

before her, she does not have direct judicial experience, although like many of them, she clerked for a Supreme Court Justice.

Some of my colleagues have belittled General Kagan's experience as better suited to the backwaters of academia than a seat on the highest Court. I think this is wishful thinking on their part, perhaps because they know her real world experience will bring the Court back to the center.

And, in fact, it is clear that her experience at Harvard Law School demonstrates, rather than undermines, her qualifications.

Unlike every other current Justice on the Supreme Court, General Kagan ran a business. She understands much about how the real world functions that many of our current Justices simply do not.

She managed 500 employees and a budget of \$160 million annually. Plus, this real world management experience was forged in an environment that was ideologically charged when she arrived.

But it was much less so when she left. Jack Goldsmith, whom Elena Kagan hired and who had been head of President Bush's Office of Legal Counsel, wrote of her:

It might seem over the top to say that Kagan combines principle, pragmatism, and good judgment better than anyone I have ever met. But it is true.

General Kagan's skills as a consensus builder are sorely needed on a fractious Court that often struggles to find the moderate ground between its two wings. A recent study showed that last term, the Court issued "conservative" opinions 65 percent of the time—more than any term in living memory.

The fact that the pull to the right is so demonstrable suggests also that these decisions are often quite broad—as in the *Citizens United* case, where the issues that were decided had not initially been briefed. Someone as persuasive and perceptive as General Kagan could help to narrow these decisions, to put together 5 to 4 majorities that issue mainstream, modest opinions.

An important component of General Kagan's pragmatic experience is her gender. As difficult as managing an ideologically diverse law school faculty is for anyone, General Kagan did it as the first woman. I have heard it said that Ginger Rogers did everything Fred Astaire did, but backwards and in high heels.

The exact details obviously don't apply to General Kagan, but the sentiment does.

Serving as the first female dean of Harvard, and the first female Solicitor General, has surely broadened her views and deepened her understanding of how Americans work and relate to one another. Her role as a woman in each of these institutions enriches the practical experience that she will bring to the Court.

This is the candidate whom many of my colleagues have branded as an out-of-the-mainstream liberal activist.

At the end of the day, it is fine to disagree with General Kagan's views and ideology. But labeling such a mainstream candidate as a liberal ideologue sets a troubling precedent. It moves the center further and further to the right.

I am confident that General Kagan is the right candidate for the Supreme Court at the right time. I will proudly cast my vote for her.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 1586, which the clerk will report.

The legislative clerk read as follows:

House message on H.R. 1586, motion to concur in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes, with an amendment.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4575 (to the House amendment to the Senate amendment to the bill), in the nature of a substitute.

Reid amendment No. 4576 (to amendment No. 4575), to change the enactment date.

The ACTING PRESIDENT pro tempore. Under the previous order, all postcloture time is considered expired, except there will be 20 minutes of debate equally divided and controlled between the Senator from Montana, Mr. BAUCUS, and the Senator from South Carolina, Mr. DEMINT, or their designees.

The Senator from South Carolina.

Mr. DEMINT. Madam President, how long do I have to speak?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. DEMINT. Thank you, Madam President. I think I can do it in that time.

It seems we have time to do almost anything, but what we need to do is address the economy and jobs in this country. Just about every economist, from all across the political spectrum, says one of the most important things we can do right now is not to raise taxes. Yet taxes are scheduled to go up in 5 months on almost every American, including the businesses that create the jobs.

Of the two amendments I will offer here today, one amendment will stop

the increase in income tax rates, and the second will stop the tax increases on small businesses that file as individuals.

Clearly, it makes no sense in the middle of a recession to raise taxes on individuals. An individual in South Carolina making \$40,000 a year will pay \$400 more next year in taxes if we do not act. A married couple with a combined income of \$80,000 will see their taxes go up nearly \$2,200. A married couple earning \$160,000 combined could pay \$5,500 in additional taxes.

The same thing will happen to small businesses that create the jobs. We will be taking money out of their accounts and putting it in our accounts. At a time when they need to keep the money to grow our economy and to hire workers, we do not need the money to continue to waste it on what we have been doing.

Consider the stimulus bill. A couple of my colleagues this week came out with a report showing where a lot of this stimulus money went: \$62 million for a Pennsylvania tunnel that Governor Rendell said was a tragic mistake; \$193,000 for voter perception of the stimulus bill. I could go on and on. This is not money we need to spend right now.

What we need to do is assure businesses and individuals that the tax rate this year will be the same next year so they can make good decisions that will move our economy forward.

MOTIONS TO SUSPEND

Madam President, in accordance with rule V of the Standing Rules of the Senate, I move to suspend rule XXII for the purpose of proposing and considering the following motion to commit, with instructions, H.R. 1586: I move to commit H.R. 1586 to the Committee on Finance with instructions to report the same back to the Senate with changes to include a permanent extension of the 2010 individual income tax rates, and to include provisions which decrease spending as appropriate to offset such permanent extension.

And, Madam President, in accordance with rule V of the Standing Rules of the Senate, I move to suspend rule XXII for the purpose of proposing and considering the following motion to commit, with instructions, H.R. 1586: I move to commit H.R. 1586 to the Committee on Finance with instructions to report the same back to the Senate with changes to include a permanent extension of current individual income tax rates on small businesses and provisions which decreases spending as appropriate to offset such permanent extension.

With that, Madam President, I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The motions are pending.

The Senator from Montana.

Mr. BAUCUS. Madam President, this is a stunt. It is a gimmick. It is not serious, and it is very sad. We are in very difficult times. The economy is in recession, going out of recession. We are

facing the prospect of what to do about the so-called Bush tax cuts of 2001, 2003. Those are massive tax cuts that were put in place in 2001 and 2003. They expire at the end of this year. It is a big question: What should the Congress do, what should the country do about those tax cuts?

At the same time, we are facing terrific, unfortunately high deficits, very high deficits, almost as high as they were at the end of World War II—not quite but almost. The national debt now is approaching, as a percent of GDP, the levels that it was near the end of World War II—not quite. In fact, they were much higher at the end of World War II than they are today.

But the main point is, these are very serious questions. They require deliberate thought. They require Senators to work together to find solutions that help our country, help us decide: To what degree should these tax cuts be extended? Which ones make sense? Which ones do not?

We have several goals here. Clearly, people do not like paying taxes. But, clearly, Americans who are responsible know they must pay some taxes in order for our country to function. There are two extremes here. One is anarchy and the other States' outright total socialism. There is some balance in the middle for a civil society to function.

These questions are very big: How are we, as a society, going to properly function? To what degree should we begin and to what rate reduce the deficits and the debt? That is a very serious question. Other countries worldwide are facing these same questions, and we are interrelated, the United States, with other countries. That is a very serious question.

In addition, how much should the Bush tax cuts be extended? At what rate, what amount, et cetera? Should all rates be extended? Should some? Clearly, most Members of this body feel at least the so-called middle-income tax cuts should be extended permanently; that is, those whose incomes are \$200,000 or lower or families with \$250,000—at least. Then, there are other questions about what to do with the rest.

The motion offered by the junior Senator from South Carolina has this effect: He says all the tax cuts should be extended. First of all, we do not know what that means. Is that just individual rates? If it is, that is about \$1.1 trillion it is going to cost over 10 years. Does he also want to include the alternative minimum tax for 10 years or does he also want to include dividend cap gains extended? I don't know. He doesn't say. But I assume he does. That is going to be about a \$3 trillion cost—a \$3 trillion cost—over 10 years. He wants that all replaced with spending cuts. I ask you, is that serious? That is not serious. I ask, is that a stunt? Yes, that is a stunt. Is it a gimmick? Yes, it is a gimmick. Is it serious? No, it is not serious.

These are serious times—very serious times—and we should not be engaged or even give comment to this kind of a stunt. I hate saying that. I don't like saying that. But I have to be candid. I have to be honest. If I am faulted for anything—and I am faulted for a lot—it is for being honest and candid. This is a stunt. I urge my colleagues not to fall for this.

Now, the \$3 trillion—I asked: Where are we going to cut \$3 trillion? Our total receipts, Federal receipts for the year, are about \$2 trillion, a little over \$2 trillion. That is pretty good. Well, OK, he wants to cut \$3 trillion over 10. Now, where in the world? It can't be done. It cannot be done. Impossible. He knows that, but still he stands on the floor making this grand political statement. Does he say anything about small business? He doesn't say anything about small business. What is small business? I have no idea. It is kind of veiled a little bit under the cover of the top rates. He doesn't define it. We don't know what it is. I mean, it is just sad.

We don't have much time left to deal with these tax cuts. We don't have many legislative days left. We have to just do what Senators are supposed to do, do what most people in our States want us to do—be reasonable, be thoughtful, take on the hard issues. And they will give us a lot of slack if they think we are basically doing the right thing, if we are doing our best—it may not be perfect but doing our best, and that is what we should do. This amendment is not our best. It should be resoundingly defeated.

Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. There is 4 minutes remaining.

Mr. BAUCUS. I yield my 4 minutes to the Senator from Louisiana.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I appreciate the chairman yielding me just a few minutes. I wish to associate myself strongly with his remarks and urge our colleagues on this side to vote against the DeMint amendment. The Senator from Montana is absolutely correct. It is a stunt, and it is a very sad stunt.

If the Senator from South Carolina is trying to wave the flag of small business to try to convince anybody to vote for his amendment, I wanted to put some things in the RECORD that might convince them otherwise. This is a recent report that came out from the Tax Policy Center, the Urban Institute, and the Brookings Institution—very well respected. It is dated August 3, 2010.

I quote:

If the objective—

Which would be the extension of all the Bush tax cuts—

is to help small business, continuing the Bush tax cuts on high-income taxpayers isn't the way to go [because] it would miss 98 percent of small business owners . . .

It would miss 98 percent of small business owners.

So I beg my colleagues, if you want to have this debate over tax cuts, we can have it at a different time. Please don't wave small business out here.

What the Senator from South Carolina will do—the effect of his amendment, according to this very reputable report—would completely miss 98 percent of small businesses in America. They are desperate for help. His amendment misses them by a mile. If we were in target practice today, he wouldn't pass. He wouldn't hit the target for a mile.

I have been on this floor for over 2 weeks with dozens of Members on this side begging the Republican Party on that side to do something before we leave to help small business. There is \$12 billion of tax cuts directly to them. The Senator from South Carolina voted no.

We have \$30 billion that will turn into a \$300 billion lending program directly to small businesses. Small businesses are the only people who could get it and community banks are the only people who could access it. Did the Senator from South Carolina vote yes or no? He voted no.

This is a stunt, and it is a sad stunt. I tell my colleagues, there is a lot at stake. I know my 4 minutes is over, but I wanted to come and strongly urge my colleagues to follow the lead of the chairman and vote no on this sad stunt.

Mr. DEMINT. Madam President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 55 seconds remaining.

Mr. DEMINT. Madam President, I think it is a sad day in the Senate when keeping current tax rates the same and stopping the largest tax increase in history is called a stunt.

Over the last few weeks, the Democrats have voted to raise taxes on dividends and capital gains, affecting many senior citizens, and raised the death tax to over half of what people leave to their families. Now, today, they want to raise the marginal income tax rates. If we left the tax rates the same, it would do more to help small businesses and jobs in America than any of the bailout or targeted programs my colleagues are talking about.

My Democratic colleagues have had 4 years to address the coming tax increase and have done nothing. It is very important, but it is sad that they will not address it. They will do every kind of government program that comes to mind, but they won't leave the money in the hands of the American people so we can grow our economy.

I encourage my colleagues but also the American people to look in on what is happening today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. Madam President, I would just like to correct the statement made by the Senator from South Carolina. He is saying this side has not

wanted to extend tax cuts. That is totally inaccurate. This side does want to extend tax cuts, and we will. Come September, the Senator from South Carolina is going to see that this side of the aisle very definitely wants to extend those Bush tax cuts, including the 2001 cuts, the 2003 cuts. The only question is how much to do on AMT and how much to do on Federal estate tax. But we do want to extend them.

I see he is walking off the floor because I think he knows I am right and he doesn't want to have to hear it, but the fact is, we are going to extend. We will do our level best. The real question is whether we will have 60 votes to get that passed. That remains to be seen. I hope that happens. I don't see any Senators on that side of the aisle right now, but I hope there are a few—at least one—so hopefully we will get 60 votes in September. But we will make very strong recommendations to extend these tax cuts—maybe not all, entirely, but the vast bulk of them—in an effort to help the American people.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. DEMINT. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—42

Alexander	Crapo	Lincoln
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	LeMieux	Wicker

NAYS—58

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

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 42, the

nays are 58. Two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Madam President, I ask unanimous consent that the next two votes be 10 minutes in duration.

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

The ACTING PRESIDENT pro tempore. The question is on the second motion to suspend.

The Senator from South Carolina.

Mr. DEMINT. Madam President, I think all of us know—

The ACTING PRESIDENT pro tempore. All debate time has expired.

Mr. DEMINT. Madam President, may I have 1 minute to explain the amendment?

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

Mr. DEMINT. Madam President, we all know the economic engine in this country is small businesses. Most of our jobs come from small businesses. It makes no sense in the middle of a recession for us to take more money from small businesses and bring it here.

This amendment simply keeps current tax rates the same for those who file individually as part of their small businesses. It is a simple idea. I think we all agree on it. It is important that we do it before the break and let small businesses know they can plan for next year. They can hire people. They can help grow our economy. I encourage my colleagues to support it.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Madam President, I ask for 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I do not know anybody who can responsibly vote for this amendment because we do not know what it is. What is the definition of "small business"? It could be anything. I think it is a thinly veiled attempt to address the top rates. We are only talking about the top rates in effect.

The other amendment was totally irresponsible. It required a \$3 trillion cut in spending over 10 years; \$3 trillion—not a "b," a "t." This one is in the same vein.

Also, I think it is irresponsible because these are problems we must address seriously when we come back, not take this lightly with message amend-

ments but seriously address when we come back in September what we do with the tax cuts and what we do on the deficits.

I strongly urge my colleagues to vote against this motion.

The PRESIDING OFFICER (Mrs. HAGAN). The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 42, nays 58, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—42

Alexander	Crapo	Lincoln
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	LeMieux	Wicker

NAYS—58

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

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 58. Two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I understand there is a pay-go statement that needs to be read into the RECORD. I ask that be done at this point.

The PRESIDING OFFICER. The clerk will read the statement.

The legislative clerk read as follows:

Mr. Conrad submits this Statement of Budgetary Effects of PAYGO Legislation for H.R. 1586, as amended by Senate amendment No. 4575. Total Budgetary Effects of H.R. 1586 for the 5-year Statutory PAYGO Scorecard, net increase in the deficit of \$19.767 billion; Total Budgetary Effects of H.R. 1586 for the 10-year Statutory PAYGO Scorecard, net increase in the deficit of \$12.634 billion. Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional budgetary effects of this Act.

The table is as follows:

ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR SENATE AMENDMENT 4575, CONTAINING PROPOSALS RELATED TO EDUCATION, STATE FISCAL RELIEF, THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, RESCISSIONS, AND REVENUE OFFSETS (AS INTRODUCED IN THE SENATE ON AUGUST 2, 2010—AEG10260)

(Millions of dollars, by fiscal year)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010– 2015	2010– 2020
	Net Increase or Decrease (–) in the On-Budget Deficit												
Net Budgetary Impact	–13	22,364	803	–1,737	–4,963	–6,180	–4,267	–2,749	–1,863	–1,396	–1,368	10,273	–1,371
Less:													
Previously Designated as Emergency Requirements ¹	–13	–111	–216	–666	–3,731	–4,757	–2,781	–1,292	–438	0	0	–9,494	–14,005
Statutory Pay-As-You-Go Impact	0	22,475	1,019	–1,071	–1,232	–1,423	–1,486	–1,457	–1,425	–1,396	–1,368	19,767	12,634

Note: Components may not sum to totals because of rounding.

¹ Savings in Titles II and III that would result from changes to programs and rescissions of funds previously designated as emergency.

Sources: Congressional Budget Office and Joint Committee on Taxation.

Mr. LEVIN. Madam President, there can be no doubt of the need for this bill, which includes an extension of enhanced Medicaid funding to States and funding to help keep teachers in the classroom and out of the unemployment line. Failure to enact this extension would place services to those most in need at terrible risk, and it would place many States, including my own, in an untenable budget situation.

Failure to enact the continued enhancement of Federal assistance for Medicaid and other health care programs would leave a hole more than \$300 million wide in the budget of my State. Other States would face similar shortfalls. Plugging that hole in the current economic environment would almost certainly require service cuts or tax increases above and beyond those suffered already by so many of our States.

There is also little doubt of the need for the funding included in this bill to preserve teaching jobs. In the current climate, we should be looking for ways to preserve jobs. But that is especially true when loss of the jobs at stake would harm not only workers and their families, but students depending on these teachers to help them prepare for the future. Failing to approve this funding would damage our nation now and in the future.

The excuses our colleagues on the Republican side of the aisle have used to prevent passage of important legislation in recent weeks do not apply here. This measure is fully paid for. I regret that some of the pay-fors are accomplished by borrowing from other important programs, and efforts are under way to correct that problem.

Mr. DURBIN. Madam President, I come to the Floor today to discuss something very important to Illinois and so many others states FMAP.

As part of the American Recovery and Reinvestment Act, we increased the Federal matching rate for Medicaid, FMAP.

This is smart policy in a recession, because not only does it help people in a time of need, it is also one of the most effective ways to stimulate the economy.

Temporarily increasing Medicaid costs allows States to sustain their programs, rather than cutting them when families need them most.

It also generates business activity, jobs and wages in States that they would not otherwise have seen.

But the temporary FMAP increase we passed is scheduled to end on De-

cember 31 right in the middle of most States' fiscal year.

For the 3rd consecutive year, States are facing vast revenue shortfalls. One estimate is that States will face deficits of over \$350 billion over the next 30 months.

As a result, at least 30 States are proposing cuts to their Medicaid programs for fiscal year 2011—cuts that will harm people right when they need help most.

These include cuts to eligibility, fewer benefits, more cost-sharing, and lower payments to the medical providers who see Medicaid patients.

The measure we are considering today would extend and phase out increases in the Medicaid matching rate for 6 months, through June 30, 2011.

It will provide \$16.1 billion to States to ensure that they continue to receive an increased FMAP rate through the end of most States' fiscal years.

Illinois would receive about \$550 million in Federal funding to help keep the State's Medicaid program afloat.

The spending in this measure is fully offset. It will not add a dime to the Federal deficit.

My home State of Illinois is facing a budget shortfall of \$13 billion in FY11.

This is at a time when the unemployment rate was 10.4 percent in June, and the State's revenues from sales tax and individual and corporate income taxes are down more than \$3 billion since the fiscal year 08 peak.

The State doesn't expect to return to fiscal year 08 revenue levels based on the current tax rates until fiscal year 15.

Because of this deficit the State has already started making hard choices.

Just last week, the Governor announced that to save \$18 million, 2,700 non-union State workers would be required to take 24 days off without pay.

That is just one measure to save money, and they will be forced to consider additional painful cuts if we do not extend the increased FMAP rate through the end of the State's fiscal year.

Today, the Medicaid program in Illinois covers 2.6 million low- and moderate-income people in the State, including children, pregnant women and people with developmental disabilities and mental illness.

Illinois saw its FMAP rate increase from 50 percent to 62 percent as a result of the Economic Recovery spending.

The state of Illinois assumed a 6-month FMAP extension in its fiscal year 2011 budget.

Without an extension, the State will be short an additional \$750 million this year.

Illinois has reviewed its Medicaid program, and determined that without an extension of the increased Federal matching rate, it may be forced to consider eliminating services for: 168,000 children from families with incomes just above the Federal Poverty Level; 18,000 adults from families with incomes greater than 133 percent of the Federal Poverty level; 200,000 adults covered by Illinois Cares RX—a state program that helps low-income adults afford prescription drugs; 63,000 children covered by Allkids—a comprehensive State program to provide insurance to kids who would otherwise not have health insurance.

Illinois was not alone in planning for a 6-month FMAP extension in 2011.

In fact, 30 States assumed that an extension would be provided, and as of today, about half of those states do not yet have contingency plans for how to balance their budgets if an FMAP extension is not passed.

If Congress does not extend the funds, governors and legislatures will have to revisit those budgets and consider new cuts, which will hurt the Nation's most vulnerable residents and will affect a variety of services.

These will be on top of cuts that have already been made over the past few years.

The National Association of State Budget Officers estimates that even as the need for State-funded services rose, states cut funding for services by 4 percent for fiscal year 2009 and almost 5 percent for 2010.

That's why 47 governors—Democrats and Republicans alike—have signed a National Governor's Association letter urging Congress to extend the Recovery Act's additional Medicaid funding.

In these difficult economic times, we are trying to help Americans return to work AND take care of those who are between jobs.

These benefits include continued access to quality health care under the Medicaid program.

Extending and phasing down the increased FMAP rate for another 6 months is a win-win for all of us. It will protect the most vulnerable during this time of need and provide immediate relief to State and local economies.

MEDICAID PHARMACY REIMBURSEMENT

[Rollcall Vote No. 228 Leg.]

Mrs. LINCOLN. I ask to engage in a brief colloquy with the distinguished Senate majority leader and Senator MURRAY as it relates to the intent of a provision in this legislation regarding average manufacturer price—or AMP.

Do I understand that the provision in section 202 of this bill is solely intended to ensure that Medicaid rebates are collected from the manufacturers of the particular drugs specified in the bill, that is inhalation, infusion, instilled, implanted, or injectable drugs not generally sold at retail pharmacies?

Mr. REID. Yes, the intention of this provision is to ensure that rebate dollars are collected for those particular drugs. Drug rebate dollars have long helped support state Medicaid programs and the provision will ensure an accurate calculation of AMP for the purposes of these drug rebates.

Mrs. MURRAY. I thank the Senator for engaging in a colloquy with Senator LINCOLN and me and would also like to clarify that this provision is in no way intended to impact reimbursement to retail pharmacies participating in the Medicaid Program. Is that the Senator's understanding?

Mr. REID. The Senator is correct. The Secretary should direct drug manufacturers to calculate AMPs for these drugs to allow States to collect rebates. In order to maintain pharmacy reimbursement at appropriate levels for these drugs, the Secretary should use the discretion that is provided under the Patient Protection and Affordable Care Act to calculate a Federal upper limit, FUL, at an amount that is at least 175 percent of the weighted average AMP for those covered outpatient drugs.

Mrs. LINCOLN. We would like to thank the leader for his clarification and shared goal of protecting access to critical drug therapies for vulnerable populations at retail pharmacies.

Mrs. MURRAY. I agree.

Mr. REID. I agree with the Senators on the importance of protecting beneficiaries' access to these drug therapies and the retail pharmacies that faithfully serve them. I thank the Senators for their shared commitment to this goal.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask for the yeas on the motion to concur in the House amendment to the Senate amendment to H.R. 1586 with amendment No. 4575.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Amendment No. 4576 is withdrawn.

The question is on agreeing to the motion to concur in the House amendment to H.R. 1586, with amendment No. 4575.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

YEAS—61

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

NAYS—39

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

Mrs. MURRAY. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNET. Madam President, today I was proud to vote for final passage of the amendment offered by Senators MURRAY, HARKIN, SCHUMER and REID to the FAA authorization bill. This amendment brings long overdue good news to teachers and kids in Colorado and those worried about losing access to the health care they need. I was elated to see the Senate break through the usual gridlock and pass this important legislation.

The package will save thousands of jobs and protect health services for kids and vulnerable populations across Colorado and the country. During this savage economy that is hurting families all over our state and our country, as we work to get our ship righted, our kids and our schools should be at the top of our list of priorities.

If we are going to ensure that we leave more opportunity for our kids than we ourselves have had then we must remain committed to education—to set the table for our kids' futures; to prepare them for the competitive world that awaits them; and to enrich their lives with a better education than the one that was offered to us.

I have tried to be a leader in the fight for the Medicaid Federal Medical Assistance Percentage, FMAP, funding and saving teachers' jobs. I was an original cosponsor of the Keep Our Educators Working Act of 2010, introduced by Senator TOM HARKIN. In February, I also led a group of 43 of my Senate colleagues in submitting a letter urging the majority leader to provide States with an additional 6-month FMAP extension.

The Medicaid FMAP extension passed today by the Senate was crucial in the effort to keep public servants at work across the country. Without it, States would be forced to layoff tens of thousands of more teachers and other public employees, cut education funding even further, and further reduce payments to health care providers. More than 900,000 public and private sector jobs could be lost.

Colorado alone would lose more than \$200 million if the FMAP extension fell victim to Washington politics. Cuts could include eliminating state aid for full-day kindergarten for 35,000 children, eliminating preschool aid for 21,000 children, and increasing overcrowding in juvenile detention facilities, according to the Center on Budget and Policy Priorities. The education jobs funding would prevent the loss of between 2,000 and 3,000 teacher jobs in Colorado alone.

I am glad to see this package is paid for. However, I was very concerned about the House package which paid for teacher jobs in part by cutting education reform programs. I joined 15 of my colleagues in signing a letter requesting that we find other offsets to pay for this important measure. I am very pleased that we were able to avert the cuts to critical education programs and save teachers' jobs—all without raising the deficit.

Additionally, while I strongly support the measure, in no small part because it is completely paid for and does not add one dime to our deficit, I would like to raise a strong concern with one of the pay-fors in this package. A rescission of \$1.5 billion from the Department of Energy's, DOE, renewable energy loan guarantee program was used to help offset this amendment.

In Colorado this important program has helped foster tremendous growth in the clean energy economy. Just last month, President Obama announced a conditional loan guarantee for a solar manufacturing facility in my home state and there are dozens of job creating renewable energy projects across the country waiting for approval from DOE.

This rescission places \$15 to \$20 billion of private investment in clean energy investment in jeopardy. While I am constantly reminded that the Senate needs to make tough choices as we strive to be fiscally responsible, I am compelled to raise my objection to this offset. It is my sincere hope that, in the future, this Chamber, the House of Representatives and the administration will avoid tapping into what are already scarce clean energy investments to pay for what are admittedly important recession-stopping items such as the ones we approved today.

Mr. NELSON of Nebraska. Madam President, earlier today, I voted in favor of two motions designed to extend the 2001 and 2003 tax cuts. Let me be clear, I strongly support extending individual income tax rates. While I voted in favor of these motions to show

my support for extending the tax cuts, I do not agree with the tactics being used to advance this goal. The repeated attempts to suspend rule XXII in order to make a motion to commit a bill back to committee are becoming part of an ongoing dilatory effort in the Senate. These tactics are not a serious attempt to come up with a legislative solution but are designed only to score political points and slow the progress of the underlying bill. The American taxpayers deserve more. I believe that instead of looking to score points both parties should work together on a serious effort to extend these expiring tax provisions, not waste time with procedural distractions.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the Senate proceed to immediate consideration of Calendar No. 467, S. 3611.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3611) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the amendment at the desk be considered and agreed to, and the bill, as amended, be read a third time.

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

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 3611, THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010, AS REPORTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON JULY 19, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Net Increase or Decrease (–) in the Deficit													
Statutory Pay-As-You-Go Impact ^a	0	0	0	0	0	0	0	0	0	0	0	0	0

^a The legislation would authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

The bill (S. 3611), as amended, was passed, as follows:

S. 3611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2010”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

Sec. 101. Authorization of appropriations.

Sec. 102. Classified Schedule of Authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

The amendment (No. 4588) was agreed to, as follows:

(Purpose: To strike provisions enacted by the Supplemental Appropriations Act, 2010 and to improve the bill)

On page 12, strike lines 3 through 9 and insert the following:

SEC. 106. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Beginning on page 88, strike line 20 and all that follows through page 89, lines 16 and insert the following:

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Ju-

diciary of the Senate and the Committee on the Judiciary of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

Beginning on page 89, strike line 17 and all that follows through page 91, line 6.

Beginning on page 91, strike line 10 and all that follows through page 92, line 15.

On page 214, line 16, strike “committees” and insert “committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives”.

The bill (S. 3611), as amended, was ordered to be engrossed for a third reading and was read the third time.

Mrs. FEINSTEIN. I now ask the pay-go letter from the Budget Committee be read, that upon its reading the bill, as amended, be passed, and the motion to reconsider be laid upon the table, with any statements relating thereto printed in the RECORD.

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

The legislative clerk read as follows:

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for S. 3611.

Total Budgetary Effects of S. 3611 for the 5-year Statutory PAYGO Scorecard: \$0.

Total Budgetary Effects of S. 3611 for the 10-year Statutory PAYGO Scorecard: \$0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

The table is as follows:

Sec. 105. Restriction on conduct of intelligence activities.

Sec. 106. Budgetary provisions.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

Sec. 202. Technical modification to mandatory retirement provision of the Central Intelligence Agency Retirement Act.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Enhanced flexibility in nonreimbursable details to elements of the intelligence community.

Sec. 303. Pay authority for critical positions.

Sec. 304. Award of rank to members of the Senior National Intelligence Service.

Sec. 305. Annual personnel level assessments for the intelligence community.

Sec. 306. Temporary personnel authorizations for critical language training.

Sec. 307. Conflict of interest regulations for intelligence community employees.

Subtitle B—Education Programs

Sec. 311. Permanent authorization for the Pat Roberts Intelligence Scholars Program.

Sec. 312. Modifications to the Louis Stokes Educational Scholarship Program.

Sec. 313. Intelligence officer training program.

Sec. 314. Pilot program for intensive language instruction in African languages.

Subtitle C—Acquisition Matters

Sec. 321. Vulnerability assessments of major systems.