

very big ship. This ship is aptly named "A Whale." It is the world's largest skimmer, if reports are correct. It is making its way from Virginia to the Gulf of Mexico. The skimming capacity of this ship is at least 250 times that of the modified fishing boats currently attempting to skim the gulf. This one ship can skim as much as 250 of the skimmers that are in the gulf now in a single day. The vessel's capacity is sufficient to draw in as much as 500,000 barrels of oil. The Swan could do 20,000 barrels. This is 500,000 barrels of oil per 8- to 10-hour cycle. This is the mother of all skimmers. It is like the size of an aircraft carrier. We do not know yet whether this ship is going to be allowed in the gulf to skim up oil. It is beyond belief, it is beyond comprehension that we would not use this ship and ships like it to get the job done.

I will be doing everything I can to make sure A Whale or any other ship of this size can be in the Gulf of Mexico to help us. We want the domestic assets. We want the small skimmers we have now. The ones coming from the Navy can fit on the back of a truck or fit in a plane or on a railcar. They are small. We are happy to have them, but they pale in comparison to the size of A Whale, reportedly the world's largest skimmer. I ask the President, why aren't we letting this ship in the gulf to skim up the oil? It is beyond belief. It is beyond comprehension.

I will continue to come to the Chamber every day we are here to talk about this issue, about foreign ships that can help, about domestic ships being deployed, until we stop the oil from spilling on the bottom of the gulf, until we clean up all the oil that is in the gulf right now. It is impacting the lives of Floridians. When I was in Pensacola yesterday and talked to everyday Floridians, I could see the anguish in their eyes. I could see the stress and hear it in their voices. People move to Florida because they love the water. Ninety percent of Floridians live within 10 miles of the water. They have more recreational boaters than any State in the Union, more coastline than any State in the continental United States. It is part of our way of life. Every resource available should be used to keep this oil from coming ashore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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

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

(The remarks of Mr. KAUFMAN are printed in today's RECORD under "Morning Business.")

IN PRAISE OF EILEEN HARRINGTON, LOIS GREISMAN, ALLEN HILE, STEPHEN WARREN, CAROLYN SHANOFF, AND LAWRENCE DEMILLE-WAGMAN

Mr. KAUFMAN. Mr. President, I wish to talk about some other great Federal employees. Many of the great achievements I have hailed from this desk con-

cern grand challenges relating to our national security, domestic tranquility, or our economic recovery. Today, I wish to recognize a team of highly skilled, highly motivated Federal employees whose achievement has positively affected the daily lives of average Americans.

In 2003, six outstanding employees of the Federal Trade Commission worked together to implement the National Do Not Call Registry. Americans used to be plagued—I can remember it always seemed to happen around dinnertime—by telemarketer solicitations, which always seemed to come just when you least wanted them. The six men and women I am honoring today brought relief to families across the country by implementing the Do Not Call Registry. Led by Eileen Harrington, the team consisted of Lois Greisman, Allen Hile, Stephen Warren, Carolyn Shanoff, and Lawrence DeMille-Wagman. They all brought to the table a strong background in a number of fields, including law, marketing, and business.

The FTC's Do Not Call Registry launched 7 years ago this week quickly became a hit. Within the first 4 days, 10 million Americans registered their phone numbers. Just a year after it launched, a poll found—this is incredible—91 percent of adults had heard of the registry and—can you believe it—over half had already signed up. When Eileen and her team won the 2004 Service to America medal for citizen services, the registry had nearly 60 million numbers. That was in 2004. Today, that has risen to over 150 million.

To turn a good idea into a great program, the team spent several months designing and implementing the Do Not Call Registry as part of the FTC's rulemaking process. It required the participation of many at the Consumer Protection Bureau, the Economic Bureau, and the General Counsel's Office. Information system experts and legal minds worked closely together with senior executives, and they were joined by financial analysts and congressional relations staff. Once the policy had been crafted, there was a period of public comment, which saw over 64,000 suggestions on how to improve the registry, many of which were adopted in the final program.

In the 7 years since the Do Not Call Registry was launched, it has become one of the most successful government programs in terms of the number of Americans it has affected positively in such an incredibly short period of time.

I am also proud to share with my colleagues that all of the members of the FTC's "do not call" team are still serving in the Federal Government.

Eileen Harrington remained at the FTC for a few years and in 2009 was appointed as the Chief Operating Officer for the Small Business Administration.

Stephen Warren served as Chief Information Officer at the FTC until 2007, when he moved over to the Department of Veterans Affairs as Principal Deputy Assistant Secretary for Information Technology.

Lois Greisman leads the FTC's Division of Marketing Practices within the Consumer Protection Bureau, and her responsibilities include enforcing the rules against telemarketing fraud and online investment schemes.

Also with the FTC's Bureau of Consumer Protection is Carolyn Shanoff, who today serves as the Associate Director for Consumer and Business Education. In this role, she has been instrumental in the fight against identity theft.

Allen Hile and Lawrence DeMille-Wagman are also still at the FTC. Allen serves as Assistant Director, and Lawrence works as an attorney.

We are all very fortunate that accomplished men and women such as these choose to stay in government and continue working on behalf of the American people. I hope my colleagues will join me in recognizing the great work of the FTC "do not call" team and thanking them on behalf of all Americans for their important work. They are all truly great Federal employees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Presiding Officer, and I thank the Senator from Delaware for those comments in his weekly update on Federal employees and the great job they are doing. In the Health, Education, Labor, and Pensions Committee, we know quite a few of them who are doing outstanding work, even something that would surprise America; that is, cooperation between agencies that is outstanding. So I thank the Senator for his efforts.

## RECESS

Mr. ENZI. Mr. President, as under the previous order, I ask unanimous consent that the Senate stand in recess.

There being no objection, the Senate, at 12:22 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

## SMALL BUSINESS LENDING FUND ACT OF 2010—MOTION TO PROCEED—Resumed

### CLOTURE MOTION

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

The assistant editor of the Daily Digest read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 435, H.R. 5297, the Small Business Lending Fund Act of 2010.

Harry Reid, Debbie Stabenow, Dianne Feinstein, Mark Begich, Jeff Merkley, Bernard Sanders, Carl Levin, Edward E. Kaufman, Mark L. Pryor, Richard J.

Durbin, Frank R. Lautenberg, Jeanne Shaheen, Daniel K. Inouye, Barbara Boxer, Roland W. Burris, Sherrod Brown, Mary L. Landrieu.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 66, nays 33, as follows:

[Rollcall Vote No. 202 Leg.]

#### YEAS—66

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

#### NAYS—33

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

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 33. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

All time is yielded back. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak as in

morning business for no more than 5 minutes on the occasion of the passing of Senator BYRD.

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

(The remarks of Ms. MIKULSKI are printed in today's RECORD under "Morning Business.")

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

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

Mr. REID. Mr. President, it is my understanding the matter before the Senate is the bill that was just announced a few minutes ago; is that correct, the small business jobs bill?

The PRESIDING OFFICER. H.R. 5297 is the pending bill.

#### AMENDMENT NO. 4402

(Purpose: In the nature of a substitute)

Mr. REID. On behalf of Senators Baucus and Landrieu, I call up their substitute amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS and Ms. LANDRIEU, proposes an amendment numbered 4402.

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 4403 TO AMENDMENT NO. 4402

(Purpose: In the nature of a substitute.)

Mr. REID. I have a first-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4403 to amendment No. 4402.

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 4404 TO AMENDMENT NO. 4403

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4404 to amendment No. 4403.

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

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

The amendment is as follows:

On page 236, line 24:

Strike "one" and insert "five".

#### AMENDMENT NO. 4405

Mr. REID. I have an amendment to the bill at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4405 to the language proposed to be stricken by amendment No. 4402.

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

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

The amendment is as follows:

At the end, insert the following:

"The provisions of this Act shall become effective three days after enactment."

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 4406 TO AMENDMENT NO. 4405

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4406 to amendment No. 4405.

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

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

The amendment is as follows:

In the amendment, strike "three days" and insert "10 days".

#### MOTION TO COMMIT WITH AMENDMENT NO. 4407

(Purpose: In the nature of a substitute)

Mr. REID. I have a motion to commit with instructions at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit H.R. 5297 to the Committee on Finance with instructions to report back forthwith with amendment No. 4407.

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4408 TO AMENDMENT NO. 4407

Mr. REID. I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4408 to the instructions of amendment No. 4407.

Mr. REID. I ask that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective two days after enactment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4409 TO AMENDMENT NO. 4408

Mr. REID. I have a second-degree amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4409 to amendment No. 4408.

The amendment is as follows:

In the amendment, strike "two days" and insert "immediately".

Mr. REID. Mr. President, in jest, I said to my Republican friends that I had kind of practiced this because we hadn't filled up the tree much at all. I say that seriously. We have had an open process here. You can compare it to what went on in the previous Congress, and it has been very open. I hope we can get into an amendment process. We will go back and forth. We will try to have some amendments that will strengthen this bill. This is a bipartisan bill, as indicated by the vote that took place to get us to this. The Republicans were given this amendment last night. They have had ample opportunity to look it over. If they have things they want to do to try to improve it, we on this side of the aisle want to approach this on a bipartisan basis. This is a jobs bill to create jobs where most jobs are created, by small businesses, as 85 percent of all jobs are created by small business. That is why we are here focused on this today. I hope this doesn't become a partisan exercise. It should not. The Small Business Committee has operated for a long time on a bipartisan basis. SNOWE was

chairman, LANDRIEU was the ranking member. Now it is just the opposite. Senator BAUCUS and Senator GRASSLEY have always worked on a bipartisan basis. I hope we can move forward on this matter.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, Winston Churchill once said:

A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty.

The great recession has been a difficulty, to say the least.

Today we are looking for the opportunity.

One opportunity—and our first priority—is to create new jobs.

This is no easy task. Over the course of the great recession, more than 8 million jobs have been lost. But we must not shy away from this opportunity.

The first step Congress took to create jobs was to pass the Recovery Act in February of 2009. In their latest report on the Recovery Act, the non-partisan Congressional Budget Office reports that the Recovery Act has added 1.2 to 2.8 million people to America's payrolls.

And in March, Congress passed the HIRE Act. The HIRE Act includes a payroll tax exemption for new hires. That act will help to bolster job creation in the coming months.

These actions are working. In April, we learned that the economy added 290,000 jobs. And while we added fewer jobs than expected last month, May marked the fifth consecutive month of job growth. Since the beginning of 2010, the American economy has created more than half a million jobs.

We are also beginning to see economic growth. Just a year ago, in the first quarter of 2009, the economy was shrinking at a rate of 6.4 percent. In the first quarter of this year, however, the economy grew at a rate of 3.2 percent.

This was the third consecutive quarter of growth after four straight quarters of decline.

In just 1 year, the economy went from freefall to sustained growth.

These signs are encouraging. But we still have work to do.

Mr. President, 15 million Americans remain unemployed. The national unemployment rate is still near 10 percent. The Congressional Budget Office does not expect unemployment to reach its "natural state" of 5 percent until 2016.

Plainly, we must act. We must work to create jobs.

In America, the private sector is the backbone of innovation and job creation. And within the private sector, small businesses are the principal engine of job creation.

Over the past 15 years, small businesses have generated two-thirds of all new jobs. That is about 12 million new jobs.

But the great recession hit small business especially hard. Over the

course of the recession, small firms have accounted for 64 percent of net job losses.

We need to focus on small business, as we seek to create jobs. When we help small businesses, we help to get Americans back to work.

The first way that we can help small business is by promoting access to capital.

Today, only half of small businesses seeking a loan are able to get the credit that they need, and nearly a quarter receive no credit at all.

Compare this to 2005, when 90 percent of small employers had their credit needs met, and only 8 percent were unable to receive credit at all.

It is clear that small businesses are facing major obstacles to getting capital.

That is why our small business bill includes a provision to completely eliminate the tax on the sale of certain small business stock purchased this year. This proposal would provide a powerful incentive to invest in small, entrepreneurial firms, right now.

We have also included a provision that would allow small businesses to carry back for 5 years their unused general business tax credits from this year. That is quite a bit. Current law is 1 year.

And we have included another provision that would allow certain small businesses to use these general business credits against the alternative minimum tax. These provisions would free up business capital for expansion and job growth.

And another provision would temporarily shorten the holding period of assets after a C corporation converts to an S corporation. This provision would allow small businesses to increase liquidity by selling assets that would otherwise be subject to an additional layer of tax.

We can also help small businesses by stimulating investment. Small businesses need to make capital investments to improve and expand.

One way to boost investment in equipment is by increasing the amount and types of property that small businesses can write off immediately, rather than expense over time. In this weak economy, the ability to deduct the costs of assets in the year that they are incurred provides an immediate benefit for small businesses.

Our bill also includes an extension of bonus depreciation. This provision would help small businesses that purchase equipment to write off those purchases more quickly. The proposal would also help the businesses that sell the equipment. Bonus depreciation sparks investment, increases cash flows, and creates jobs.

Our small business bill also includes two provisions to promote fairness and protect small businesses from costs that could slow business growth and development.

First, the act modifies the penalties for small businesses that unknowingly

invest in something that the IRS considers to be a tax shelter. Businesses can be subject to penalties of up to \$300,000 for investing in a tax shelter. A penalty that large can severely jeopardize the success of a small business. Our bill would limit the penalty in relation to size of the investment.

Our bill also promotes fairness by allowing business owners to deduct against self-employment tax the cost of health insurance in 2010 for themselves and their family members. Current law does not permit the self-employed to deduct the cost of health insurance for themselves and their family members in calculating self-employment tax. But health care for employees receiving coverage through an employer is generally tax free. So our bill would put the self-employed on a more equal footing.

Our small business bill includes provisions aimed at promoting entrepreneurship. According to a recent report, from 1980 to 2005, nearly all net job creation occurred in firms less than 5 years old. In fact, without startups, net job creation would have been negative almost every year for the past three decades.

As our economy emerges from the great recession, we need to ensure that American entrepreneurs have the resources, the financing, and the opportunities they need to create jobs and realize their dreams. Our bill would help promote entrepreneurship by temporarily increasing the amount of startup costs that could be deducted. This would free capital that could be used to invest in other aspects of business.

Our bill would devote more than \$5 million to the U.S. Trade Representative to expand opportunities for U.S. small businesses in foreign markets. This would help American goods and services to reach new customers around the world, this would create jobs right here at home, and this would help the USTR to enforce our trade agreements to ensure American startups can compete on a level playing field.

Our bill is all paid for. No deficit spending here—all paid for. Our bill would reduce the tax gap, promote retirement preparation, and close tax loopholes.

Today, we must find opportunity in a difficulty. The great recession has been a major difficulty for American workers and small businesses, but we can seize a major opportunity by helping small businesses and getting Americans back to work.

I urge my colleagues to support this important small business jobs bill.

#### NATIONAL FLOOD INSURANCE PROGRAM

Mrs. HUTCHISON. Mr. President, I would like to speak in morning business about the National Flood Insurance Program and talk about the importance of extending the National Flood Insurance Program as a tropical storm—that could be a hurricane—is growing in the Gulf of Mexico and moving toward my home State of Texas.

We all know the Gulf of Mexico has had a lot of trauma, and the people who live all along the gulf have suffered quite enough. Now we have a situation in which tropical storm Alex is gaining strength off the coast of south Texas. Winds are gusting upwards of 70 miles per hour, and it could reach hurricane strength at any point. Texas communities from Padre Island to Matagorda Bay are under a hurricane warning. The National Weather Service is calling for up to 20 inches of rain in some parts of our State and is warning communities to brace for life-threatening flash floods and mud slides.

However, at this very time, thousands of Texas homeowners are left vulnerable to the damage this storm could wreak on their homes and property. Why? The National Flood Insurance Program lapsed at the end of May, which means homeowners are currently unable to take out new policies. Allowing a lapse in federally backed flood insurance is unacceptable at any time, but the failure to extend it at the outset of hurricane season is unthinkable.

The very purpose of the National Flood Insurance Program is to make sure coastal residents and other flood-prone communities can purchase reliable, federally backed flood insurance. The program allows homeowners to purchase flood insurance policies in areas where private insurance is hard—and in some cases impossible—to get.

Since residents in some areas are required to have it in order to close on home purchases, many gulf coast families cannot close on mortgage contracts. My Houston office received 200 calls yesterday from people who were in the process of closing on homes which required flood insurance protection to be shown before they could close, and they cannot get the flood insurance because it is not available out of the private sector and this program has lapsed. Today, it is the Federal Government that is standing in the way of these people being able to close on a contract.

Because of previous devastating storms, including Hurricanes Katrina and Rita, the National Flood Insurance Program has incurred billions of dollars in claims and is in an economically tenuous position. I have supported legislation to revise and update this program. It needs to meet the demands of today while still providing access to flood insurance coverage to Americans living in floodplains—Americans who are trying to do the responsible thing. They are trying to purchase insurance. It is not available in the private market, and we need to have that kind of opportunity for people to be able to purchase their own insurance for them to be able to close on homes, of course, and to be able to protect themselves from damages. These are people who do not want to have to file claims against the Federal Government. They want to be able to purchase their own insurance and know they have it.

In 2008, I, along with an overwhelming majority of my colleagues in the Senate, supported the Flood Insurance Reform and Modernization Act of 2007. Unfortunately, despite big support in the Senate and in the House, our two Chambers failed to resolve our differences. Therefore, it has operated in limbo ever since, surviving only in short-term extensions.

Now there is a bill to extend the National Flood Insurance Program through September 30. It has been approved in the House and was sent to the Senate. It is currently being held up.

My colleague from Louisiana, Senator VITTER, offered a unanimous consent request this morning to bring up this House bill, pass it in the Senate, and send it to the President. It would have extended the flood insurance program until September 30 so that people could buy insurance, know they would be covered, be able to close on their homes, and be able to get coverage while we continue to hammer out the differences in a long-term extension of the program.

Unfortunately, there was an objection raised to the House bill going through the Senate. It is so important that we do this. I asked the reason for the objection. I asked one of my colleagues on the other side: Why was this objected to?

The answer was: Is it more important than the tax extenders bill?

I cannot say it is more important because we do need to extend unemployment insurance, but they are not mutually exclusive. We can do one or the other; we can do both. There is no objection to the substance of the bill. No one on the other side of the aisle objects to the bill. They just want to pass the extenders package. We want to pass the extenders package too. We want it to be paid for.

We can do this. It is so important and so timely. It is timely because people are not able to close on contracts. Mortgage companies are saying: Our hands are tied. You have to show that you have this flood insurance to close, and there is no flood insurance available on the private market. The National Flood Insurance Program has not been extended.

This is one that Congress can resolve. We are going to be here for a few more days this week. We can do this. I implore my colleagues: Please, let's unanimously consent to letting this bill go through. The House has passed it unanimously.

A hurricane is headed right now for the Gulf of Mexico. It is time to allow our responsible citizens who want to purchase flood insurance to be able to do so in a responsible way.

We certainly need to modernize the National Flood Insurance Program, and I will work tirelessly to make that happen. But with a storm approaching right now, we need to extend this program until the end of the hurricane season. We do not want people to have

to flood into the government after the fact when they are desperate, not knowing if they are going to get coverage. We do not want them to have to come to the Federal Government and ask for claims to be processed. Let them cover themselves so they can deal with the issue, knowing exactly what their coverage is. That is not too much to ask for the residents of the gulf coast.

I hope the majority leader and the majority will work with us to begin to address this issue in a timely way. The House has passed this bill unanimously. I urge my colleagues in the next 2 days to please allow the National Flood Insurance Program to be extended until September 30, a bill that has unanimously passed the House and surely should be able to go through the Senate since there is no substantive objection to this bill.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Ms. STABENOW. Mr. President, when I think of Senator BYRD and all of our great memories of him, it reminds me of how important it was to him to understand what people are going through in their lives—in this economy, certainly. I know if he were here, he would be on the floor, speaking about the importance of helping people who have lost their jobs—people who, through no fault of their own, have gotten caught in this economic tsunami, who find themselves maybe one step away from losing their house after they lost their job, probably lost their health insurance. Maybe they are in the midst of foreclosure right now because they lost their job and cannot pay their house payment.

These are families who are counting on us to understand, as Senator BYRD always did, what it is like to be a middle-class family, a working family, where the breadwinner has lost their job or the breadwinner can no longer bring home the bread—the food, gas for the car, pay the electric bill—because they have lost a job.

We know there are five people today looking for every one job that is available. That used to be worse. It used to be six people looking for every one job. We are beginning to see things turn. When President Obama took office, as we know, we were losing about 750,000 jobs every month. By focusing on the recovery, by investing in people, by investing in making things in this country, by focusing on job training as well as helping people without jobs, we have been able to turn that around. There were zero jobs lost at the end of the year and now we are gaining jobs.

But even though it is turning around, we are still in a situation where we

have five people, five Americans who are looking for every one available job. The e-mails and the phone calls I get truly are heartbreaking. They are from people who have worked all their lives. These are not people who, as some have said, are lazy. These are people who have worked hard all their lives and they have done nothing but play by the rules—take care of their families, followed the law, put a little bit aside to send their kids to college. They want to have a good American life, what they have worked hard for as their American dream.

Unfortunately, because of a lot of factors in the global economy—too much, in the last decade, of folks paying attention to cheap prices and not American jobs and losing jobs overseas, not enforcing our trade laws or not focusing on making things here in this country—we have a situation where people have lost their jobs. Then, when you add to that what happened on Wall Street—where people lost savings, pensions, 401(k)s, and maybe their job; when credit dried up and small businesses could not get loans or manufacturers couldn't get the help they needed—people found themselves in a disastrous situation through no fault of their own.

They did not create the Wall Street crisis. They were not the ones who decided whether to enforce our trade laws. They weren't the ones to decide whether we as a country were going to invest in American manufacturing. But they are taking the brunt of it.

We have talked for 8 weeks now, 8 weeks to pass a bill that is a jobs bill, to invest in jobs in the economy and to continue help for people who are out of work through no fault of their own. Boy, they hope it is temporary. They surely hope it is temporary and we hope it is temporary.

Despite 8 weeks and a tremendous amount of negotiation, we have not been able to get the votes to stop a filibuster. We have come up short every time. I am hopeful this week we will be able to get beyond that. The people in Michigan are desperately hopeful. They are also desperate. They are also angry that we have not been able to get beyond this partisan wrangling to be able to actually help them keep a roof over their head and keep food on the table for their families. We will have another opportunity, I hope this week, to change that. It is absolutely critical that we do.

There are a lot of people who are not down in the weeds about what is going on legislatively; are not following closely what is happening here—but they know this: They know they need help. They want to know who is on their side and who is willing to understand and come forward and appreciate what families across this country are going through. I hope this week we are going to be able to say to them that finally this Senate gets what is happening to families and we are going to extend the temporary assistance that

has been needed for so many families through unemployment insurance.

Mr. ENSIGN. Mr. President, I rise to talk about an amendment Senator KERRY and I will be offering as an amendment to the small business jobs bill. This amendment is to correct something we do not want the IRS enforcing right now. Senator KERRY and I have 72 Members who have cosponsored our bill that we will be offering as an amendment. There is overwhelming bipartisan support for this. I thank Chairman BAUCUS and Ranking Member GRASSLEY for committing to work with Senator KERRY and myself to get this issue addressed.

The need for the amendment is based on a little-noticed provision that was added in 1989. It has to do with cell phones and similar devices that are treated as what the IRS has known as "listed property," along with computers and automobiles. As a result, employees and employers must keep detailed records of all calls made on their employer-issued cell phones, indicating whether they are personal or business related, or have the value of the phone included as taxable income. This law is a good example of the Government attempting to micromanage the economy and why they shouldn't. Government is not good at keeping up with the private sector.

Twenty years ago, cell phones were bulky, they were cumbersome and expensive, they were the size of a brick and weighed almost as much. When given by businesses to employees, they were considered to be an executive perk or a luxury item and were often hardwired to the floor of a car.

During the past 20 years, of course, cell phones and mobile communications devices have become incredibly small and cheap, and their use has skyrocketed. Cell phones and other mobile communications devices are now part of daily business practices at all levels. As a matter of fact, they are part of almost every American's daily life. They are an extension of the office for many employees and everyone recognizes the real motivation of employers is being able to call their employees at any time and at any place. The cost of providing coffee per employee today is likely higher than the per-employee cost of a cell phone or personal device. The mobile cell phone amendment updates the tax treatment of cell phones and mobile communications devices by repealing the requirement that employers maintain these overly burdensome, detailed usage logs. Outdated tax laws such as this must be updated to reflect 21st century realities, and this bipartisan amendment would do exactly that.

This is a small but important measure that we should be able to enact today to help small businesses, nonprofits, colleges, and employees use today's technology for business without interference from yesterday's regulation. This proposal was included in the President's budget, and if you need

more reasons to vote for this bill, talk to the Internal Revenue Commissioner, Doug Shulman, who released a statement that supports repeal of the current IRS cell phones reporting rules.

In his statement Commissioner Shulman states that:

The current law, which has been on the books for many years, is burdensome, poorly understood by taxpayers, and difficult for the IRS to administer consistently.

Let me quickly summarize what we are doing. Basically, everybody who gets a cell phone from their employer, we don't want them to pay tax on that cell phone as some kind of a perk. If you think about how bills are paid today with cell phones, you have a monthly usage charge. You don't get charged per cell phone call as it used to be in the old days when cell phones were very expensive. People buy plans per month, so many minutes you get with those plans. For virtually everybody who gets a cell phone from a company, that is the way those plans are purchased today. We need to simplify the Tax Code. This is a very minor provision but an important provision because you don't want, all of a sudden, when you are going back through an IRS audit, to have to go back years and years and go through every one of your cell phone records and determine whether that was a personal phone call, was this a business phone call, and what percentage now, and having to figure all that out.

This is a simplification of the Tax Code. It is the right thing to do. It is a very simple thing to do. As soon as the amendment process is figured out, we will be offering this as one of the first amendments to the small business tax bill.

Once again, it has been a pleasure working with my colleague Senator KERRY on this bill.

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

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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 Nevada, Mr. ENSIGN, spoke a few moments ago about the amendment we hope we can consider shortly, the Kerry-Ensign amendment on cell phones. That amendment deals with when an employer gives a cell phone to an employee. The question is, Is that compensation to the employee or is that an investment by the employer? Under current law, the IRS expects taxpayers to document how much they use the company's cell phone for business and how much they use it for personal use. I think most people don't keep these records. Frankly, most of my colleagues don't believe they should have to. This amendment says businesses should not have to bear this

onerous recordkeeping burden anymore. It is a commonsense amendment. It has broad bipartisan support. I urge colleagues to support it at the appropriate time.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

(The remarks of Mr. CONRAD are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, I wish to address my colleagues for a few minutes about the pending legislation that was recently introduced by my chairman and friend, Senator BAUCUS of Montana. This bill is targeted at creating jobs by providing targeted relief to our Nation's job engine, and that happens to be small businesses.

Our Nation is currently facing challenging economic times, as we have now for about 20 months. While there have been some signs of improvement, such as the recent growth of our gross domestic product, job losses continue to mount and many hard-working Americans are struggling to make ends meet. According to our Bureau of Labor Statistics, around 8 million jobs have been lost since our economy officially slipped into recession in December of 2007. The unemployment rate is currently 9.7 percent, which is simply an unacceptable level.

Small businesses in particular have been hit hard, with most job losses being attributed to businesses with fewer than 500 employees. According to the ADP national employment data, from December of 2007 through May of this year, small businesses with fewer than 500 employees saw employment decline by 6.4 million, while businesses with 500 or more employees saw employment decline by 1.66 million. According to this data, small businesses—those with fewer than 500 employees—accounted, then, for nearly 80 percent of the decline in employment during that period of December 2007 through May 2010.

The lack of job creation continues despite aggressive actions taken at the Federal level to stabilize the economy. This includes the enactment of the TARP bill, also the \$800 billion stimulus bill, and more recently a bill we termed the "HIRE Act." However, these bills were all missing a critical ingredient for spurring job creation; that is, substantial tax relief targeted at small businesses. The reason for that is most small businesses hire or do not hire according to what their cash flow is. When taxes are high, there is less cash flow or when tax policy is in

a state of flux, as right now—what is it going to be this year because of sunsets this year—that uncertainty causes businesses not to be as aggressive as they normally might be in hiring.

While President Obama and my Democratic colleagues agree that small businesses create 70 percent of the jobs in our economy, less than one-half of 1 percent of the stimulus bill was tax relief for small businesses—in other words, not putting the money where it would do the most good.

The HIRE Act, which the Democratic leadership sold as a so-called jobs bill, did not fare much better in providing tax relief to our Nation's job engine. There was only one provision directed solely to small business tax relief. That was a provision I supported that increased expensing equipment purchased by small businesses. But it is a very small provision, and it only gave small businesses what they have already been getting for the last couple of years. That provision was only \$35 million out of a \$21 billion bill.

With the recent introduction of the small business tax relief bill, it looks as if this body is finally starting to get serious about tackling unemployment through a true jobs bill, compared to previous stimulus or jobs bills promoted by the majority.

This small business bill has a rather modest cost of about \$12 billion to \$15 billion. It is targeted at job creation by providing small businesses incentives to invest in new equipment, expand their operations, and ultimately hire new employees.

The bill includes provisions that would encourage businesses to invest in new equipment and real property by increasing the amount of capital expenditures small businesses can expense. For equipment, the amount that can be expensed is increased to \$500,000, and for real property it is \$250,000.

Moreover, it encourages investment by providing additional first-year bonus depreciation. It promotes entrepreneurship by increasing the amount allowed as a deduction for startup expenditures. It would increase access to capital by allowing 100 percent of gain from investment and qualified small business stock to be excluded from income and taking the general business tax credit out of the alternative minimum tax for sole proprietorships, for flowthroughs and nonpublicly traded C corporations with \$50 million or less of annual gross receipts. It also increases access to capital by extending the 1-year carryback for general business credits to a 5-year carryback for small businesses.

Finally, the bill promotes small business fairness by limiting harsh penalties that have been imposed on small businesses by the IRS and equalizing the tax benefits for health insurance that self-employed individuals may receive to those received by employees.

While this small business bill would go a long way in informing small businesses Congress is very serious about



reducing the burdens imposed on them, many businesses continue to struggle and will not hire new employees simply because it is the stated policy goals of Congress.

According to the most recent survey from the National Federation of Independent Businesses—and we refer to that organization around here as the NFIB—when businesses are asked what the single most important problem facing their business is, the No. 1 answer is lack of sales, but this is closely followed by taxes and then by government regulation and redtape.

I have a chart here from the most recent NFIB survey listing the top problems facing small businesses, and you can see there, as I said, that first is poor sales; secondly, taxes; and then government regulation and redtape being the hindrances to small businesses expanding to create the jobs small businesses can create. Consequently, you can see tax policy is very important because, as I said, small businesses tend to operate out of cash flow to a greater extent than companies with equity and stock.

The small business community is currently being strangled by a climate of uncertainty. Whether we are speaking about cap and trade—some people refer to that as cap and tax—that will drastically increase energy costs or about health care reform that will require small businesses to offer health benefits that will increase the cost of labor or about the call for tax increases on so-called wealthy taxpayers earning over \$200,000, that will largely fall on the backs of small businesses. Whether you are talking about any of these three—or more that I could mention—there is a great deal out there that causes small businesses to stop and think of whether now is the time to expand and hire new workers.

Taxpayers earning above \$200,000 are frequently identified as coupon clippers by many of my friends on the other side of the aisle. A disproportionate level of business activity is attributable to small businesses owned by that group, and we have a chart here that shows evidence of this linkage. This chart is based upon Gallup survey data showing that over half of the larger small businesses—the ones with the good share of the workforce—are controlled by taxpayers who are targeted by the other side's marginal rate hikes. Twenty-seven percent of the medium-sized small businesses are controlled by taxpayers targeted by as much as a 17-percent marginal rate hike.

The owners of the smallest of the small business community are also affected. You see from the chart that it provides an example of how a fairly typical small business owner would be impacted by the increase in just the two marginal tax rates, which is the proposal of the President and I assume something we are going to be dealing with between now and the end of the year because everything sunsets on December 31. And I can tell you that no-

body wants to be out there campaigning this fall with the largest tax increase in the history of the country happening without even a vote of the people and particularly as it is going to hit middle-income taxpayers.

So you have this possibility whether it is Congress legislating, in the higher tax brackets, higher taxes or whether it is just the tax increase going into effect without a vote of Congress. You can see here in the charts that a small business owner who is married and has two children, who has \$500,000 in taxable income could see a \$19,600 tax hike. That is a 13-percent increase in taxes.

One way Congress can try to put some certainty back into the lives of small businesses and entrepreneurs is by dealing with the unfinished tax legislation business. As this chart shows—and I think I brought this chart to the floor at least four times in the last 3 weeks I have been addressing this issue of taxes—there are four major pieces of legislation dealing with expired or expiring tax provisions that have yet to be addressed by this Congress, meaning between now and adjournment this December.

I have talked about this unfinished tax legislation business several times over the past few weeks, but I cannot stress enough how important dealing with these time-sensitive matters is for the business community because one of the reasons they are not hiring is because of the uncertainty that is out there—what is Congress going to do and when are they going to do it? Without certainty in tax policy, businesses are unable to plan for the future, and many businesses are in a holding pattern waiting to see what Congress will do. So it is quite obvious this is very bad for the economy and it will not be an environment for job creation. The list of unfinished tax legislative business includes everything we have here, but I will mention them: the tax extenders, which are overdue by over a half year; it also includes the alternative minimum tax patch; another area is the death tax; and the final area is the 2001 and 2003 tax rate cuts.

I am going to discuss that policy today and its implication for small businesses because until we get small businesses confident of the future and willing to spend money and invest, we are not going to create jobs. And that is a big void that is out there—not that this Senator is the only one saying so. Many Senators on the other side, including the leader of the Senate, have said that 70 percent of new jobs are created by small businesses.

As important as the AMT patch and the death tax are, they are dwarfed by the impact of this fourth package of expiring tax provisions—the 2001 and 2003 rate cuts. This was a bipartisan tax relief package. I get so tired of people talking about the Bush tax cuts from the standpoint that it was an entirely Republican-driven effort with no support from the other side of the

aisle. There were a large number of Senators in the then-Democratic minority—which soon became a majority because of the switching of one Senator from a Republican to a Democrat—who helped push through this bipartisan tax relief enacted in 2001.

Under statutory pay-as-you-go, the amount permitted in this area by the budget of last year is about \$1.4 trillion. It covers about 80 percent of extending all the marginal tax rates and family tax relief from the 2001 and 2003 bipartisan plans. That number makes sense because the bipartisan tax relief plan cuts taxes for virtually every American family who pays income tax.

How significant and how widespread is that tax relief, you may ask. This chart, drawn not by Republicans or Democrats but by the Congressional Budget Office data, sheds some light on that very point I bring up. In other words, the significant and widespread tax relief is very dramatic for most Americans.

The line above measures the effective tax rate paid by the top 5 percent of taxpayers. What is significant about that 5 percent is this is where the small business owner tax hit occurs. This group roughly represents those taxpaying families with incomes over \$250,000. Under the Democratic leadership's budget, this line will go back up to where it was in the year 2000. So you can see where the white vertical line goes is where we were in the year 2000. And this is also where the President's budget and the statutory pay-as-you-go regime would take the raise.

People on my side of the aisle—Republicans—believe this significant tax increase will be a mistake. We hope we will be able to debate this policy in the House and Senate, in committees and on the floor. That was, after all, the process we followed when the bipartisan tax relief plans were passed in 2001, 2003, and 2005. We will point out, as we did then, that the tax increase falls primarily on the backs of small businesses.

Data from the Joint Committee on Taxation—and these are the non-partisan official congressional scorekeepers on tax issues the way the CBO is on spending issues—shows that 44 percent of the flowthrough business income will be hit with the increase in the top two tax rates proposed by the President and the Democratic congressional leadership. A lot of this income is concentrated in the larger small businesses I have referred to here earlier, particularly those of up to 500 employees.

This hits small businesses particularly hard since most small businesses are organized, as I have said, as flowthrough entities. So it will increase taxes on a single small business owner who makes more than \$200,000 per year even if they plow all their income back into their small business to keep paying their workers or hire additional workers.

The top marginal rate on small business owners will rise by almost 17 percent. Democrats and Republicans agree that small businesses are the key job creators of the past and the future. President Obama correctly pointed out that small businesses create 70 percent of the new jobs.

The rest will also hit investment hard. The top capital gains rate will rise by 33 percent. The top dividend rate could nearly triple. All of this is set to occur, not at some far distant future point, it occurs about a half year from right now.

We all hope the economy is on a path to recovery, but does this heavy tax increase on small business owners and investment ever make sense? Even the most liberal Members on the other side might wonder whether it makes sense. Do we think the private sector will grow if we hit small business investors this hard 6 months from now? And think of the uncertainty between now and then. They are not going to do anything.

I remember that this President, between his election and January 20 when he was sworn in, decided that going into a recession—or by then in a recession—even though he campaigned on a promise of increasing taxes on higher income people, it was not the right thing to do at that time of a recession.

Last December the President had some of us down to talk about jobs, helping turn the economy around, getting people hired. When he called upon me I offered him that same advice that he decided by himself 12 months before, that being in a recession was no time to increase taxes. We were in a recession still in December of 2009, as we were in December of 2008, and we still have 9.7 percent unemployment. The President could help the economy if he would announce, as he did before being sworn in, that even though I campaigned on a platform of increasing taxes on higher income people, now is not the time to do it. But he seems inclined to increase taxes, even though it is detrimental to job creation, particularly job creation by small business.

You can see, then, that the bipartisan tax relief brought, at the time we passed it, the effective rate down with respect to the bottom 95 percent of the taxpayers as well. That is the bottom line of my chart right here. So it was a tax cut across the board for almost every American. I stress this because some of my colleagues on the other side of the aisle may be thinking to themselves: Sure, this is true for income taxes. But what about other Federal taxes, such as Social Security, which make up a large percentage of taxes paid by lower and middle-income individuals? This chart is not just a depiction of Federal income taxes; this includes all Federal taxes. This includes Social Security, other payroll taxes and excise taxes frequently referred to by my colleagues on the other side as “regressive taxes.”

Even including all Federal taxes over the last 30 years, the top 5 percent of

income earners have paid a lot higher effective tax rate than the bottom 95 percent. It has been that way no matter which party has controlled the White House, Congress, or both the White House and Congress. It shows something that you would never know if you listen to the rhetoric of the majority Members of this body or even listen to the punditry on the left and some in the media.

Here is what it shows: A progressive income tax system is deeply embedded in our culture. The bipartisan tax relief plans of 2001 and 2003 made the system yet more progressive. These plans brought the rates down for the bottom 95 percent of the taxpayers, as you can see here on the bottom line. The 2001 and 2003 tax relief plans dropped the effective tax rates for tax-paying families under \$250,000 to their lowest levels in a generation. This is the current law, the current level of taxation.

In about a half year these rates will pop back up for all of these taxpayers. That is the checkered line going across there. That is where they are going to return to. The President, as powerful as he is, cannot unilaterally hike or cut taxes. He needs a bill from Congress to do that.

On our side, we want all the tax relief made permanent. We want the opportunity to debate and to amend a bill that deals with this basic level of taxation, the basic level of taxation where the solid lines take us both for high-income people and low-income people; otherwise, they go back up to the checkered line there. This is unfinished business that affects virtually every American taxpayer.

It is clear that over the last 3½ years, Republicans do not control this Congress. We cannot decide the fate of the marginal rate cuts. It will have a fiscal consequence. There are pretty significant fiscal consequences, but if the Democratic leadership wants to keep these levels of taxation low, then they have to deal with the fiscal consequences.

Alternately, the Democratic leadership can raise taxes and claim the revenue. Not changing the law by failing to act is the same as raising rates on virtually every American taxpayer. But they will have to explain to those taxpayers why they raised taxes by almost 10 percent on average.

In the 2006 election almost 4 years ago, the American people provided the Democratic leadership with control of this Congress. In the election 18 months ago, the American people provided the Democratic leadership the largest majorities that any one party has had in this body in more than a generation. They also provided the Democratic leadership with a President of their party. The Democratic leadership spent the period of 2001 to 2006 thwarting efforts to make the bipartisan tax relief of 2001 and 2003 permanent—which, if they had not fought it, would be permanent law and we would not have this uncertainty that

keeps small business from hiring and expanding.

Upon assuming control, the majority has spent 3½ years with no legislation to make permanent or even extend the marginal rate cuts and family tax relief packages. My friends in the Democratic leadership need to step to the plate. We have had budget and statutory pay-as-you-go, we have debated and voted on the breadth and composition of the marginal rate cuts and family tax relief in those contexts. No legislative action whatsoever. No House committee or floor action. No Senate committee or floor action—as you can see by my “to do” list.

The Democratic leadership needs to step to the plate. Blaming former President George W. Bush and the Republican Congresses of many sessions ago is no substitute for running this time-sensitive tax legislative business through the legislative process. Put forward some proposals. Let's debate those proposals. Let's allow for amendments. Do the people's business. It is time to fill in each of these boxes with a checkmark instead of an X.

Fiscal history shows us that raising these marginal rates on small businesses by as much as 17 percent will not necessarily improve the fiscal picture. The relationship between higher rates and higher revenue is tenuous at best.

I have a chart that tracks this history for over 50 years, I believe. Yes, for 55 years and, who knows, maybe farther back than that. Taxpayers are not automatons. Small business taxpayers will respond dramatically to higher rates. I am afraid the response will not help the economy. It will not mean expansion. It could mean contraction. This is not the right signal to send if we want businesses to create more jobs.

I want to emphasize this chart. You can see, over a period of 55 years, the red line is the revenue coming into the Federal Treasury from all Federal taxes as a percentage of gross domestic product. Then you can see over that 55 years we have had varying years of high marginal tax rates and lower marginal tax rates. It was 93 percent under Eisenhower, down to a low of 28 percent under Ronald Reagan, back up to 35 percent for several years as a result of the Bush tax increase, continued by the Clinton tax increase. Then with the 2001 bill you see it go down, the marginal tax rates, to 35 percent from 39 percent.

What that ought to tell you is that the people of this country are smarter than we are here in the Senate. We can think we are going to increase marginal tax rates and bring in a lot of revenue. But the people of this country who have the capability of deciding whether they are going to invest and create jobs and invest so they can make more money have decided that they are only going to send so much money to Washington, DC, for those of us in the Congress to decide how the resources of this Nation are divided.



You can have 93-percent tax rates or you can have a low of 28-percent tax rates, but you still get about the same amount coming in. So we ought not fool ourselves that we can direct to this country that we are going to force you to pay more taxes with higher marginal tax rates, because the people in this country have the ability to decide that they are going to work and produce or is it worth working and producing if you have high marginal tax rates and then maybe decide not to work and invest so hard and maybe take a life of leisure—more so. But you find when you reduce marginal tax rates you get more economic activity from it. You get more economic activity from it because, quite frankly, we in this Congress, 535 of us, when we decide what to do with the resources of this country it does not do as much economic good as when you leave the money in the pockets of 137 million taxpayers and they decide whether to spend or whether to save or to spend and save and how to save it and what to spend it on. It creates more jobs.

I hope we look at helping small business. The bill before us is a good bill with solid initiatives for small business. I compliment my friend Chairman BAUCUS for diligently pressing these issues. They would be even more effective if we could address the uncertainty a small business faces on the tax front.

When it comes to whether small business can do a better job of creating employment or whether government can do it, I wanted to ask the question: How many jobs did the stimulus bill create?

Here we were, February of 2009, passing an \$800-some billion stimulus bill supposedly to keep employment under 8 percent, and it has not been under 9½ percent for well over a year. That is government, through stimulus, trying to create jobs—and not enough in the private sector, by the way.

So in recent weeks, a number of my colleagues have come to the floor to proclaim the success of this massive, now I guess it adds up to a \$862 billion stimulus bill that Congress enacted in February of 2009. Similar statements were made earlier this very day.

Although the number of private sector jobs has increased by only half a million since 2009, my friends on the other side continue to insist the stimulus bill has created millions of new jobs. So I would like to see how they justify those claims. The stimulus bill requires certain recipients of stimulus funds to report the number of jobs they have created or saved or, more accurately, they report the number of jobs funded with stimulus dollars. The stimulus bill also requires the Congressional Budget Office, CBO, to issue a quarterly report on those numbers.

CBO is careful to point out that the number of jobs being reported by stimulus recipients is not a comprehensive estimate of the economic impact of the stimulus bill. CBO says the actual

numbers could be higher or lower. According to CBO:

Estimating the law's overall effect on employment requires a more comprehensive analysis than the recipients' reports provide.

For this analysis, CBO relies upon computer models. In other words, CBO does not look at the actual jobs data; instead, it looks at a model of the economy. CBO is very upfront about this to all of us.

CBO used a computer model to predict how many jobs the stimulus bill would create before it was enacted into law. Now that the stimulus bill is law, CBO is using a computer model to tell us it did just what they said the model would do, create jobs. Why would CBO rely upon a model instead of actual data?

According to CBO:

Data on actual output and employment . . . are not as helpful in determining [the stimulus bill's] economic effects . . . because isolating those effects would require knowing what path the economy would have taken in the absence of the law. Because that path cannot be observed, there is no way to be certain about how the economy would have performed if the legislation had not been enacted.

In other words, CBO does not know how much better or worse the economy would have been if the stimulus bill had not been enacted. That means CBO does not know how much better or worse the economy is now as a result of the stimulus bill.

So, basically, CBO is saying: Trust us—or more specifically, trust our model. But if the model was wrong to begin with, then it is still wrong. According to CBO, their model relies on historical relationships to determine estimated “multipliers” for each category of taxes and spending in the stimulus bill. The problem is, there is no way to know whether these historical relationships remain constant over time or whether they change under different economic circumstances. In short, the jobs numbers attributed to the stimulus bill are based on assumptions that may or may not have any basis in reality.

The bottom line is this: CBO cannot be cited as an authority for the proposition that the stimulus bill actually created jobs. All CBO has done is confirm that its model, and I repeat, CBO's model, projected jobs would be created from the stimulus bill.

CBO has not confirmed that the stimulus bill actually created jobs. What we do know is that in 18 months, since the \$862-plus billion stimulus bill went into effect, the private sector has added a relatively small number of new jobs, about half a million. This is a small portion of the number of new jobs asserted by my friends on the other side of the aisle.

I want to make the RECORD very clear on this very important point.

I yield the floor, and 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.

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

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

Mrs. SHAHEEN. Madam President, I am here to speak to the bill that is pending before us. Small businesses are the cornerstone of New Hampshire's economy, just as they are the cornerstone of the economies of so many of our States.

Over 96 percent of employers in New Hampshire are small businesses with fewer than 500 employees, 96 percent. The economic recovery of New Hampshire depends on the ability of those small businesses to invest in their future, to grow their businesses, and to hire new workers.

But right now many of these small businesses are hurting and they continue to have trouble accessing credit, the credit they need to help turn our economy around. While community banks in New Hampshire have increased their lending, I consistently hear from small businesses that they still need additional working capital.

Last year my office organized a financing fair to bring together lenders and small businesses who need financing. Over 500 people showed up. That is a crowd in New Hampshire. Wherever I go in the State, small business owners tell me they have run out of financing options. In some cases their only choice is to turn to credit cards, their personal credit cards where they pay exorbitant interest rates to get the working capital they need to keep their businesses growing.

That is why we need to quickly pass the Small Business Jobs Act. This legislation will help small businesses in New Hampshire and across the country access the credit they need to create jobs and to weather this economic storm. I am very proud of the work of my committee. As the President knows, the Small Business Committee does great work. It is led by Chairman LANDRIEU and Ranking Member SNOWE.

They have worked and we have worked on this committee to fashion bipartisan measures to strengthen critical SBA programs for small businesses. This afternoon I want to talk about two of those provisions in particular that I think will provide tangible credit solutions for small businesses in New Hampshire.

Many creditworthy small businesses have mortgages on their property that are coming due in the next year. In normal times these businesses would simply refinance those mortgages at reasonable rates. But with commercial real estate lending so tight, and real estate values falling, the only option for many businesses is to refinance at very high rates. This drains them of the cash they need to pay for their workers and buy new inventory.

For small businesses that cannot refinance at all, they face foreclosure even though they may have never missed a payment on their loan. The

Small Business Jobs Act will change an existing SBA program in a way that makes sense. It will change the 504 program to help small businesses refinance these mortgages at low rates. This will free up capital for these small businesses to hire workers and to make other investments to grow their operations, and we can do this in this bill at no cost to the taxpayer.

In New Hampshire, this will help small businesses of all kinds: manufacturers, hotels and restaurants, doctors offices, and many others. This will help them retain hundreds of jobs that would otherwise be lost due to a lack of credit availability. In some cases, it will stop businesses from having to close their doors altogether.

This bill will also increase the maximum loan limit of the Express Loan Program. This is another important provision of this bill that will help small businesses in New Hampshire get the working capital they need. The Express Program is popular with small business lenders in New Hampshire because it cuts redtape and provides a streamlined process for approving loans.

Unlike traditional 7(a) loans, lenders can use their own paperwork for SBA Express Loans, making it easier for them to quickly get capital into the hands of small businesses. Currently, however, Express Loans are capped at \$350,000. The Small Business Jobs Act will increase the loan limit to \$1 million, making additional working capital available to small businesses.

I thank Senators LANDRIEU and SNOWE for working with me to include this important provision. I am also pleased that the bill includes President Obama's initiative to provide over \$30 billion for two new lending funds for small business owners.

I am hopeful the small business lending fund and the State small business credit initiative will provide community banks with the capital cushion they need to expand lending to small businesses.

This bill also lowers taxes on small firms, providing over \$12 billion in tax cuts to help free up capital so small companies can invest in their future. These tax cuts are fully paid for, and they will not add to the deficit. The Small Business Jobs Act will help provide the boost that small businesses in New Hampshire and across the country need so desperately so they can create jobs and help continue to grow our economy.

I urge my colleagues to join me in supporting this critical piece of legislation.

I yield the floor, and 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. UDALL of New Mexico. 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.

(The remarks of Mr. UDALL of New Mexico are printed in today's RECORD under "Morning Business.")

Mr. UDALL of New Mexico. I yield the floor and I note the absence of a quorum.

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

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. NELSON of Florida. 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.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under "Morning Business.")

Mr. NELSON of Florida. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HONORING OUR ARMED FORCES SERGEANT  
JOSEPH CASKEY

Mr. CASEY. Mr. President, I rise tonight to talk about the war in Afghanistan, and, unfortunately tonight, as I begin my remarks, I have to report on yet another death of a soldier killed in action in Afghanistan. Yesterday, in Pennsylvania, we lost another marine. This time the marine was from West View, PA, Allegheny County, the county in which most people know the city of Pittsburgh is. SGT Joseph Caskey, 24 years old, was on his second tour and was killed in action.

If the counting is right in terms of the number killed in action from Pennsylvania, he is likely the fiftieth killed in action from Pennsylvania. We have about 260 who have been wounded. That number may be higher, but that is the most recent number I have seen. Sergeant Caskey gave us, as Abraham Lincoln said so eloquently so many years ago, the last full measure of devotion to his country. And like so many others—hundreds and hundreds who have died in the conflict in Afghanistan, and those who died in Iraq and so many other conflicts—we mourn his loss and we commend his service, but I think we also, at the same time, must recommit ourselves to making sure we are putting this conflict on the floor of the Senate; that we debate it more; that we talk about it more, so that we get the policy right. I am going to speak a little while tonight about that.

In terms of the lethality or the focus we have on those who have lost their lives, June is the deadliest month on record for coalition forces. I wish we

didn't have to report on that. I wish those of us who come to the floor periodically to talk about the war and to talk about individuals from our States who have perished—who have either been killed or who are suffering from grievous injuries—could come and talk about some other milestone in the life of that person—a soldier such as 24-year-old Sergeant Caskey. I wish I could come and report about some other milestone in his life instead of the news about his death.

But we have to talk more about this war. We have to make sure we are debating it more. One of the things that we know has just transpired is a change in command. Today, the Senate Armed Services Committee—and the Presiding Officer is a member of that committee—voted in favor, thank goodness, of General Petraeus's nomination to be the Commander of the ISAF forces in Afghanistan. I think to say this is bipartisan is an understatement. We know that President Obama has chosen a man worthy of this job, and we are fortunate that he has once again accepted the call to action and accepted this new responsibility.

I spoke today by telephone with General Petraeus and covered a number of issues dealing with a whole range of foreign policy and security issues, including some of those pertinent to the conflict in Afghanistan. I have full confidence, as I know so many others in this Chamber and across the country do, in his leadership. I have full confidence that he will be able to implement a strategy that contributes to the overall security of Afghanistan and also a strategy that will train the Afghan security forces and create the kind of political space the Afghan Government needs to provide security and services to its people.

This new command by General Petraeus, upon confirmation—it has not been voted on in the Senate, but I will be voting for him, and I know he will receive a great vote—will bring a new opportunity to assess where we are in the fight, and it is good that we do that. The news, unfortunately, is not all that encouraging lately. We continue to face a host of challenges in Afghanistan.

A Washington Post newspaper report this week cited allegations of blatant and rampant corruption within the senior ranks of the Afghan Government. The report detailed examples where government officials blocked corruption investigations and ordered investigators to remove names from case files. That is just one problem. Secondly, there were allegations of individuals preventing the arrest of senior officials and not acknowledging evidence against businessmen accused of helping Afghan elites to move millions of dollars out of the country.

This was a published report. These are allegations, and we hope they are not true, but if they are, we have much deeper problems than we thought maybe even a couple of days ago. These

are serious allegations that require a serious and thorough investigation and scrutiny. Those who are accused of these crimes should be prosecuted upon the review of the evidence.

As I have said in the past about this conflict, our success will be determined by a belief among Afghans that justice can be delivered by its government. The people of Afghanistan have a right to expect honest government officials working on behalf of the public good, working on behalf of the people, not to enrich themselves, not to provide advantages for the elite in Afghanistan, not just to provide advantages for the wealthy but to make sure that the people are the beneficiaries of a clean, honest government and the kind of effective services that the people should have a right to expect.

The people also have a right to expect a police force capable of protecting the population against criminals. They do have that right. They also have a right to a fair and efficient system of justice in Afghanistan, capable of delivering verdicts based upon the rule of law and not according to the barbaric code embraced by the Taliban. Unfortunately, today, we don't yet see a government in Afghanistan that is fully capable of providing this kind of justice. So we have to monitor what is happening there. We have to make sure we see results and not just rhetoric. We have to see the reality of progress on security, on justice, on the delivery of services—not just the aspiration but the delivery of results.

As we consider the nomination of General Petraeus—and as I mentioned before, a nomination I fully support—I hope this nomination will be one of the reasons we will have a more substantial discussion or debate about the policy here in the Senate. That is where that debate should take place, as it takes place in the House and outside of the Capitol and across America. We should have in the Senate a debate or a reengagement of the debate about this policy. We owe it to our fighting men and women to do nothing less than that, to be committed to examining every aspect of the conflict in the weeks and months ahead. We must continue to ask and get answers to the tough questions on security, on governance, and on the delivery of services, to mention three broad areas of review, analysis, and, of course, inquiry.

As allegations of Afghan Government corruption emerge, oversight is essential when we hear these allegations. If the Afghan national police and army are not hitting their recruitment and training targets, for example, we need to know why. The American people and the Afghan people have a right to expect that we and the Afghanistan leadership, starting with President Karzai, get answers to those tough questions about the security, and especially about the army and the police.

I spoke yesterday of my commitment, and the commitment of so many

others in this Chamber, to helping stem the flow of ammonium nitrate into Afghanistan from its neighbors, particularly Pakistan and the countries of central Asia. This deadly ingredient is used in most of the IEDs found in Afghanistan—bombs which have grown more powerful in recent months. We are now getting reports of the destructive power of IEDs not only to kill and to maim our troops who happen to walk near one of these explosive devices but to literally lift up an MRAP—this great vehicle we have been able to produce that lessens the chances that an explosion under the vehicle will kill someone. The explosions are now so great that they have been lifting up the MRAP and flipping it on its head and killing or gravely injuring troops not because the bottom technology and the engineering wonder that has saved so many lives is giving out, but because the vehicle itself is being lifted up and then smashed down in a way we couldn't even imagine maybe even a year ago or months ago.

As I mention the impact of ammonium nitrate as the destructive ingredient in the IEDs, it so happens that Sergeant Caskey, the marine I spoke of earlier from Pennsylvania, who we believe is the fiftieth soldier killed in action in Afghanistan, was killed by an IED, as so many others—hundreds and hundreds—have been killed in that manner.

This concern about ammonium nitrate is just one of a series of regional concerns that we have with respect to the conflict in Afghanistan. Pakistan has recognized the severity of the threat posed by the Afghan and Pakistani Taliban. The Pakistani forces have suffered heavy losses within their own borders, and I respect the commitment they have shown as the struggle continues. While the battle has been tough and difficult, we will need more help from the Pakistani people and their security forces in the weeks and months and years ahead.

We have no better military leader to take on this challenge at this time than General Petraeus. As we confront this enormous challenge, our country has called upon him again and he has answered affirmatively to that call. I believe General Petraeus has the experience, the knowledge, the insight, and of course the respect of not only leaders in the military but also leaders in the region and, of course, he has the respect and support of the American people. So we should be happy and affirmative about that part of the story even as we confront allegations of corruption, even as we confront more and more troops wounded and killed in action, even as we confront the challenge of this policy.

The minimum we must do in the Senate is to make sure that the oversight we provide, the debates we engage in, and all of the work that we do in the Senate that relates to this policy, at a minimum attempts to justify and to be equal to the commitment of our troops.

Their job is so much more difficult than our job. We don't have to put our lives on the line. We debate and we learn and we try to move the policy forward, but the least we should do is to have a debate that matches or at least attempts to be equivalent to the sacrifice that they display every day.

When we think of our troops, we mourn, of course, those who have been killed in action, and we also remember and salute and celebrate the contributions of those who have served and who come home with an injury, sometimes grievously wounded.

Of course, we remember and salute those who serve and, fortunately, with the blessing of God, are not killed or not wounded and they can come home and be reunited with their families, with their communities.

We remember all those, as Abraham Lincoln said a long time ago: "Him who has borne the battle." Of course in 2010 we are talking about him and her, those who have borne this battle.

We have a long way to go as it relates to this policy but, as we are thinking tonight of the hope we have in General Petraeus's leadership, the confidence we have in his ability and his commitment—he is a patriot like few others—even as we are hopeful about that we remember those who lost their lives, such as Sergeant Caskey, of West View, PA, and so many others who have served, and their families, who have loved and lost.

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

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

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

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

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Motion to concur in the House amendment to the Senate amendment with an amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Reid (for Baucus) motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4386 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.

Reid (for Baucus) amendment No. 4387 (to amendment No. 4386), to change the enactment date.

Reid motion to refer in the amendment of the House to the amendment of the Senate to the bill to the Committee on finance, with instructions, Reid amendment No. 4388, to provide for a study.