2001 and 2003 tax relief plans. So I want to go into these in some detail.

I have a chart that shows the status of these three policy issues. Let's start with the death tax, or the estate tax, whatever you want to call it. Since the first of the year there has been no death tax. If you died, up to this point, presumably, your estate is going to be tax free. At the end of this year, the death tax then reappears, and not in a very friendly way.

After failing to act for almost 3 years in the majority, the House Democratic leadership put a death tax reform measure before the House last year at the same time it should have been discussed in the Senate. But the Senate has not acted on the House bill.

I might suggest to you that we had to act on that health care bill because it takes effect in 2014, but tax extenders and the estate tax that had to be settled in December were not even discussed.

In Iowa I can tell you that confusion and the anxiety over the uncertain state of the death tax comes up in my town meetings all the time. I would be surprised if other Senators are not hearing the same thing. I got a letter signed by 750 lawyers and accountants in my State saying: How do we advise our clients? What is the estate tax going to be for the future?

It is not a case of just what the tax law is, it is the case of millions of people wanting to plan estates and cannot do it. I refer again to my friend, Chairman BAUCUS, who was working on a compromise proposal with Senators LINCOLN, KYL, and myself.

Unfortunately, the liberal core of the Senate Democratic caucus seems to prefer no action at all. My friend, the junior Senator from Vermont, has been transparent about his desire to leave the law as it is; in other words, next year only have a million-dollar exemption.

Others feel just as strongly, but perhaps are not as transparent as the junior Senator from Vermont. In any event, the effect of failing to reform current law will be to raise the number of people hit by the death tax by a factor of 10 times. What I am saying is, stalling out a bipartisan reform, which seems to be the liberal core's objective, will likely mean 10 times as many family farmers and small businesses will be hit with the death tax. A reform like the one envisioned by Senators LINCOLN and KYL will mean only the richest 10 percent of dead peoples' estate will face the death tax.

Now I would like to turn to a second major area of unfinished business; that is, the alternative minimum tax fix. This is one of those yearly or biannual things the Congress goes through so that middle-class Americans will not pay a tax that was meant just for the very wealthy. So we are talking about this year's tax fix already.

The law says 30 million Americans, or maybe more accurately 24 million Americans, ought to be paying this income tax right now. The trouble is they do not file until next year, so it gives us a chance to do something about it. But for those filing quarterly, if they are not taking that into consideration they are violating the law.

In the next week, on June 15, the second installment of this year's estimated income tax is due. Last year, 24 million middle-income families were spared from the unfair hit of the alternative minimum tax. The fix meant

\$2,300 per family. This year those figures are going to go up.

If the law is not changed, all those families will have to pay at least \$2,300 more per family. In my State of Iowa, it means at least 124,000 middle-income families will be paying additional income tax that was only meant for the very wealthy.

No bill has been marked up or passed in the House that deals with this problem. Under current law, some of these millions of families should be paying estimated tax next week, June 15.

Finally, let's take a look at the third major area of unfinished tax business. Here we have a chart, and I am referring to the widely applicable rate cuts in family tax relief from the 2001 and 2003 bipartisan tax relief plans.

Virtually every American who pays income tax, and millions more who do not under current law, will have a higher tax bill if we do not extend the 2001 and 2003 bipartisan tax relief bills. For years I have referred to the sunset of these plans as a tax wall. Middle-income families will run right into a very firm wall of tax increases.

For a family of four with an income of \$50,000, that tax wall is \$2,300. For a single mom with two kids earning \$30,000, that tax wall is \$1,100. No bill has been marked up or passed in the House that deals with this problem.

You may hear some on the other side say: Too bad about the sunset. They argue that the bipartisan group wrote the tax relief plans with a sunset. The sunset, therefore, is the responsibility of the bipartisan authors of these plans.

If that argument is advanced by members of the current majority, keeping in mind they have had control of Congress for 3½ years, I wait for that as an opportunity to quickly respond. My response will be to provide a citation of all of the filibusters led by the Democratic leadership on Republican attempts to make all three of these areas of bipartisan tax relief permanent law.

The bill before us has very timely and important measures. In nearly all instances, the expiring tax provisions are treated the same way as they were treated under the Baucus-Grassley agreement of almost 4 months ago, going back to early February.

I thank my friend, the chairman of the committee, Senator BAUCUS, and the Democratic leadership for holding on to those pieces of the Baucus-Grassley agreement. Especially important is an extension of the biodiesel tax credit because we have thousands of workers—and I have seen the figure of 23,000—who have been idled throughout 44 States of the United States as they have shut down the plants.

So if you really want a jobs bill, reinstate the biodiesel tax credit and you will put thousands of workers in Iowa back to work, and about 23,000 nationally.

Likewise, Iowa companies, such as Rockwell Collins in Cedar Rapids, IA,

have taken charges to earnings as the research and development credit has lapsed. Unfortunately, there are some notable deviations from the Baucus-Grassley agreement of last February. Two pieces of the Midwestern disaster relief package were dropped from the Baucus-Grassley agreement in the Senate bill. The alternative fuels credit was altered to remove coal-to-liquids and other promising cutting edge technologies.

The bill before us actually also leaves out some very important provisions of rural health care. These rural health care provisions were included in the Baucus-Grassley agreement of last February but have since been dropped by the Democratic leadership.

Here again we will have a Republican alternative that will show the way on including these important items and having them offset; in other words, they will be paid for. These important rural health care provisions would keep ambulances running in rural areas and improve Medicare payments for both urban and rural hospitals so they are able to keep their doors open.

There is also an important provision left off the bill that ensures that physicians in rural areas are paid fairly relative to urban States.

Is that such a hard thing to figure, that if you are under Medicare, a national program, you ought to be treated the same in rural areas as urban America?

The bill before us also fails to protect beneficiaries from having their physical and occupational therapy cut off. It also fails to extend the add-on payment for Medicare mental health services furnished by psychologists and mental health counselors.

This add-on has been critical in improving access to mental health care services for Medicare beneficiaries and even military personnel suffering from stress and other mental health issues. Again, the Republican alternative will afford these protections and offset the costs; in other words, it will be paid for.

The bill before us also fails to extend the Q-I program, which provides assistance to low-income beneficiaries. The Q-I program covers the Part B premium and out-of-pocket costs for seniors. Without it, many low-income seniors will be forced to decide between getting needed medical care and basic necessities such as food.

The bill before us misses the opportunity to fix the incredibly short-sighted policy in the health reform bill that created a Medicaid payment cliff for primary care providers.

Have we not learned anything from our Medicare provider payment problems? The Republican alternative converts the 2-years of additional payments to Medicare providers to a grant program to get States to increase payments to providers. The same dollars, but we do not end up having a cliff where there will have to be a lot of money made up at some future time.

On the offsets side, as I indicated above, revenue raisers that were non-controversial were lifted, and these were, in a sense, transferred for yet more spending in that bloated health care reform bill that passed in March.

This meant the bicameral Democratic leadership had to yet scrape deeper to this offset barrel. They pulled out a House-passed change on carried interest. They raided the international tax policy area. They moved revenue-raising ideas out of that area and used them to offset proposals like yet another expansion of the Build America Bonds. That is a program I have questioned in the past.

This transaction cannot bode well for efforts to reform our outdated and uncompetitive international tax titles.

It follows the destruction of the bipartisan tax policy reform of the worldwide interest allocation rules. The losers are U.S.-based companies and their workers. The net tax cost of doing business globally will rise for American-based firms. We already have a noncompetitive corporate tax system. Why would we want to make it more uncompetitive? Why would we want to transfer more jobs overseas? This won't rise for competing firms based in other countries. So Japan, the UK, Germany—name any country—those competing firms will have a leg up because of the tax policy in this bill.

Some characterized these generic tax increases as ending a tax incentive for shipping jobs overseas. As I have indicated, the opposite will occur. The embedded higher taxes burden only U.S.-based companies. In a globally competitive environment, with much of the growth in sales overseas, the impact of those taxes will have to be absorbed here in the United States. The after-tax rate of return on those U.S.-based business activities will decline. The costs will have to be cut elsewhere to pull the rate of return back up to a competitive level because, in this global economy, we have to compete. U.S.-based labor and other expenses will, as we might not be surprised, be cut.

As with the health care bill, the American people are sending a message to those of us representing them in the Congress. The message is this: Finish these time-sensitive matters and do it in a fiscally responsible manner. Of course, that is a message that has been ignored for several months.

Now we get to these tax extenders. They have been attacked as fat-cat tax breaks one week. Then a week later the same critics have labeled them as job incentives. They have been hijacked and manipulated for partisan purposes. That is why, 4 months after scuttling a bipartisan compromise on bipartisan policy, the Senate finds itself struggling to complete this bill. It could have been done so easily in February. This is somehow routine, unfinished business the American people rightly expect us to complete.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I take this time to talk about amendment No. 4304, which I hope I will be able to get cleared by setting aside the pending amendment in order to offer it.

At this time, let me bring to the attention of my colleagues what the amendment would do. This amendment would affect the Federal employees' health benefit plans by allowing the administrator to change the current rules to enroll children up to the age of 26. Currently, the restriction for Federal employees is that they can only enroll unmarried children to age 22.

There are 8 million Federal employees and retirees covered under the Federal Employees Health Benefits Plan. As I am sure everyone is aware, under the law recently passed and signed by President Obama, we have now extended coverage for children up to the age of 26. However, that becomes effective under the law for plans entered into after September 23, 2010. For most plans, the requirement to include children being able to enroll up to age 26 would begin on January 1 of next year when the plan year begins.

Private insurance companies have responded. They understand that this is not really a cost issue and that it makes sense to allow the children of the plan holders up to the age of 26 to be enrolled immediately. Most of the private insurance companies have responded by opening enrollment now.

OPM Director John Berry would like to do the same. He has stated he would like to begin expanding coverage for enrollee adult children now, rather than wait until January to offer this cost-saving benefit. The problem is, current law prevents him from doing that because of the definition of a dependent child being an unmarried child, age 22.

The purpose of this amendment is to give OPM the authority to start to enroll now children who have not reached their 26th birthday. This is particularly important knowing we are in the graduation season. Many of us are very proud to attend our children's graduations. Many of these children would like to remain on their parents' policy now that they are no longer eligible for insurance at college. Unfortunately, without this change, they will have to wait until January of next year, which will cause a lapse in coverage.

The scoring of this is insignificant. We are not talking about a significant amount of additional cost. In fact, we believe it is really a cost-savings issue.

This amendment was offered as a bill and enjoys bipartisan support. Senators COLLINS, LIEBERMAN, AKAKA, ROCKEFELLER, MIKULSKI, BINGAMAN, JOHNSON, KAUFMAN, KERRY, LANDRIEU, STABENOW, WARNER, DODD, DORGAN, LEVIN, CANTWELL, CASEY, and HAGAN have joined in cosponsoring this legislation. It has the support of the National Active and Retired Federal Employees Association, the National Federation of Federal Employees, the American Federation of Government

Employees, the National Treasury Employees Union, and the list goes on.

This amendment makes abundant sense. Our clear intent is to allow those who are under Federal employees' health benefit plans to take advantage of enrolling their children now. This amendment basically clarifies that law so that OPM can move forward to enroll children up to the age of 26 immediately and not wait until January of next year, causing a lapse in coverage. It is a bipartisan amendment, insignificant cost. I hope it will be cleared so I may offer it, and hopefully we can act on it without too much time.

I yield the floor.

#### RECESS

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

Thereupon, the Senate, at 12:38 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, the Senator from Alabama took issue with the use of an emergency designation in the substitute before us. Let me take a moment to explain why that use of the emergency designation is entirely appropriate.

First, the concluding section of the amendment designates two items as emergency items. Those items are unemployment insurance and additional payments to States under Medicaid. Both of these items are directly related to the economic emergency that we find ourselves in; namely, the great recession.

From the beginning of emergency designations, with the Budget Enforcement Act of 1990, Congress has recognized periods of recession as true emergencies, and that makes good economic sense as well. It makes good sense to allow automatic stabilizers such as unemployment insurance and Medicaid to spend more when the economy is in rough shape. Programs such as unemployment insurance and Medicaid help to cushion the blow for those hurt by bad economic times. Programs such as unemployment insurance and Medicaid help to increase economic demand, and that helps to keep the recession shorter than it otherwise would be.

That is why the old Gramm-Rudman-Hollings law provided for exceptions to

budget discipline in periods of recession. It is why the Budget Enforcement Act carried on that policy by allowing exceptions for budget emergencies, and budget resolutions have carried that policy further to the current day.

The Senator from Alabama also took issue with the budgetary treatment of payments to doctors under Medicare. That provision is in our amendment, paying doctors at the end of next year. In our amendment, the provision on doctors' payments simply says this provision will be accounted for as Congress provided in the Pay-As-You-Go Act. This provision does not evade the budget law. This provision merely provides for this bill's treatment in accordance with the budget law. So the budgetary treatment of this bill is consistent with the budget law and it is entirely appropriate.

The Senator from Alabama has once again offered his amendment to put caps on appropriated spending. That is basically the same amendment the Senate has repeatedly rejected. The Senator from Hawaii, the distinguished chairman of the Appropriations Committee, will no doubt have more to say about this in due course. At this point let me note the Sessions amendment violates the Congressional Budget Act and I expect a point of order to be raised against the Sessions amendment later today.

Mr. President, I now ask unanimous consent that the Sessions amendment be temporarily laid aside so the Senator from Maryland may offer an amendment.

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

The Senator from Maryland.

AMENDMENT NO. 4304 TO AMENDMENT NO. 4301

Mr. CARDIN. Mr. President, I call up my amendment No. 4304.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 4304 to amendment No. 4301.

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

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

The amendment is as follows:

(Purpose: To provide for the extension of dependent coverage under the Federal Employees Health Benefits Program)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . EXTENSION OF DEPENDENT COVERAGE UNDER FEHBP.

(a) SHORT TITLE.—This section may be cited as the "FEHBP Dependent Coverage Extension Act".

(b) IN GENERAL.—

(1) PROVISIONS RELATING TO AGE.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8901(5)—

(i) in the matter before subparagraph (A), by striking "22 years of age" and inserting "26 years of age"; and

(ii) in the matter after subparagraph (B), by striking "age 22" and inserting "age 26"; and

(B) in section 8905(c)(2)(B)—

(i) in clause (i), by striking "22 years of age" and inserting "26 years of age"; and

(ii) in clause (ii), by striking "age 22" and inserting "age 26".

(2) PROVISIONS RELATING TO MARITAL STATUS.—Chapter 89 of title 5, United States Code, is further amended—

(A) in section 8901(5) and subsections (b)(2)(A), (c)(2)(B), (e)(1)(B), and (e)(2)(A) of section 8905a, by striking "an unmarried dependent" each place it appears and inserting "a dependent"; and

(B) in section 8905(c)(2)(B), by striking "unmarried dependent" and inserting "dependent".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective as if included in the enactment of section 1001 of the Patient Protection and Affordable Care Act (Public Law 111-148), except that the Director of the Office of Personnel Management may implement such amendments for such periods before the effective date otherwise provided in section 1004(a) of such Act as the Director may specify.

Mr. CARDIN. Mr. President, I took the floor a little earlier today to explain that this amendment allows the members of the Federal Employees Health Benefits plan to be able to enroll their children up to age 26 immediately rather than waiting for the beginning of the year, which would effectively deny those who are graduating from college today, who may not qualify as being under 22 and single, to be able to stay or enroll on their parents' Federal Employee Benefits plan. This is an amendment that the OPM Director supports in that he would like to do this but can't do it under the current law. It has minimal cost.

Private insurance companies are allowing up to 26-year-olds to enroll on their parents' policies today. This allows the government workforce to have those same rights. It would normally take effect at the beginning of the year. It makes sense to do this now. It is bipartisan. It is supported by Democratic and Republican Senators. I urge my colleagues to support this amendment.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KYL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

Mr. KYL. Madam President, I rise to speak to the pending bill and a potential amendment Senator VITTER is preparing and hopes to offer, an amendment which would make sure that any increase in the trust fund for oilspills would be spent on cleaning up oilspills. That might seem rather obvious, but it turns out that the bill before us increases the required contribution of oil companies to this trust fund to clean up oilspills from 8 cents to 41 cents per barrel and then spends the money not to clean up oilspills but, rather, to pay for other items in the underlying legislation, the so-called extenders bill.