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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, the giver of every good gift, thank You for quiet harbors of peace where we may bow in prayer and seek Your grace and wisdom.

Guide our Senators during this season when vast issues are at stake. As they serve You and country, keep them mindful of the great tradition in which they stand, enabling them to rise to greatness of vision and action.

Lord, with confidence, we commit ourselves and our Nation to You, who knows the road we travel and has promised to bring us to a desired destination. May we continue to expect great things from You, as we attempt great things for You.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 3, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, we will move directly to the bill. If Senator MCCONNELL wishes to speak, he has that right. We will move to H.R. 4213, the Tax Extenders Act. Last night, we were able to reach agreement on the next amendments in order. Those amendments will be offered soon, and I hope we will be able to reach agreement to vote in relation to the pending amendments. I am going to offer an amendment on behalf of Senator MURRAY. Senator SANDERS will offer one. Then there will be two Republican amendments. We have to kind of clear the decks. There will be no more amendments until we can make some arrangement to dispose of what has already been laid down. We have three. These four more means seven amendments. There will be two Democratic amendments this morning, two Republican amendments. That will mean a total of seven amendments. We have to take a pause then and try to get rid of some of these, voting on them before we move to others.

We can now move to the bill, Mr. President.

RESERVATION OF LEADER TIME

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

TAX EXTENDERS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4213, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus amendment No. 3336, in the nature of a substitute.

Sessions amendment No. 3337 (to amendment No. 3336) to reduce the deficit by establishing discretionary spending caps.

Thune amendment No. 3338 (to amendment No. 3336) to create additional tax relief for businesses.

Landrieu amendment No. 3335 (to amendment No. 3336) to amend the Internal Revenue Code of 1986 to extend the low-income housing credit rules for buildings in the GO Zones.

AMENDMENT NO. 3356 TO AMENDMENT NO. 3336

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator MURRAY and others. This is No. 3356.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself, Mr. HARKIN, Mrs. BOXER, Mr. BEGICH, and Mr. BURRIS, proposes an amendment numbered 3356 to amendment No. 3336.

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

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

The amendment is as follows:

(Purpose: To provide funding for summer employment for youth)

At the appropriate place, insert the following:

SEC. ____ TRAINING AND EMPLOYMENT SERVICES.

(a) ADDITIONAL AMOUNT.—There is appropriated for fiscal year 2010, for an additional

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S973

amount for "Training and Employment Services" for activities under the Workforce Investment Act of 1998 (referred to in this section as the "WIA"), \$1,500,000,000. That amount is appropriated out of any money in the Treasury not otherwise appropriated. The amount shall be available for obligation for the period beginning on the date of enactment of this Act.

(b) ACTIVITIES.—In particular, of the amount made available under subsection (a)—

(1) \$1,500,000,000 shall be available for grants to States for youth activities, including summer employment for youth, which funds shall remain available for obligation through September 30, 2010, except that—

(A) no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA;

(B) for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities for fiscal year 2010 does not exceed \$1,000,000,000;

(C) with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting "age 24" for "age 21";

(D) the work readiness aspect of the performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds; and

(E) an amount that is not more than 1 percent of the funds appropriated under subsection (a) may be used for the administration, management, and oversight of the programs, activities, and grants, funded under subsection (a), including the evaluation of the use of such funds; and

(2) funds designated for the purposes of paragraph (1)(E), together with funds described in section 801(b) of Division A of the American Recovery and Reinvestment Act of 2009, shall be available for obligation through September 30, 2012.

Mr. REID. This amendment I offer on behalf of Mrs. MURRAY, Mr. HARKIN, Mrs. BOXER, Mr. BEGICH, and Mr. BARRIS. This, of course, is to the amendment proposed by Senator BAUCUS.

AMENDMENT NO. 3353 TO AMENDMENT NO. 3336
(Purpose: To provide an emergency benefit of \$250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of cost-of-living adjustment for such year, and for other purposes)

I ask unanimous consent that amendment No. 3353 be called up now.

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

Mr. REID. This is on behalf of Senator SANDERS, Mr. DODD, Mr. WHITEHOUSE, Mr. LEAHY, and Mrs. GILLIBRAND.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. SANDERS, for himself, Mr. DODD, Mr. WHITEHOUSE, Mr. LEAHY, and Mrs. GILLIBRAND, proposes an amendment numbered 3353 to amendment No. 3336.

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

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

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE

Mr. MCCONNELL. Mr. President, most Americans breathed a sigh of relief in January when it looked like the Democrats' partisan plan for health care was done for. Most people saw the outcome of the Massachusetts Senate race as an opportunity to start over on what they wanted, which is a step-by-step plan that would target costs without raising taxes or insurance premiums, without cutting Medicare, and without using taxpayer dollars to cover the cost of abortions.

Unfortunately, the proponents of this plan are still determined to force this distorted vision of health care reform on a public who is already overwhelmingly opposed to it. So this afternoon the President will outline yet another version of the Democratic health care plan we have been hearing about all year long. The sales pitch may be new, but the bill is not.

We got a preview of the administration's new sales pitch yesterday in a letter from the President, in which he said he is now willing to incorporate a few Republican ideas into the Democratic bill. But this is not what the American people are asking for.

Americans do not want us to tack a few good ideas onto a bill that reshapes one-sixth of the economy, vastly expands the role of government, and which raises taxes and cuts Medicare to pay for all of it. They want us to scrap the underlying bill—scrap it altogether—and start over with step-by-step reforms that target cost and expand access.

This whole exercise is unfortunate and completely unnecessary. It is also a disservice to the American people. The fact is, the longer the Democrats cling to their own flawed vision of reform, the longer Americans will have to wait for the reforms they want.

Last week's health care summit could have served as the basis for a series of step-by-step reforms that both parties could support and which the general public would embrace. Unfortunately, Democrats in Washington have decided to press ahead on the same kind of massive bill they were pushing before the summit. Even worse, they now seem willing to go to any length necessary—any length necessary—to force the bill through Congress.

Well, Americans do not know how else to say it: They do not want the massive bill. It is perfectly clear. They want commonsense, bipartisan reforms that lower costs, and they want us to refocus our energy on creating jobs and the economy. They have had enough of this year-long effort to get a win for the Democratic Party at any price to the American people. Americans have paid a big enough price already in the time we have lost focusing on this bill.

They do not want it, and they will not tolerate any more backroom deals or legislative schemes to force it through Congress on a partisan basis. History is clear: Big legislation always requires big majorities. This latest scheme to lure Democrats into switching their votes in the House by agreeing to use reconciliation in the Senate will be met with outrage.

So we respectfully encourage the administration to consider a new approach to reform, one that does not cut Medicare to fund a trillion-dollar takeover of the health care system or impose job-killing taxes in the middle of a recession, and one that will win the support of broad majorities in both parties. We encourage the administration to join Republicans and Democrats in Congress in listening to what the American people have been telling us for more than a year now.

At the risk of being redundant, here is what they are saying: Americans are telling us to scrap the bills they have already rejected and start over with commonsense, step-by-step reforms we can all agree on. Now is not the time to repeat the same mistakes that brought us here. It is time to listen to the people and to start over.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, last night, I met the mayor of Kankakee, IL. She told me about a problem she has. Kankakee has 28,000 residents. The economy has hurt them. They have lost sales tax revenues. They do not have the income they had just last year. Their annual budget is \$20 million for the city of Kankakee. That is for all the services they provide.

Ten percent of that budget—\$2 million—goes for the health insurance of the workers in that town; about 200 of them—10 percent, \$2 million. So they went to their insurance company and said: What will the insurance cost us this year? The health insurance company said: Your rates are going up 83 percent—83 percent. What had cost them \$2 million last year will cost them almost \$4 million this year.

When I listened to the speech from the minority leader, the Republican leader, who says: Start over, go slow, baby steps, we do not want to do anything that is big or addresses this problem in any kind of comprehensive way, I think to myself: Does he understand the reality of what businesses, families, small towns, and large cities are

facing across America? The Kankakee example is not unique. Just a couple weeks ago, in California, Anthem Blue Cross and Blue Shield announced a 39-percent increase in health insurance premiums next year.

If you look at what the average family paid for health insurance 10 years ago, it was about \$6,000 a year—\$500 a month. It is a lot of money. But that was 10 years ago, and it has doubled in the last 10 years. It is now \$12,000, the average premium paid by a family of four across America.

But what will happen in the next 8 to 10 years? It will double again. Can you imagine the job you will need 10 years from now that will generate \$2,000 a month just for health insurance premiums, before you take the first penny home to pay your mortgage or feed your family or provide for your kids' college education? That is the reality of the call by the Republican side of the aisle to go slow, start over.

No. Their go slow, start over can be translated into two words: "Give up." We are not going to give up. They call for common sense. Our approach to health care reform is grounded in common sense. Let me tell you what the basics are.

The basics are, small businesses across America need to have choice and competition. We create insurance exchanges. I went to the President's health care summit last week, and I listened to the Republicans say: Do you know what is wrong with the health care reform bill? No. 1, it is a government-run program. Well, it is not. It is private health insurance companies brought together by the government to compete for the business of individuals and small businesses. They said: Do you know what else is wrong? They put minimum requirements on health insurance plans, minimum requirements of what they will cover. You ought to let the health insurance companies offer whatever they want. If they want to offer something that is virtually worthless, that is their business. Let the consumers decide.

I said at that health care summit meeting: Isn't it amazing that Members of Congress, who are part of the Federal Employees Health Benefits Program, including the Republican House and Senate Members who sat in that summit, have their families protected by a government-run health care plan, which establishes minimum requirements for health insurance to protect our families? Yet when we suggest doing that for the rest of America, the conservative Republicans say: You have gone too far. That violates some basic values and principles.

If they were honest about it, they would have walked right out of that summit and turned in their Federal Employees Health Benefits Program cards and said: We are out of here. This is socialism. We are not going to be part of it. But, no, they want to enjoy the benefits of a government-run plan, with minimum benefits outlined and

described for their families. They do not want other people to have it. That is wrong. It is not only wrong, but it is unfair. It is unfair to the families across America who deserve the same kind of protection in health insurance Members of Congress have.

So the first commonsense part of our health care reform is insurance exchanges, where private companies compete for the health insurance business of small businesses and individuals—competition and choice.

The second commonsense part of health care reform says, it does no good to own a health insurance policy which isn't there when you need it. You pay a lifetime of premiums, and with one accident, one diagnosis, you are stuck with a huge amount of medical bills, and the health insurance company says: We took a close look at your application for health insurance, and you failed to disclose you had acne as a teenager—I am not making this up—so we are going to deny you coverage for the cancer therapy you are going to need—I am not making this up—or they say: You didn't tell us you had an adopted child in your family. That is another preexisting condition. Did you know that? It is. In the list of preexisting conditions, it includes things such as that, and that is what happens—the tricks and traps in health insurance that yank coverage from you when you need it the most.

This bill, the health care reform bill we are working on, starts to change that relationship and gives the consumers across America a fighting chance to fight back when they are denied coverage for a preexisting condition, to fight back when they say there is a cap on the total amount they are going to pay in your lifetime, to fight back when they say you cannot take your insurance with you when you leave a job, to fight back when parents realize when their kids get out of college, the family health insurance plan cannot cover them anymore.

Those are basic health insurance reforms that embody common sense. The Senator from Kentucky, Mr. MCCONNELL, comes here and says: We have to junk this big government plan. It is so wildly unpopular. Is it unpopular to offer choice and competition to small businesses? Is it unpopular to give consumers a fighting chance against health insurance companies?

There is a third aspect too. We asked the Republicans at the health care summit: If you accept the obvious—that 50 million uninsured Americans get sick, go to hospitals, are treated, and the cost of their care is then passed on to everyone else—if you accept that, what are you going to do about it? They said: Oh, we have an answer to that. Fifty million uninsured Americans? We will deal with that. We will take care of 3 million of them—3 million of them. Six percent of them we will take care of.

Well, the bill we are supporting, the health care reform bill we are sup-

porting, takes care of 30 million. I wish it were 50 million, but it takes care of 60 percent, over half of them. The hospital administrator at Memorial Medical Center in Springfield, IL, said to me: Senator, if I don't have to give out all this charity care, I can contain my costs and build the hospital and even make it greater for this community. But I have to absorb charity care for uninsured people because we do that in America. Put more of them on insurance and we will have more revenue coming in. I would not have to transfer their cost burden to other families. I will do better as a hospital. We will do better as a community.

I think he is right. It is common sense. The Senator from Kentucky says we need common sense. That is part of it. I think we also need common sense when it comes to Medicare. Medicare, of course, was created almost 50 years ago. Those who opposed it said: Too much government. Those who supported it said: How else can we provide for the elderly and retired, giving them basic health care protection, if we do not have an insurance plan across America that we contribute to as we work and is available for us when we retire?

What happened when Medicare was passed? Senior citizens started living longer, better, more independent lives. The record is there. It is clear. It worked. We want it to continue to work. But the problem is, as the costs of health care skyrocket because of baby steps and no steps recommended by the other side of the aisle, as the costs skyrocket, Medicare costs do as well. It only has about 9 years left before it goes into the red.

Well, the bill we are proposing, the health care reform bill, will extend the life of Medicare another decade. I wish it were longer. But it certainly is a step in the right direction. How do we extend the life of Medicare? We look at the waste in Medicare today, and there is waste. Let me give you a couple numbers to compare. These numbers reflect the average cost for each Medicare recipient annually in each community. In my hometown of Springfield, IL—central Illinois, small town America I am honored to represent—\$7,600 a year, average cost per Medicare recipient. Rochester, MN—home of one of the greatest hospitals in America, the Mayo Clinic, a place I dearly love and respect for the treatment they have given to my family—it is about the same, \$7,600 a year, average cost for Medicare recipients. Now go to Chicago—a big city—\$9,600 a year, average cost for Medicare recipients.

Now go to Miami, FL. The average cost for Medicare recipients, \$17,000 a year. It costs more to live in Miami than it does in Springfield or even Rochester, MN, but twice as much? No. Something is wrong. Overpayments are obvious in Miami, FL, in McAllen, TX.

We can pick them out, and we can see we are wasting our tax dollars with too many tests, too many procedures, not

focusing on quality but quantity. Can we make this a better system? Can we keep seniors healthy and reduce costs? Of course we can. We can eliminate a lot of the waste. We can raise questions about self-dealing by doctors who make sure they send their patients to their own laboratories, using their own machines over and over again. We can do that. In doing so, we are not going to compromise the basic care Medicare recipients want.

So the Senator from Kentucky says: Too big. It is a big government program. We need to go step by baby step here. No. We need to take a look at the obvious. If we do not address Medicare and reform it the right way, in 9 years it will be in the red, going broke. We cannot let that happen. Baby steps from the other side of the aisle will not take us on this important journey to the goal we all share.

I also wish to say a word about the deficit. President Obama said to us when we started this debate: I know what our goals are, but in reaching those goals, do not add to America's debt. We came up with ways to reduce health care costs, to increase taxes on people making over \$200,000 a year; not dramatic increases but, in fact, increases in taxes for them. The Congressional Budget Office says that as a result, in the first 10 years, our bill, the health care reform bill, will reduce the deficit by \$130 billion, and in the second 10 years it will reduce it by \$1.3 trillion, the largest deficit reduction in the history of the United States. This approach is fiscally sensible, fiscally sound.

A word before I close—I see my colleague from Iowa is on the floor and I wish to yield to him—about reconciliation. Senator GRASSLEY is on the Finance Committee. He has served on that committee for a number of years and he understands how the Senate works. When President Reagan wanted to initiate his tax cuts, he used a process called reconciliation. Reconciliation basically says no filibuster; you come to the floor, you offer your amendments and, ultimately, it is a majority vote. That is what reconciliation says.

So President Reagan used reconciliation for tax cuts. Speaker Newt Gingrich used reconciliation for his Contract With America. We have used reconciliation to create the COBRA program to provide health insurance for unemployed workers across America. Time and again we have used reconciliation for major issues involving taxes and revenue. It has been done 21 times in the last couple decades. More often, it is used by the Republican side of the aisle than the Democratic side of the aisle. To brand this process as somehow un-American and unfair is to suggest that all of the efforts by the Republicans to use this process have been un-American and unfair. I don't think that is true. It wasn't true then; it isn't true now.

What we have is a bill that has passed the Senate, the health care re-

form bill, which is now over in the House. The House of Representatives will decide whether they can enact the Senate version of health care reform. The follow-on bill is likely to be the reconciliation bill which will make some changes in that health care bill. It is not the total health care bill, but it will include changes. Some of the changes that are being contemplated are ones that I think most Members on both sides agree to. Should we close the doughnut hole? Well, what is the doughnut hole? It is a gap in coverage in Medicare prescription drug coverage for seniors. Should we close that gap? I think we should. That is part of it.

Second, should we try to make health insurance more affordable? Our underlying bill puts almost \$450 billion in tax cuts on the table for small businesses and for individuals who cannot afford their premiums. The reconciliation bill will try to make it even more affordable.

Can we help the States with their Medicaid burdens? We should. In my State of Illinois, in Iowa, and in New Mexico, Governors are struggling. With folks on unemployment, more and more people need Medicaid. We should help to pay for it.

None of these ideas behind reconciliation—and there are other aspects to them; we are working out details on them—is radical. None of them is comprehensive in terms of changing health care dramatically in America, but they do improve on a bill that has already passed in the Senate.

The Republican leader comes to the floor and tells us this is un-American and unfair. I couldn't disagree more. Every time we hear the Republican side of the aisle say start over, I ask them, how much longer should America wait? We have been at this in the Senate now almost nonstop for over a year. The Senator from Iowa, Senator GRASSLEY, was part of a bipartisan effort, with Senator BAUCUS, a Democrat, that went through 61 separate meetings to try to find bipartisan agreement, and it didn't. I salute Senator GRASSLEY and others for trying, but it didn't. We had to move forward.

So should we start over? Should we give up the things I have talked about? Should we give up this effort to give small businesses choice and competition? Should we give up on the effort to make sure we have a fighting chance against insurance companies? Should we give up on the effort of trying to make sure that a substantial number of uninsured Americans have that protection? Should we give up on the effort of extending the life of Medicare for 10 years? Should we give up on the effort to reduce our deficit by reducing health care costs, not only for our government but for businesses and families? No. We cannot give up. We cannot give up on America. We cannot give up on this challenge. I urge my colleagues to stay the course.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, are we now on the pending legislation?

The ACTING PRESIDENT pro tempore. Yes, we are.

AMENDMENT NO. 3352 TO AMENDMENT NO. 3336

Mr. GRASSLEY. I ask unanimous consent—and I think this has been cleared with the other side—that the pending amendment be set aside for the purpose of my offering an amendment and giving short debate on my amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. CRAPO, Mr. ENSIGN, Mr. HATCH, and Mr. ROBERTS, proposes an amendment numbered 3352 to amendment No. 3336.

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

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

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

Mr. GRASSLEY. Mr. President, a couple of days ago I stated that I had worked in early February to put together a bipartisan package with my colleague, Finance Committee Chairman BAUCUS, to address some time-sensitive matters that needed to be considered. So I find it surprising we are taking up a package this week that, as was last week's exercise, is still a partisan product belonging to the Senate Democratic leadership. We are not taking up the bipartisan package I put together with Finance Committee Chairman BAUCUS.

The Senate Democratic leadership arbitrarily 2 weeks ago decided to replace the Baucus-Grassley bipartisan bill with one that is dramatically different. That partisan package is almost three times the size and significantly greater in cost than the bipartisan bill Senator BAUCUS and I announced on February 11. It is unfortunate that the Democratic leadership failed to ensure that these critically needed Medicare provisions were extended at the end of last year, and then they failed to extend the provisions that had expired in 2009 for over 2 months.

So, today, this present situation I just described brings me to the offering of this amendment. This amendment would ensure that Medicare provisions are fully offset, and my amendment would also extend the physicians update through the end of this year. The words "physician update" are directly related to the formula used to determine Medicare payments to physicians. On February 28, the extension expired and physician payments were scheduled to be cut by 22 percent under the existing formula, except just recently that was extended so that doesn't actually happen. But this on-again, off-again situation that doctors are put in

ought to end, and this amendment I offer will make sure that doesn't happen through all of 2010.

I wish to make very clear this isn't just for doctors, even though it affects just doctor payment. These provisions are also essential to the health and well-being of every Medicare beneficiary. This is the fiscally responsible way to extend them. We ought to pay for them.

These Medicare provisions have been routinely supported by both sides, fully offset, and passed repeatedly in recent years. Now, of course, it is March 3. Medicare beneficiaries around the country are suffering from the Democratic leader's decision to abandon the Baucus-Grassley bipartisan package my colleagues and I had worked out weeks ago.

First, there is the urgently needed physician payment update, and sometimes around this town we refer to this as the doctors fix for short, to fix the formula, to bring the formula up to date so those 22-percent cuts don't go into effect. There was a doctors fix at the end of last year through a 2-month extension that expired, as I said, on February 28. So as of March 1, physicians and nurses and other health care professionals were subject to these severe cuts of 22 percent. Then, because we get a lot of calls—and my office got these calls as well—from doctors concerned about how they are going to keep their offices open, we now have a 30-day extension passed last night so these physician payments that would have been a 22-percent cut now, for 3 days, won't take place until, unless we act, the end of March. That is not a very good way to do business if you have to worry about a doctor, particularly in rural America, keeping their offices open and paying their help, so we ought to do it on a more consistent basis instead of running month to month.

These cuts to physician payments cannot be allowed to occur, and as damaging as these would be to beneficiary access to care anywhere, these cuts are even more disastrous for access to care in rural America such as in Iowa where Medicare reimbursement is already at least 30 percent lower than in other areas.

I am appalled that seniors' access to physicians and needed medical care has been handled this way because of political games that are being played by the majority leadership. Should these cuts remain in place, they will have a truly devastating effect on the ability of seniors to find doctors who take Medicare patients. Many beneficiaries have already been affected by Medicare provisions that the Senate Democratic leadership allowed to expire even last December.

One of the most urgent situations involves limitations that Medicare places on the amount of certain kinds of treatments for beneficiaries. Medicare places annual limits on the amount of outpatient physical therapy, speech

language pathology therapy, and occupational therapy that a beneficiary can receive. In other words, the government is saying, regardless of how much health care you need in these areas of therapy, you can only get up to so much dollar amount.

Well, laws that have lapsed have allowed special cases to be taken care of contrary to what the law specifically says on dollar limit. In 2005, the law was changed to provide an exception process to these therapy caps for situations when additional therapy is medically needed, and that needed protection for beneficiaries then expired when the doctors fix expired on December 31. Medicare beneficiaries who have suffered strokes or serious debilitating injuries such as a hip fracture have significant rehabilitation needs.

So we are in this situation of extending this doctor fix from month to month. Situations where patients need this rehabilitation have already exceeded the caps for 2010.

Those with the greatest need for therapy will be the hardest hit. Here, again, with the 30-day extension bill having passed last night, this problem has been only temporarily fixed. This is another case where Congress is playing political games with Medicare. These should have been taken care of at the end of last year, and they could have already been resolved if the Senate had taken up the original Baucus-Grassley bill instead of replacing it with a cutback, partisan piece of legislation that the Senate handled last year or, one might say, being handled right now with this legislation now on the floor of the Senate to which my amendment is being added.

Other essential provisions we need to be looking at for extension are additional payments for mental health services. This benefits Medicare beneficiaries in need of mental health counseling, as well as veterans suffering from post-traumatic stress and other disorders since TRICARE is based on Medicare rates.

Another issue concerns additional payments for ambulance services that many ambulance providers need to keep their doors open. Those provisions also expired at the end of last year, but they were not extended in the 30-day bill voted on last night.

Another important issue affects community pharmacies. Pharmacies that have not gone through the accreditation process will soon be forced to turn away Medicare beneficiaries. A provision in my amendment would ensure that beneficiaries who need vital medical supplies, such as diabetic test strips, canes, nebulizers, and wound care products, can continue to have access to these products through their community pharmacy.

Many eligible professionals, such as physicians, nurse practitioners, physical therapists, and others, have been specifically exempted from this accreditation requirement. This provision would also exempt community pharmacies under certain conditions.

A number of other expired provisions are extended in this package. They include improved payments for hospitals, especially rural hospitals, that rely on these provisions just to keep their doors open. Like many others, these problems are not fixed in the simple 30-day bill passed last night. These problems remain.

The impact of a hospital shutting its doors would be especially hard on rural and underserved areas where hospitals offer the only access to health care.

We need to pass this critically needed and fiscally responsible amendment now. I urge my colleagues to support it. That is what I have to say on my amendment.

I would like to take a couple minutes to respond to a couple issues that Senator DURBIN brought up. I am not here to refute anything he said but to give an addendum to what he said on a couple points.

One is the use of reconciliation and the opposition that I think is pretty unified on this side of the aisle that the name of the game should not be changed. He did not say anything inaccurate. But when it comes to reconciliation on a massive 2,700-page bill that we call health care reform—that is a partisan bill—the same bill that passed Christmas Eve in this body, never has reconciliation been used to reorganize one-sixth of the entire economy. In other words, about \$2.5 trillion out of a \$14 trillion economy is being reorganized by that health care reform bill.

I say to Senator DURBIN, that is quite a bit different than using reconciliation for a tax bill or for a Medicare reform bill or to save money on certain entitlement programs. It is like peanuts compared to a massive restructuring of one-sixth of the economy. That is why we say reconciliation should not be used.

A second point for not using reconciliation is the fact that this bill has been turned down by the vast majority of the American people. There is overwhelming opposition to this 2,700-page bill, albeit not overwhelming opposition to the issue: Is the present health care system adequate and should it be changed. I think a slight portion of the American people would say yes, and I think most of the 100 Senators would say yes to that. But for this 2,700-page bill, 70 percent of the American people have said it needs to be started over again with a clean sheet of paper.

Then on the issue he brought up of extending Medicare for 10 years, that is true if you use the double accounting in the bill. The Congressional Budget Office has stated that it is using double accounting. That is not the way you can intellectually count money twice. The Congressional Budget Office, in a paper I read to the President at the summit last week, claims it is double accounting. That is not the way to do business.

You can extend the viability of any program by a lot if you are going to count money twice, but you cannot do

that. Some of the problems with the 2,700-page bill, the American people understand. That is why they rejected it. That is why we say reconciliation should not be used, and that is why we say we should start over and do things incrementally.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3353

Mr. SANDERS. Mr. President, the amendment I want to speak on is No. 3353. This amendment is extremely simple and it is extremely straightforward.

At a time when millions of senior citizens, veterans, and persons with disabilities have slipped out of the middle class and into poverty; at a time when the cost of prescription drugs, medical care, and heating oil have gone through the roof in many parts of our country; at a time when millions of seniors have seen the values of their pensions, their homes, and their life savings plummet; at a time—and here is the important point—for the first time in 36 years, seniors will not be receiving a COLA in their Social Security benefits.

The amendment I am offering today with Senators DODD, LEAHY, SCHUMER, KERRY, WHITEHOUSE, MIKULSKI, GILLIBRAND, LAUTENBERG, and BEGICH will provide over 55 million senior citizens, veterans, and persons with disabilities \$250 in much needed emergency relief. This \$250 emergency payment is equivalent to a 2-percent increase in benefits for the average Social Security retiree, and it is, as you will recall, the same amount seniors received last year as part of the Recovery Act. In other words, what we are doing now is exactly the same as we did last year with the Recovery Act.

I do not know about New Mexico, but I do know that in Vermont, a lot of senior citizens and disabled veterans are wondering this year why they are not receiving a COLA. They have written to my office and they are saying to me: Hey, I don't know what you are talking about because my costs have increased over the last year. That is because, in fact, while inflation may not have gone up in general, those areas elderly people and people who have health problems utilize—prescription drugs, health care, other health-related issues—those costs have gone up very substantially. I think there is an awareness all over this country that we cannot, in the midst of this recession, turn our backs on disabled veterans and seniors.

This amendment has widespread support from organizations representing

tens of millions of Americans. Among the organizations that are supporting this amendment are the AARP, the largest senior group in America; the American Legion, the largest veterans group in America; the Veterans of Foreign Wars; the National Committee to Preserve Social Security and Medicare; the Disabled American Veterans; AMVETS and OWL and many other organizations.

Money directed to this population will go almost immediately into the economy. So when we talk about stimulus, I don't know of a better way to get money out into the economy than passing this amendment.

I am also very happy and delighted that President Obama is very strongly supportive of a \$250 emergency payment to seniors. As you know, the President has spoken out on this issue, he has also included it in his budget, and he has also recommended that it be included in the underlying legislation we are debating today.

Here is what President Obama has said about this issue:

Even as we seek to bring about recovery, we must act on behalf of those hardest hit by this recession. That is why I am announcing my support for an additional \$250 in emergency recovery assistance for seniors, veterans, and people with disabilities to help them make it through these difficult times. These payments will provide aid to more than 50 million people in the coming year, relief that will not only make a difference for them, but for our economy as a whole, complementing the tax cuts we've provided working families and small businesses through the Recovery Act. This additional assistance will be especially important in the coming months as countless seniors and others have seen their retirement accounts and home values decline as a result of this economic crisis.

That is the end of the quote by President Obama. I very much appreciate the President speaking out and fighting for senior citizens and the disabled with regard to this issue.

I can tell you that just on Monday I had a meeting with senior citizens and senior citizens organizations in the State of Vermont. It was a very distressing meeting. When we talked, for example, about nutrition programs, the Meals on Wheels program or the congregate meals programs by which seniors come to senior citizens centers to get a decent lunch, what people are telling me is that for the first time in many years, when seniors are asked to put money into an envelope—and very carefully, the senior centers don't want to know what people contribute. They ask for, say, \$2 or \$3, but people can contribute whatever they want. What they are noticing now is that more and more seniors are putting nothing into the envelope or maybe just \$1. They are seeing the same process when people get out in their cars and they deliver Meals on Wheels to very fragile and frail people, often in rural areas, and people don't even have the money, now, to even pay \$2 for a lunch.

All over this country, seniors are hurting. I think they are upset and dis-

tressed that they are not getting a COLA this year. Essentially, what this payment is about is a substitute for a COLA. It is a 1-year payment, and it is the equivalent of about a 2-percent COLA.

Let me mention the response of some of the veterans organizations. This amendment, importantly, will be helping our disabled veterans. Here is what the VFW said in support of this amendment:

This year, veterans and seniors will not receive a COLA. This could not come at a worse time. Your legislation would provide a one-time check of \$250 to 1.4 million veterans, 48.9 million Social Security recipients, and 5.1 million SSI recipients. We believe that this will provide some relief to those veterans and seniors living on fixed incomes who rely on a COLA to keep up with daily living expenses. The VFW commends you for concentrating on changes that can positively impact the lives of others and looks forward to working with you and your staff to ensure passage of this legislation.

I thank the Veterans of Foreign Wars for the great work they do and for supporting this amendment. We appreciate their support.

Let me quote a letter I recently received from another organization that has been very strong for many years in fighting for senior citizen rights; that is, the National Committee to Preserve Social Security and Medicare. This is what the national committee says:

The National Committee strongly urges you to pass legislation to provide a \$250 payment to our Nation's seniors who did not receive a COLA this year. It is vitally important that we provide help for seniors of modest means who have been adversely affected by the economic recession and rapidly rising health care costs. Seniors have been especially hard hit by the 20 percent to 30 percent decline in the value of employer pensions, IRAs and 401(k)s, as well as the steep drop in housing values. And, unlike younger Americans, the elderly are much less likely to recover their savings losses due to their shorter economic horizon.

That is from the National Committee to Preserve Social Security and Medicare. We very much appreciate their support for this amendment.

Here is a quote from the AARP, which represents over 40 million Americans, and we very much appreciate their support. This is what the AARP says:

For over three decades, millions of Americans have counted on annual increases to help make ends meet. In this economy, having this protection is even more critical for the financial security of all older Americans. AARP applauds the President for urging Congress to extend for 2010 the \$250 economic relief provided to older Americans last year. The 65-plus population is facing extreme financial hardship. Older Americans are paying more out of pocket for medical care, have experienced a real decline in their retirement accounts and in housing values, face longer periods of unemployment for those who need work, and low returns on interest bearing accounts. Without relief, millions of older Americans will be unable to afford skyrocketing health care and prescription drug costs as well as other basic necessities. AARP will continue to work with Members of Congress from both sides of the

aisle to provide \$250 in economic relief to millions of seniors who count on Social Security to pay their bills.

Here is the point, the point the VFW has made, the national committee has made, the AARP has made. Some people may say \$250 is not a lot of money, but the truth is, if you are a senior in the State of Vermont or in any other State in this country and your health care costs are going up and your prescription drug costs are going up and your heating bills are going up and you are not getting any COLA this year, you are in trouble. You are in real trouble. I do not want to give any illusion that this \$250 is going to turn people's lives around. It is not. But it is going to make a real difference in giving people a little bit of support, making their lives just a little bit easier.

This is extremely important legislation, and it is important legislation that I hope can have widespread bipartisan support.

Once again, I thank all the organizations that are supporting this amendment; that is, the AARP, the American Legion, the Veterans of Foreign Wars, the National Committee to Preserve Social Security and Medicare, the Disabled American Veterans, AMVETS, and OWL as well.

The bottom line is, we are in the midst of a very serious recession. We are doing our best to try to figure out ways to create the millions of good-paying jobs working people need. We are going to pass COBRA to make sure when people lose their jobs they do not lose their health insurance. We are going to extend unemployment benefits. But in the middle of all of that, let's not forget our parents and our grandparents. Let's not forget senior citizens and disabled veterans. Let's pass this amendment.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BENNET. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

REFORMING THE SENATE

Mr. BENNET. Mr. President, I would like to take a couple of minutes this morning to talk about something that not only affects the legislation currently on the floor but everything we are currently working on in the Senate.

Before coming to the Senate a little over a year ago, I spent my life in the real world—the world of business, of local government, of public schools and, most importantly of all, of family. But since coming to Washington, I have discovered that many people learn

to live in an entirely different world, an echo chamber, shut off from the reality of life in America that defies common sense at every turn and uses anonymous holds to defy the rule of reason.

I used to tell my little girls that "Alice in Wonderland" was just a fairy tale. But now I am not so sure. If you come from the real world, when you get to Washington, to Wonderland, the logic can seem upside down or inside out or just plain wrong. Here, it turns out that folks attack you when you do not cut backroom deals at the taxpayers' expense. Here, a lot of people seem to think that saying they are for doing something, such as extending unemployment benefits or passing a jobs bill, is exactly the same thing as actually rolling up their sleeves and getting it done. They think that blaming failure on their opponent is the same thing as fighting for real change.

Coloradans and Americans are reading their papers and watching their televisions, and what they see drives them nuts. It should because all they find are talking heads yelling at each other on cable news and cynical, reckless partisanship paralyzing their government. This phony political conversation will not do when we need real change.

But Washington cannot seem to get out of its own way. That is why I will introduce legislation to end lobbyist abuses, reform the ways of the Senate, stop the outside influences of special interests, and put Washington to work for the people of Colorado.

First, we need to hold Congress accountable. We should freeze the pay and office budgets of every Member of Congress until we have four quarters of job growth. Our salaries and office budgets should not go up when the rest of the country is struggling. Members of Congress should lose their taxpayer-funded health insurance until we pass health insurance reform. If Congress cannot get its act together on health care, then the American people should not subsidize health care for Congress. That goes for Democrats and Republicans. It turns out the dysfunction in Washington is just another kind of pre-existing condition that allows the insurance companies to get their way.

Second, we need real lobbying reform that restores power to the voters. We need to ban Members of Congress from becoming lobbyists when they leave office. We need to do something about the revolving door between Congress and K Street. We need stronger rules and tighter standards for lobbyist registration and real penalties for those who break the rules. We need to end the corporate subsidy for Members of Congress who fly on corporate jets. Every Member of Congress should pay their fair share and disclose every person who is on the plane with them.

Third, real reform will not be complete without earmark reform. The people of Colorado pay taxes, and they deserve a government that works for

them. I have no issue with Members of Congress fighting for projects they think are valuable for their States or for their districts. I am proud, for example, of the funding we secured for projects, such as the Arkansas Valley Conduit, which languished in the Senate since President Kennedy first promised it to the people of Colorado. But this funding should be done in the light of day, completely transparent and accountable, not behind closed doors, hidden from the American people.

Under my legislation, Members of Congress will be required to post every earmark request they receive and every request they make for funding. But we should not wait for the law to change. There is no reason to wait for the law to change. We can start doing this now.

Second, every earmark should be listed in earmarks.gov. The Web site should be easily searchable and user friendly.

Third, Members of Congress should be held accountable for their requests. Larger earmark requests should go before the Appropriations Committee, and we should end airdrops of earmarks in conference committee.

Finally, earmark recipients should be held accountable. This means randomly auditing earmarks every year and publishing the results for our constituents to see.

Next, we need to deal with the challenge of passing real campaign finance reform that reduces the outside influence of special interests. I intend to support the bill that Senator SCHUMER and Congressman VAN HOLLEN have put together, and I urge my colleagues to do the same.

Finally, we need to reform the institution of the Senate itself. The filibuster has been used in the Senate for quite some time. It has been used by the minority to slow down debate, have their voices heard, and, in some cases, stall legislation.

I would remind members of my own party that just the threat of a filibuster stopped the privatization of Social Security. However, during this session of Congress, the right to filibuster has been abused. It has become a normal part of business, a way to stall every piece of legislation and simply slow the Senate to a crawl.

Three months ago, we spent weeks debating the extension of unemployment benefits. The bill passed 98 to 0. The Senate has spent days, weeks, and sometimes months holding up nominees who passed with more than 90 votes. To add insult to injury, one Senator held up the entire Senate, preventing us from extending unemployment benefits and COBRA. The country deserves much better than that.

I will introduce legislation that reforms Senate procedure to encourage the two parties to work together to get things done. It will eliminate anonymous holds. If Senators want to single-handedly stop a nominee from being

approved, then they should have the courage to do so publicly.

It will introduce a new procedure to allow us to reduce the time of debate so we can move on legislation that has broad bipartisan support.

Third, it will eliminate the filibuster on the motion to proceed. It is one thing to try to block a piece of legislation; it is another thing to prevent it from even being debated in the first place.

Finally, my legislation would change the rules of the filibuster to force the two parties to actually talk to each other and not past each other. The President reminded us during the State of the Union that our job is not to get elected. I have heard the same thing from thousands of Coloradans in hundreds of living rooms and townhalls. It is easy to throw our hands up in the air and wait for someone else to make the big changes we need. But we all know the American people deserve better. I know the people of Colorado expect much more. They know the Senate needs a big dose of Colorado common sense.

I know this is not easy. I know there are 100 different reasons, maybe 1,000 different reasons. Some will say: We cannot get this done. But I also know our country needs a government that works for them. I hope my colleagues from both sides of the aisle will work with me and others to make sure we get it done.

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

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

AMENDMENT NO. 3337

Mr. SESSIONS. Mr. President, we have been talking about having a bipartisan effort to rein in spending and some of the things that we can do in that regard. So I am pleased to share a few thoughts today on the legislation that my Democratic colleague, CLAIRE MCCASKILL of Missouri, and I have offered that would ensure that we show some fiscal discipline in our spending habits.

It is not a dramatic change in what we should be doing and what I think we can do, but I think it is an action that would send a message to the financial markets in the world that we are beginning to get the message from our constituents that this recklessness and this kind of spending cannot continue.

Our legislation received bipartisan support last time. Fifty-six Senators voted for it, which is a pretty good number. But you do need to get 60 votes to pass the legislation. I think this time, with our new colleague from Massachusetts, we might be at 57 or 58, and at this point, I think others may

be evaluating whether this is the kind of action they would like to support.

Let me take a minute or two to explain what our legislation attempts to do, how it can work, how it has worked in the past, and why this step is important. It would set a much firmer cap on spending. It would make it more difficult to enact spending levels that violate the budget. I wish to explain why it is something Members of both parties can support.

What we are talking about is moving beyond the budget caps that are only good for 1 year and take those budget caps, extend them for 4 years and make them statutory. It is not something that can't be changed. If there is an emergency, we can vote to change them. In fact, Congress can, with 60 votes, eliminate the whole statute and write a new statute, if we believe it is too severe. So Congress clearly would have the ability to act, if it chooses, to get around these limits on spending.

Back in the early 1990s, legislation was passed that put a statutory cap on spending. I have a chart I will show. It is kind of upside down in a way. This shows the deficits in the early 1990s. This is when we passed the legislation, the statutory cap on spending. The deficits went down until we hit surplus for 4 years in the late 1990s, early 2000.

Then this statutory cap expired. That is when deficits started going up, and they are continuing to rise. Last year's deficit was three times this amount from the year before—three times that amount—one thousand four hundred billion in debt last year, and it is expected to be one thousand five hundred billion in deficit this year, for 1 year. This is an unsustainable path.

This is a proven technique to gain control of spending. Why it was allowed to expire and not extended in 2002, I do not know. I know a number of people argued that it should be kept, and it was not.

Secondly, what is the cap? What would it be? The limit we would place on spending would be the amount President Obama asked for in his budget. It is 1 to 2 percent in the spending accounts. If you went above that, you would have to have a serious bipartisan vote of two-thirds to break that cap the President has set as the proper goal. Parenthetically, since the President submitted that budget, he has indicated he wishes to see a freeze on spending, on nondefense discretionary accounts, a flat freeze. I would be supportive of that. I would support the President in that. First, if we can get a hard limit on the 1 to 2-percent increase, we believe we will have done something worthwhile.

How would this work? If somebody came in and proposed spending levels that exceeded the specific budgetary limits as set by President Obama's budget, it could only be surpassed by waiving the statutory cap. That takes a two-thirds vote. This would have some teeth to it. We have gone back and checked. For the last 30 years and

every time there has been an emergency, such as an earthquake, an ice storm or a hurricane, the Congress has waived the budget and enacted emergency legislation with 90 votes, 100 votes, high 70 votes every single time. It is unlikely that we would see a genuine emergency not being promptly funded with emergency spending, if the Nation has to do that. I don't think that is a problem.

What we are saying is, when we have legislation come up that is not paid for, that is not accounted for, a person would be able to make a budget point of order and say: You should not have expended moneys at more than a 1-percent or 2-percent increase in this budget account, and I make a budget point of order. It would take a two-thirds vote of the Senate to waive it. It gives some real teeth to the President's budget, the same kind of teeth President Clinton had during his time in office, his or the congressional budget that was actually passed by the Senate and the House. That budget was enforceable. When it was enforceable, we achieved a surplus.

Let's be frank. It will be more difficult today to achieve a budget surplus than in the 1990s. We have a lot of different factors at work here. One of them is that the deficit is so much larger, and we have some real problems getting there. But we have to begin.

You say: Well, you have a budget. Why is this a problem? Why can't you use your budget point of order and stop spending and contain it through a rate close to inflation and lower rates than we have seen in the past?

It didn't work last year. This chart is the 2010 base increases in the year we are in today, the fiscal year 2010. It shows you how spending has increased. The chart I have does not include the breathtakingly huge \$800 billion stimulus bill. Each one of these accounts got money out of that bill. I haven't even included those amounts. But look what we did the year we are in. The budget had levels below this, but eventually this is what we passed: Foreign operations, foreign aid, State Department got a 32.8-percent increase. Interior Department got a 16.6-percent increase. CJS, Commerce-Justice-State, is a 12.3-percent increase. THUD, Transportation, Housing and Urban Development, received a 23-percent increase. Agriculture received a 14.5-percent increase. Defense, the lowest one, received a 4.1-percent increase. All of these are well above the inflation rate.

What I am saying is, this is unsustainable. Every witness we have had at the Budget Committee hearing, Democrats and Republicans, Brookings and Heritage Foundation, all of them are saying: This is an unsustainable course. It has the potential to threaten our economy and our political future. One of the witnesses recently said: When you run up debts, such as we are doing today, and you get to the very top of the amount of debt this Nation can carry—and we are heading to that

direction—bad things can happen quickly, unanticipated. You have a serious collapse in Greece. The New York Times today reports real instability with regard to the Brits and their debt. If you think Greece has an impact on our economy because of their reckless spending, the British economy is far larger and would have an even greater impact. We are not far behind. In fact, in some ways we are ahead of the Brits in the amount of money we are spending and the amount of debt we are accumulating. We are threatening our economy, if we don't watch it, in a way that we can't anticipate.

There were some private prognosticators who predicted the dramatic events of 2007 and 2008, when we had the Wall Street collapse and the financial collapse. Some people saw the balloon that was rising and predicted bad things would happen. But none of our leaders did. Mr. Bernanke is supposed to be so great and they brag about him. If he is so smart, where was he when all that happened? Our people are suffering today because of bad decisions.

I have a simple view. That is, nothing comes from nothing, and nothing ever could. Everything you take today, somebody has paid for and bought. If you don't have the money today and you grasp something of value, somebody is paying for it. In our case, we are borrowing the money.

We can do better. We did better in the 1990s. We are not going to be able to slash spending in record amounts, but in some of our accounts, we absolutely could eliminate spending. Some of the government programs have been independently evaluated as being not worth the money we are spending on them. They should be ended. We should not be spending money on a program that doesn't produce a return worthy of the investment we are putting into it. Even if we call it a jobs bill, if we are going to help people have jobs, if it doesn't produce jobs, how can we spend money on it? We need to be more vigorous in analyzing it.

Please look at this amendment. A few more votes and we could have a bipartisan statement that we are going

to stick by the budget we passed, the budget President Obama submitted. If the President comes in and helps us and we battle for it, maybe we can spend less than even this legislation would control. We could even reduce spending in certain accounts. I hope that is possible.

This isn't the final word, but it would send a message to the world, to Wall Street, and to our constituents that we hear their concerns. We are going to take firm steps. We are not going to be waltzing in here every week or two with some other bill that is not paid for and treating it as an emergency and increasing our debt.

I see Senator BUNNING. A lot of people didn't understand what it was he objected to with regard to the bill containing unemployment insurance. The legislation that came up essentially declared that this was an emergency, that we are going to spend another \$10 billion on top of the budget amounts, and the budget would not apply to it. Every bit of that would have to be financed by borrowing on the world market. Senator BUNNING said: I am willing to support an unemployment insurance extension, but I wish to start paying for it for a change and end this cycle of increasing debt and the ease by which we go about it.

We are in a big battle right now. Let me say a bipartisan word about my legislation. Because there is so much intensity this year about our spending, Senator McCASKILL and I have altered the legislation from the one we voted on a few weeks ago that got 56 votes, 17 Democrats voting for it. We have altered it so it begins next year. So we will have this fight this year and each bill will have its own battle. We will have our own votes over it, but it only applies to next year. I think that is a good-faith way to reach-out to our colleagues and say: Let's at least do that. Let's at least take the caps that we put in place as part of our budget, as part of President Obama's budget, and let's put them into effect. We will start it next year.

If we go above that and somebody has an idea of going above it, it won't be so

easy. It will take a two-thirds vote to do so. So if you don't believe we ought to make it tougher to bust the budget, don't vote for it. But if you believe, as I think most constituents believe, we are showing too little fiscal discipline, then you should vote for it. It would give us a proven ability to contain spending and get us beginning on the right track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENTS NOS. 3360 AND 3361 TO AMENDMENT NO. 3336

(Purpose: To offset the cost of the bill)

(Purpose: To provide additional offsets)

Mr. BUNNING. Mr. President, I ask unanimous consent that the pending amendments be set aside so I can call up my two amendments which are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes amendments numbered 3360 and 3361 to amendment No. 3336 en bloc.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

(The amendments are printed in today's RECORD under "Text of Amendments.")

Mr. BUNNING. Mr. President, anyone who has paid attention to the floor of the Senate for the last week knows what my amendments are about. I am offering Senators two ways to pay for this spending bill.

First of all, I would like to submit for the RECORD the CBO scoring of this current bill that is before us—both the scoring and the offsets. I ask unanimous consent that they be printed in the RECORD.

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

CBO Estimate of the Statutory Pay-As-You-Go Effects for the the American Workers, State, and Business Relief Act of 2010
 Senate Amendment 3336, as introduced by Senator Baucus as a substitute for H.R. 4213
 (based on legislative language MAT10192, March 1, 2010)

(Millions of dollars, by fiscal year)

REVISED 1:00 pm, March 2, 2010

| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2010 - 2015 | 2010 - 2020 |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|-------------|------------|------------|------------|----------------|----------------|
| Net Impact on the On-Budget Deficit | | | | | | | | | | | | | |
| Total On-Budget Changes | 56,532 | 75,524 | -5,124 | -4,993 | -8,230 | -4,877 | -1,028 | -671 | -18 | 402 | 219 | 108,833 | 107,736 |
| Less: | | | | | | | | | | | | | |
| Current-Policy Adjustment for Medicare Payments to Physicians 1/ | 5,750 | 1,560 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 7,310 | 7,310 |
| Designated as Emergency Requirements 2/ | <u>36,369</u> | <u>66,022</u> | <u>576</u> | <u>756</u> | <u>443</u> | <u>219</u> | <u>169</u> | <u>-1</u> | <u>-6</u> | <u>0</u> | <u>0</u> | <u>104,385</u> | <u>104,547</u> |
| Statutory Pay-As-You-Go Impact | 14,412 | 7,942 | -5,700 | -5,749 | -8,673 | -5,096 | -1,197 | -670 | -12 | 402 | 219 | -2,863 | -4,121 |

Sources: Congressional Budget Office and Joint Committee on Taxation.

Notes: Positive numbers for "Net Impact on the Deficit" denote an increase in the deficit; negative numbers denote a decrease in the deficit.

Components may not sum to totals because of rounding.

These estimates are relative to current law; some of the estimates will change if any short-term "extension" legislation is enacted first.

1. Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians.
2. Section 701 of the American Workers, State, and Business Relief Act of 2010 would designate sections 201, 211, and 232 of the bill as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

Budgetary Effects of the American Workers, State, and Business Relief Act of 2010
Senate Amendment 3336, as introduced by Senator Baucus as a substitute for H.R. 4213

REVISED 1:00 pm, March 2, 2010

(Millions of dollars, by fiscal year)

(For March 1 legislative language: MAT10192)

| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2010- 2014 | 2010- 2015 | 2010- 2019 | 2010- 2020 |
|---|----------------|----------------|---------------|---------------|---------------|---------------|---------------|-------------|-------------|-------------|-------------|----------------|----------------|----------------|----------------|
| CHANGES IN REVENUES | | | | | | | | | | | | | | | |
| Title I—Extension of Expiring Provisions | -8,088 | -13,029 | -1,984 | -1,040 | -768 | -441 | -13 | 76 | -182 | -153 | -108 | -24,909 | -25,350 | -25,622 | -25,730 |
| Title II—Unemployment Insurance, Health, and Other Provisions | -5,034 | -4,758 | -1,242 | -661 | -443 | -219 | -169 | 1 | 6 | 0 | 0 | -12,139 | -12,358 | -12,520 | -12,520 |
| Title III—Pension Funding Relief | 60 | 405 | 832 | 853 | 597 | 447 | 347 | 137 | -368 | -831 | -688 | 2,747 | 3,194 | 2,479 | 1,791 |
| <i>On-budget revenues</i> | 60 | 345 | 688 | 693 | 483 | 366 | 286 | 120 | -265 | -617 | -510 | 2,269 | 2,635 | 2,160 | 1,649 |
| <i>Off-budget revenues</i> | 0 | 60 | 144 | 160 | 114 | 81 | 61 | 17 | -103 | -214 | -178 | 478 | 559 | 319 | 142 |
| Title IV—Offset Provisions | 74 | 7,196 | 7,020 | 5,976 | 3,581 | 2,075 | 1,002 | 582 | 597 | 613 | 630 | 23,847 | 25,922 | 28,716 | 29,346 |
| Title V—Satellite Television Extension | 24 | 108 | 113 | 117 | 119 | 93 | 14 | 14 | 14 | 14 | 14 | 481 | 574 | 630 | 644 |
| TOTAL CHANGES IN REVENUES 1/ | -12,964 | -10,078 | 4,739 | 5,245 | 3,086 | 1,955 | 1,181 | 810 | 67 | -357 | -152 | -9,973 | -8,018 | -6,317 | -6,469 |
| <i>On-budget revenues</i> | <i>-12,964</i> | <i>-10,138</i> | <i>4,595</i> | <i>5,085</i> | <i>2,972</i> | <i>1,874</i> | <i>1,120</i> | <i>793</i> | <i>170</i> | <i>-143</i> | <i>26</i> | <i>-10,451</i> | <i>-8,577</i> | <i>-6,636</i> | <i>-6,610</i> |
| <i>Off-budget revenues</i> | <i>0</i> | <i>60</i> | <i>144</i> | <i>160</i> | <i>114</i> | <i>81</i> | <i>61</i> | <i>17</i> | <i>-103</i> | <i>-214</i> | <i>-178</i> | <i>478</i> | <i>559</i> | <i>319</i> | <i>142</i> |
| CHANGES IN DIRECT SPENDING (OUTLAYS) | | | | | | | | | | | | | | | |
| Title I—Extension of Expiring Provisions | 3,214 | 1,360 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4,574 | 4,574 | 4,574 | 4,574 |
| Title II—Unemployment Insurance, Health, and Other Provisions | | | | | | | | | | | | | | | |
| Subtitle A—Unemployment Insurance | 30,925 | 34,940 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 65,865 | 65,865 | 65,865 | 65,865 |
| Subtitle B—Health Provisions | 1,870 | 27,080 | -550 | 150 | 110 | 90 | 80 | 80 | 70 | 70 | 70 | 28,660 | 28,750 | 29,050 | 29,120 |
| Subtitle C—Other Provisions | 1,808 | 430 | 67 | 24 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2,330 | 2,330 | 2,330 | 2,330 |
| Subtotal, Title II | 34,603 | 62,450 | -483 | 174 | 111 | 90 | 80 | 80 | 70 | 70 | 70 | 96,855 | 96,945 | 97,245 | 97,315 |
| Title III—Pension Funding Relief | 0 | 0 | -60 | -120 | -180 | -240 | -120 | -90 | -30 | 90 | 150 | -360 | -600 | -750 | -600 |
| Title IV—Offset Provisions | 0 | 0 | 0 | 0 | -5,260 | -2,960 | 0 | 0 | 0 | 0 | 0 | -5,260 | -8,220 | -8,220 | -8,220 |
| Title V—Satellite Television Extension | 1 | 16 | 14 | 38 | 71 | 107 | 132 | 132 | 112 | 99 | 25 | 140 | 247 | 722 | 747 |
| Title VI—Other Provisions—Medicare Payments to Physicians | 5,750 | 1,560 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 7,310 | 7,310 | 7,310 | 7,310 |
| TOTAL CHANGES IN OUTLAYS | 43,568 | 65,386 | -529 | 92 | -5,258 | -3,003 | 92 | 122 | 152 | 259 | 245 | 103,259 | 100,256 | 100,881 | 101,126 |
| NET CHANGE IN DEFICITS FROM REVENUES AND DIRECT SPENDING | | | | | | | | | | | | | | | |
| NET CHANGES IN DEFICITS 2,3/ | 56,532 | 75,464 | -5,268 | -5,153 | -8,344 | -4,958 | -1,089 | -688 | 85 | 616 | 397 | 113,232 | 108,274 | 107,198 | 107,595 |
| <i>On-budget deficit change</i> | <i>56,532</i> | <i>75,524</i> | <i>-5,124</i> | <i>-4,993</i> | <i>-8,230</i> | <i>-4,877</i> | <i>-1,028</i> | <i>-671</i> | <i>-18</i> | <i>402</i> | <i>219</i> | <i>113,710</i> | <i>108,833</i> | <i>107,517</i> | <i>107,736</i> |
| <i>Off-budget deficit change</i> | <i>0</i> | <i>-60</i> | <i>-144</i> | <i>-160</i> | <i>-114</i> | <i>-81</i> | <i>-61</i> | <i>-17</i> | <i>103</i> | <i>214</i> | <i>178</i> | <i>-478</i> | <i>-559</i> | <i>-319</i> | <i>-142</i> |

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Notes:

Components may not sum to totals because of rounding.

1. Negative numbers denote a DECREASE in federal revenues; positive numbers denote an increase in revenues.
2. Positive numbers denote an INCREASE in the budget deficit; negative numbers denote a decrease in the deficit.
3. These estimates are relative to current law; some of the estimates will change if any short-term "extension" legislation is enacted first.

Mr. BUNNING. The first amendment is to use unspent stimulus funds and the second is by shutting down unnecessary or duplicate Federal programs. In other words, I am saying we should use money we have already set aside that has not been spent or eliminate wasteful spending to pay for the benefits that are in this current bill.

Over the last few days, many Senators on the other side of the aisle have come to the floor and said unemployment benefits are the best form of stimulus available. They say the families who are getting those benefits turn around and spend the money immediately. Well, if that is true, I cannot think of a better use of the money from last year's so-called stimulus bill. Why leave that money sitting around unused in a government account somewhere when those funds could get into the hands of people who need them the most and will put them into the economy right away? What is so sacred about the stimulus bill that we should keep that money sitting around until it can be spent later this year or next year or even in 2012 and beyond? Why not help the people now?

But for the Senators who think the stimulus money is so sacred that it cannot be touched, I am proposing another way to pay for this bill. Senator COBURN, my colleague from Oklahoma, has identified well more than \$120 billion worth of savings from waste, fraud, and abuse. These savings include closing the Federal employee tax gap; that is, making sure all Federal employees pay all the taxes they owe, and stopping the payment of benefits to people and companies that are not entitled to those benefits.

The amendment would also be paid for by ending Federal programs that are no longer needed or duplicates of other government programs and making existing programs run more efficiently. I think the President's budget itself has hit on many of those programs he would like to see eliminated or partially eliminated. I think it is safe to call that wasteful spending, and I think the taxpayers who are footing the bill for those programs would agree.

Families all across America have to tighten their budgets when times get tough, and government should do the same. That is all I am trying to do with these two amendments.

I am sure some will accuse me of being against the programs in this bill. But the record should be clear by now that I support helping people in their time of need. In fact, every Member of the Senate who was able to make the votes last night supported extension of those benefits, either in my pay-for version or in the version that added to the debt. My amendments are not about whether we should extend these programs. No. My amendments are about whether we should pay for extending these programs or whether we should keep piling more debt on top of the \$14 trillion-plus debt we have already. I think the answer is very clear.

Last night, I thought we had a deal worked out to give me an up-or-down vote on my amendment to pay for the short-term extender bill. Instead, one Senator raised a budget point of order against the amendment, and I expect someone will try to do the same thing today with my amendments. That was her right as a Senator, but it is certainly not within the spirit of the agreement I tried to reach to find a way forward on these important programs.

But I think the larger question raised by that move is, What are the 53 Senators who voted to block my amendment afraid of? Are they afraid the Senate might pay for something we do? Are they afraid we might take a step toward balancing the Federal budget? Are they afraid we will bring Washington spending, which is out of control, just a little bit under control and live under the same rules as ordinary American families?

Is it too much to ask that we pay for what we spend? Last night, 53 Senators said yes, it is too much to ask for. But I think it is not. Today, every Senator will have an opportunity to join me in saying it is not too much to ask or they can vote against my amendments and add another \$100 billion-plus to the national debt. That is the emergency spending in this present bill—over \$100 billion. So that goes onto the bottom line of the Federal debt.

I urge every Senator to vote for my amendments to pay for this spending, to put away the taxpayers' credit card, and to put an end to the debt madness. I have examples of those spending rescissions.

As an example, there is \$245 million from congressional office budgets, to end some of the perks congressional leadership and congressional offices have; to end the Forest Service Economic Action Program, \$5 million. I think the President put this in his budget. The program duplicates an existing USDA program—Urban and Community Forestry—that has been poorly managed.

Another is to end the Public Telecommunications Facilities Grant Program, \$18 million. I am positive this was in the President's budget. This program is intended to help public broadcasting stations construct telecom facilities. Since the transition to digital broadcasting has been completed, there is no more need for this program.

On down the line—end HUD's Brownfields Economic Development Initiative, \$17 million; reduce the historic preservation services within the Interior Department by \$55 million. This is a grant program duplicated by other programs at the Interior Department.

This is one I am very familiar with because when I was in the House, we thought this was a necessary program to put our economic footing on foreign soil, the same as other foreign-based companies did when they came to

America. End the Overseas Private Investment Corporation, \$52 million. The Overseas Private Investment Corporation loans private U.S. companies funding for foreign investments and insurance. The U.S. Trade and Development Agency does the very same thing.

Another is to eliminate \$28 million in the Department of Transportation that has been directed at transportation museums—museums. I do not think we should be building new museums with Department of Transportation funds. I think we should be building roads.

Those are just a few examples of some of the rescissions I would like to see in the second amendment I have offered today. I think there will be ample time to discuss these later on, but I wanted to make sure we offered these amendments early on so we could have a good and thorough debate on these programs as this bill proceeds through the Senate.

I thank the Presiding Officer and yield the floor.

AMENDMENT NO. 3356

Mrs. MURRAY. Mr. President, I rise this morning because I am offering an amendment on youth summer jobs that will build on and extend the extremely successful summer jobs program we included in last year's Recovery Act. Last summer's program put over 313,000 young people to work and provided a much needed shot in the arm to them, their families, and businesses and communities around the country. I have personally heard stories from young men and women who participated in the program who told me how much it changed their lives and gave them the skills and the experience they know they need to exceed in school and in the workforce. That is why, while we are focusing on legislation that will support unemployed Americans and help workers get back on the job, we should also continue investing in a successful program that helps our young people get to work.

The amendment I am offering today will provide \$1.5 billion through the Workforce Investment Act to create 500,000 temporary jobs for young people across the country. It will invest in critically needed employment and learning programs that will help stimulate our local economies while providing meaningful short-term work and learning experiences for the young people who really need it the most.

In addition to the summer jobs program, this amendment also supports year-round employment and longer term efforts to help our young people obtain a postsecondary degree or credential.

Growing up, I had every different kind of summer job you can ever imagine. I started out working in my father's five-and-ten-cent store on Main Street in Bothell, and, along with my brothers and sisters, I did everything from stocking the shelves, to working the cash register, to sweeping the floor. Later on, I worked at a summer job at Sacajawea State Park in Pasco, where

I did weeding, kept the restrooms clean, and helped make the park presentable. One summer, I answered phones at a glass company in my hometown of Bothell. I also, one summer, worked at a psychiatric ward at the VA during a summer in college.

Looking back, I can tell that each one of those jobs I held as a young person helped me in a very unique way. Each one of them taught me skills and lessons I have been able to use throughout my life. Those jobs taught me everything from the value of hard work to the daily challenges of running a small business, how to dress and act in a professional work setting, but, most of all, those jobs helped me be exposed to new experiences and new people and new challenges. In fact, my time working at the Seattle VA that summer gave me an appreciation of our veterans and health care workers that has driven me to fight for them every single day I am in the Senate now.

It is not just me. Summer jobs have been proven to teach skills and life lessons for everyone. Studies have shown that people who get early work experience as teenagers make more money as adults. In fact, early work experience has been shown to raise earnings 10 to 20 percent over a lifetime.

However, as we all know, today teens are finding it especially difficult to find a job. Over the past 2 years, the number of employed teens in the United States has declined by nearly 25 percent, and their overall employment rate fell to a new post-World War II low of 25 percent by the end of last year, more than 18 percentage points below the rate in 2000. In fact, the total proportion of young people who were employed last July, the traditional peak time for youth jobs, was only 51.4 percent. That is the lowest July rate on record.

Today, with families who are cutting their spending so they can pay their bills and businesses having to freeze hirings so they can pay theirs, that means even fewer jobs for young people today.

I don't think we should forget teen jobs will help stimulate our local economies because, as anybody who has had a teenager at home knows, young people are a lot more likely to spend their paychecks in their communities than pocket them. When a young person does, in fact, save their wages, oftentimes they are saving for college or making a critical contribution to their families in this very difficult time.

Sometimes I hear people talk about these big national programs and too often forget there are real people being impacted, real families being helped, and real young people being offered such an important helping hand. I wished to share with everyone a story about what this funding meant for a program in King County, WA, last year for a young man who had the opportunity to participate because of the funding we provided last year.

Back in 2007, King County was able to provide 200 local youth jobs for that year. They were able to provide about the same number—200 or so—in 2008. Then, last summer, with the funding we secured for them in the Recovery Act and under the leadership of a great CEO, Marlena Sessions, they were able to provide 900 young people with summer work experience. Nine hundred young people in King County last summer had the opportunity to productively engage in their community and avoid that high risk in criminal activity we worry about and, importantly, learn the 21st century skills employers value, such as critical thinking and teamwork and problem solving and communication.

One of those participants in King County was a young man named Ryan. He spent his summer last year working at a maritime supply company in Seattle, a company called Washington Chain. Ryan had gotten into a lot of trouble in his life in the past. He was actually on work release from prison. He didn't have many of the skills employers are looking for in employees, so he went out and applied for job after job, fast food restaurants and more of the same. He actually put out 200 applications in total without a single one willing to take a chance on him after they found out about his record.

Well, Ryan heard about the Seattle King County Summer Jobs program, and you know what. It changed his life. Ryan was accepted into a program that was a partnership between a youth service provider and a community college. He spent 3 weeks in class, followed by 3 weeks in a paid internship at Washington Chain. The company wasn't planning on hiring any new full-time employees, but at the end of last summer, this experience changed Ryan so much and they were so impressed with Ryan and his work capability that the company found a full-time job for him. It was a real job for Ryan, with a decent salary and good benefits and a future. For the first time in his life, Ryan was able to take pride in his work and finally support himself and his young children.

After the program was over, Ryan said the program was "one of the best things that ever happened to me." His boss at Washington Chain said the company was lucky to find Ryan. He said Ryan had been "willing to do just about everything we have asked him."

The summer jobs program we passed last year gave Ryan and many more like him an opportunity they would not otherwise have had. It is a new lease on life for him, and doors opened to him that had always been closed to him. Ryan is far from alone. There are hundreds of thousands of young people around the country whose lives were changed by the experiences they had last summer.

So if this amendment I am offering today passes, there will be 500,000 more by this time next year. Five hundred thousand young people will be pro-

viding much needed services in hospitals and daycare centers, in senior centers, in parks, in public and in private organizations, staying off the streets, helping their communities, gaining the skills and the experiences they need to put them on a better path to success in school and life. Yes, by the way, they will be spending those paychecks and contributing to our economic recovery.

I urge our colleagues to support this amendment. The underlying bill we are considering today is going to help millions of families across the country who need some help right now getting back on their feet. This amendment will help young people across this country start their professional lives by firmly planting them on moving toward a successful, productive, and fulfilling career. I hope all our colleagues take the time to think back and think about what happened to them and people they know in their lives, where they had a summer job experience that helped set them on a path they may have never thought available to them and that it is our responsibility, in this Chamber, to now provide that same opportunity for young people who are following in our footsteps.

Thank you. I yield the floor.

THE PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, first, I wish to thank Senator THUNE. He gave me permission to speak before him. I will be brief in my strong support for the Murray amendment to provide \$1.5 billion for youth jobs programs through the Workforce Investment Act for summer and year-round employment.

This amendment will help create up to 500,000 temporary jobs for young people.

We know the youth jobs program works. Funds included in the Recovery Act for youth jobs provided over 300,000 young adults with employment opportunities last summer, stimulating local economies all across the country. Young adults who work not only help supplement family incomes, they also spend the money they earn in their communities. According to the Northeastern University Center for Labor Market Studies, every dollar earned by a young adult returns \$3 to the local economy.

Youth jobs programs also help disadvantaged young adults become active members of their communities.

The many local workforce investment groups in my State of California not only provide disadvantaged young adults with short-term employment, they also offer job training and mentoring programs, help them advance their careers with educational opportunities, and teach critical life skills.

We also know right now there are not enough work opportunities for teens and young adults. The unemployment rate for 16- to 19-year-olds is above 25 percent. For 16 to 19-year-old African Americans, the unemployment rate is

nearly 50 percent. Youth jobs programs help keep our kids off the streets, which is important to all our communities.

I wish to highlight one of the many Recovery Act youth jobs success stories in California. The Placer Herald reported that last summer the Golden Sierra Investment Board worked with 23 disadvantaged teens in Rocklin, CA, to construct a permanent storage facility at a local high school. The participants helped design the facility using computer design technologies. They built the mainframe, painted and dry-walled and installed solar lighting. Without Recovery Act youth job funds, this program wouldn't have been possible.

I ask unanimous consent to have printed in the RECORD the article from the Rocklin, CA, Placer Herald. It is a wonderful story about the high school students taking on this building project.

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

[From the Placer Herald, July 30, 2009]
HIGH SCHOOL STUDENTS TAKE ON BUILDING PROJECT
(By Lauren Weber)

With a little strength, time and sweat, a group of youth from Rocklin have created a permanent structure for Whitney High School.

It took more than 200 hours of service, but 23 teens built a 24-by-48-foot storage center to house the ground's equipment for the school. The hands-on project had the students framing the structure, installing solar lighting, putting up dry walls and painting the exterior green.

"They really did this from the ground up," said Sherry Mauser, Whitney High School assistant principal.

Mauser oversaw the process and was instrumental in getting the \$25,000 grant that funded the project. She contacted Golden Sierra, an employment and training service for people in Placer, Alpine and El Dorado counties and a partnership was formed.

Sharon Williams, a summer youth coordinator for Golden Sierra, said President Barack Obama's stimulus project gave money for summer programs.

"They encouraged the agencies to get bids on either in-school projects or some of our projects are out-of-school projects," Williams said.

The grant went toward the purchase of materials, safety equipment like hard hats and salaries for the adults on-site, Mauser said. The district also contributed some money from their facilities fund for the construction of a larger building.

The teens are paid as well and for many it was their first job.

"It's been a real learning project for these kids," Williams said.

Williams was on-site to also oversee that child labor laws were upheld, such as no one under 18-years-old on the ladder.

Many of the students, both from Rocklin and Whitney high schools, had never taken on construction jobs before. But with a little assistance from experts, they became knowledgeable in Computer-Aided Design drawings, how to put up dry wall and build the frame.

Kyle Balance, 19, and a recent Whitney High School grad, said his favorite aspect of the project was the framing and said he was impressed with how quickly it went up.

Rocklin High School junior Alessio Alba said he enjoyed the more computer-related aspect.

"I liked using the CAD system," he said. The group came up with computer drawings, which paved the way for the beginning of the project in June.

From start to finish, the students were deeply involved, Mauser said.

"Everybody worked as a team on this one," she said.

Last week, the students were in the last stages, finishing up the drywall and getting ready to paint the interior. Whitney High School student Mike Mello said although he'd never been part of a construction project, it is something he has enjoyed.

"This is fun," he said. "I like working with my hands, being out in the field."

Rocklin High School student John Wong has a four-mile commute on his bike to get to the project site everyday, but has been dedicated, Mauser said.

His father owns a door company, so he's been around construction before and may pursue a career in the construction field, he said. This hands-on opportunity may have aided his future career.

Construction of the space was complete Wednesday and the students will be recognized at the Rocklin Unified School District school board meeting Aug. 5.

Mrs. BOXER. So this amendment is very important. As our economy continues to recover, we all know jobs are lagging. We need to do all we can to try to replicate what happened in Rocklin, CA.

When you give a young person opportunity, a job opportunity, I think it stays with them the rest of their life. I remember the jobs I held when I was a teenager. One gave me a sense of self that I could help the company I was working for. I did many different jobs as a youngster in the summer. I was very fortunate to have that experience that I brought to other jobs later in my career.

So this amendment will create up to 500,000 summer jobs. It will strengthen local economies.

I do thank Senator MURRAY and the other cosponsors in the Senate. In closing, I wish to acknowledge Congresswoman BARBARA LEE and the Congressional Black Caucus, who are leading the fight in the House to support critical youth job programs for our disadvantaged young people. When I talked to Congresswoman LEE, she said: BARBARA, can you do something in the Senate. I remembered Senator MURRAY had this bill, and I called Senator MURRAY. We have this amendment here. I think the fact that it has been offered early in this bill is good because this is something we can do for our young people. They want so much to get job experience. They are struggling so much in this recession.

I wish to congratulate Senator MURRAY and the other cosponsors. I hope we have strong bipartisan support for this amendment.

Again, I thank Senator THUNE for allowing me to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3338, AS MODIFIED

Mr. THUNE. Mr. President, I have an amendment I introduced yesterday at

the desk and I have some modifications to it which are also at the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end, insert the following:

TITLE —ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking "\$25,000" and all that follows in paragraph (1) and inserting "\$500,000",

(2) by striking "\$200,000" and all that follows in paragraph (2) and inserting "\$2,000,000",

(3) by striking "after 2007 and before 2011, the \$120,000 and \$500,000" in paragraph (5)(A) and inserting "after 2009, the \$500,000 and the \$2,000,000",

(4) by striking "2006" in paragraph (5)(A)(ii) and inserting "2008", and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking "and before 2011".

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking "January 1, 2011" in subparagraph (A)(iv) and inserting "January 1, 2012", and

(2) by striking "January 1, 2010" each place it appears and inserting "January 1, 2011".

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking "JANUARY 1, 2010" and inserting "JANUARY 1, 2011".

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking "PRE-JANUARY 1, 2010" and inserting "PRE-JANUARY 1, 2011".

(3) Subparagraph (D) of section 168(k)(4) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

"(iv) 'January 1, 2011' shall be substituted for 'January 1, 2012' in subparagraph (A)(iv) thereof, and

"(v) 'January 1, 2010' shall be substituted for 'January 1, 2011' each place it appears in subparagraph (A) thereof."

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

“(a) EXCLUSION.—

“(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

“(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

“(C) 100 percent, in the case of stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.

“(3) EMPOWERMENT ZONE BUSINESSES.—

“(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (2)(A) shall be applied by substituting ‘60 percent’ for ‘50 percent’.

“(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

“(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

“(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.”

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking “PARTIAL”.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking “Partial exclusion” and inserting “Exclusion”.

(C) Section 1223(13) is amended by striking “1202(a)(2).”

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: “The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.”

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking “\$10,000,000” and inserting “\$15,000,000”.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking “paragraph (1)(A) shall be applied by substituting ‘\$5,000,000’ for ‘\$10,000,000’” and inserting “the amount under paragraph (1)(A) shall be half of the amount otherwise in effect”.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking “\$50,000,000” each place it appears and inserting “\$75,000,000”.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the \$15,000,000 amount in subsection (b)(1)(A), the \$75,000,000 amount in subsection (d)(1)(A), and the \$75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$1,000,000 such amount shall be rounded to the next lowest multiple of \$1,000,000.”

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

“(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

“(A) 9 percent of the lesser of—

“(i) the qualified production activities income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year, and

“(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

“(i) the eligible small business income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year.”

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

“(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

“(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term ‘eligible small business’ means, with respect to any taxable year—

“(A) a corporation the stock of which is not publicly traded, or

“(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting ‘\$50,000,000’ for ‘\$5,000,000’ each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

“(2) ELIGIBLE SMALL BUSINESS INCOME.—

“(A) IN GENERAL.—For purposes of this section, the term ‘eligible small business income’ means the excess of—

“(i) the income of the eligible small business which—

“(I) is attributable to the actual conduct of a trade or business,

“(II) is income from sources within the United States (within the meaning of section 861), and

“(III) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

“(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

“(i) Any income which is attributable to any property described in section 1400N(p)(3).

“(ii) Any income which is attributable to the ownership or management of any professional sports team.

“(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

“(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

“(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

“(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.”

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. —05. NONAPPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT.

(a) TAX-FAVORED BONDS.—Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

(b) STIMULUS PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subchapter IV of chapter 31 of title 40, United States Code, shall not apply to any project funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009.

(2) CONFORMING AMENDMENT.—Section 1606 of division A of the American Recovery and Reinvestment Act of 2009 is hereby repealed.

(3) EFFECTIVE DATE.—This subsection shall apply to contracts entered into after the date of the enactment of this Act.

Subtitle B—Transfer of Stimulus Funds

SEC. —11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

Mr. THUNE. Mr. President, I also ask unanimous consent that Senators BENNETT and ROBERTS be added as cosponsors.

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

Mr. THUNE. Mr. President, yesterday, one of my colleagues criticized me for trying to redirect unspent stimulus funding to pay for tax relief for small businesses by citing all the jobs the stimulus bill supposedly created. I, as many people do, have my doubts about some of these estimates, but I can guarantee this much: none of these jobs have been created or saved by the unspent funds.

There is a lot of money in the stimulus bill that has yet to be spent, according to recovery.org, which is the

administration's Web site. About 38 percent of the stimulus money approved last year out of that \$1 trillion amount—round numbers—has been spent. So there is a lot of unspent and unobligated money.

Frankly, many of us, at the time it passed last year, suggested it would be a much wiser use of those funds if we directed those toward small businesses. Small businesses are the creators of jobs in our economy. They create two-thirds of the jobs. They are the economic engine that drives the economy in this country. Ironically, less than 1 percent of that \$1 trillion that was approved last year in stimulus funding was directed at incentives for small businesses to create jobs. We put money into all kinds of other things which, to date, have shown little evidence that any jobs have been created. It seems to me, at least, and the argument that was made at the time by many of us, was that allowing or creating more of these incentives, putting more policies in place that would incentivize small businesses to create jobs would have been a much better use of stimulus money.

What my amendment very simply says is, of those unspent, unobligated funds—and that universe of funds represents about \$160 billion that has not only not been spent but not obligated—we use some of those funds to do what we should have done in the first place; that is, to create incentives for small businesses to hire new people, to put people back to work, and to make capital investments.

I take issue with what was said on the floor yesterday, that somehow my amendment was going to cut the Economic Recovery Act short. It doesn't do that at all. In fact, what this does is simply say those funds that have not been spent, not been obligated in the stimulus bill that was passed last year, be redirected toward these particular provisions that will provide incentives for small businesses to create jobs. Very simply, what are those? It extends by 1 year the bonus depreciation that allows small businesses to accelerate the way they write off equipment purchases; accelerated depreciation schedules so they can take more of that cost upfront as a deduction.

It also makes permanent the section 179 deduction and increases that as well so that small businesses are able to expense more of those types of investments—again, an incentive for them to invest more, hopefully to create jobs.

It eliminates the capital gains tax on investment in small businesses. By the way, that is something the President, in his State of the Union speech, came out in support of. So this is something the White House has already endorsed.

Finally, it provides for a 20-percent deduction for small businesses against their income. Why is that necessary? Many small businesses, and, in fact, half of small business income, we are told, when tax rates go up next year

would be subject to that higher tax. If a small business that passes through their income to their individual tax return is currently paying at the 33-percent tax rate, they are going to see that tax rate go up to 36 percent of that income. If they are currently paying at the 35-percent tax rate, they are going to see their tax rate go up to 39.6 percent starting next year, in 2011. This allows them to take a 20-percent deduction against their income that will help in some ways limit or mitigate the impact of the higher tax rates that they will be subject to beginning in 2011.

Again, I think it is a fairly straightforward amendment, and I simply argue, again, to my colleagues that it makes sense for us, in my view, to be making investments, be putting policies in place that will incentivize job creation in this country, and that job creation, again, occurs in the private economy with small businesses.

Small businesses, we are told, create two-thirds of the jobs in our economy and, in fact, about half of the people in this country who work, who are employed currently, work for small businesses. They have a tremendous impact on our economic well-being, on job creation.

It is important, in my view, that we take steps here that will add to the ability of our small businesses to get out there and do what they do best; that is, make investments and create jobs.

I take issue with what was said yesterday about this amendment: that it would cut short the Economic Recovery Act. It does not do that at all. These are not funds that have currently been spent or obligated. These are funds that are unspent, unobligated out of the \$1 trillion bill passed last year which, as we all know, to date has not created the jobs promised. In fact, since the bill passed last year, we have lost 2.7 million jobs in our economy.

I think, frankly, one of the reasons for that is it was misdirected in the first place. We should have been focused on job No. 1, and that is helping those job creators in our economy, which are small businesses.

I want to point out that the National Federation of Independent Business, which is the largest trade organization representing small businesses in this country, at least the largest small business advocacy organization, has written a letter in support of my amendment. I want to read one paragraph from that letter. It says:

The Thune amendment is a necessary step in helping to provide more certainty to small businesses about their future tax liability, whether to make long term capital expenditures, and hire more workers. We hope this amendment will provide momentum to clear other obstacles in the path to job creation.

I guess what I would say by way of closing is that although there is a great debate here about how best to create jobs, I think we can all agree a lot of the \$1 trillion stimulus bill that

passed last year has not been spent. The argument that it would be timely, targeted, and temporary, I think all of those criteria have not been met. More important, the ultimate metric by which I think we judge whether it has been a success or not has not been met either, and that is job creation.

Look at the economy today. Unemployment stands at 9.7 percent. The commitment made when the bill was passed a year ago was that if we pass this stimulus bill, we will hold unemployment below 8 percent. We know it is well past that.

If you look again at the job numbers and the number of people in this country still looking for work, still struggling, still struggling with the loss of income, the best thing we can do is get them back to work, and the best way to do that is not to create jobs in Washington, DC, or invest in government programs; it is, frankly, to get the small businesses in our economy, the creators of jobs, the engine that drives this economy forward, liberated in a way, providing certainty with regard to tax policy so they know that in 2011, when their tax rates go up—at least those who pass their income through their individual tax return—they are going to have some relief, allowing some relief with regard to capital gains taxes by exempting small business investment, allowing for bonus depreciation so they can write off business purchases, and increasing section 179 expensing, that deduction that currently exists in the Tax Code making that permanent.

Those are all steps, small steps, but at least important steps, in my view, that will move this economy forward and do what I think many of us want to see done; that is, create the conditions and the economic climate where jobs can be created where we get people back to work.

We are going to have a vote on this amendment this afternoon. Again, my colleagues who were debating an underlying bill that has tax extenders, COBRA extension, unemployment benefits extension—all of those sorts of things, all of which I understand are important, particularly right now when we have a lot of people who are out of work. But, again, the best remedy we can offer to the American people is to create jobs and get people back to work. That will make it less necessary for us to act on the legislation we have to act on today that addresses all the economic dislocation and hurt the American people are experiencing as a result of this economy.

A year ago when this stimulus bill passed, less than 1 percent of the money was directed toward small businesses. We can fix that today with this amendment by directing these tax incentives, using unspent, unobligated stimulus money to do it. It is all paid for. It is all offset. It does not pass debt to future generations. It does not add to the deficit. It is all paid for. It puts the money where it should have been

put in the first place and directs it in a way that will be adding to job creation in this country.

I ask my colleagues to support this amendment. I think it will be voted on in a couple of hours.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I will offer an amendment to the pending legislation, amendment No. 3342. It is my intention to call up that amendment after the votes on the pending amendments this afternoon, but I would like to take a few minutes to explain to my colleagues the nature of this amendment and why I believe it is important.

This amendment basically says if you are an executive at one of the companies that received more than \$5 billion in the TARP bailout, the financial bailout that occurred when we began our economic crisis, and if you receive in addition to your compensation a bonus in excess of \$400,000, then that amount above \$400,000—which is the approximate compensation of our President—will be taxed at 50 percent, and the amount it is taxed will be returned to the American taxpayers for deficit reduction.

It is a very simple amendment. It is a one-time amendment based on a unique situation in this country when the American taxpayers had to bail out our major companies in order to stabilize our economy.

This is not class warfare. It is not a continuing windfall profits tax. But I believe it is very proper for us to institute this on a one-time basis. Estimates we have had, when I offered this amendment as independent legislation a short while ago, along with Senator BOXER, were that you could recoup in the neighborhood of \$10 billion back into our economy by this very fair tax assessment.

I want to go back to two opinion pieces that have been written over the last couple of years from people with great standing in the financial community and great philosophical differences. Then I want to remind my colleagues the process we had to enter into when the TARP legislation was first voted on.

On July 14, 2008, Paul Krugman, a Nobel Prize-winning economist, wrote a piece in the New York Times. I came to the floor at that time and quoted from his piece. He was talking about the beginning of what became our crisis, and he made the point:

It's the belief of investors—

He was talking at this point about the situation with Fannie and Freddie, to quote from his article.

It's the belief of investors if they fail, the federal government will come to their rescue.

Then he wrote:

The implicit guarantee means that profits are privatized while losses are socialized.

What he meant by that and what we actually have seen play out as our

economy, thankfully, has begun to recover is, with the situation we entered into with TARP, risk was socialized. That means the average worker in this country—the person out there driving a truck, the nurse working in a hospital, the people doing the day-to-day work—had to put their tax dollars in to stabilize these banking systems, but the reward from the stabilization has become personalized to the executives who were running these companies, who then have benefited through these large bonus systems once our economy began to stabilize.

It is my strong belief, as someone who is a supporter of people who are willing to take risks and create the right kind of environment for growth in our economy, that they should be happy once they have reached a point where they have been compensated and they have had a \$400,000 bonus. They should be happy to take the money beyond that \$400,000 bonus and divide it up with the average worker out here who may not even own stock who had to put their tax dollars in to stabilize the economy.

The second article I would like to quote from is from the Financial Times which, as all of my colleagues will recognize, is one of the most conservative newspapers in the world when it comes to capitalist enterprise, risk taking, rewarding the people who get out and lead in our business sector.

Martin Wolf wrote an editorial on November 19, 2009, not that long ago. I ask unanimous consent to have printed in the RECORD the entire article after my remarks.

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

(See exhibit 1.)

Mr. WEBB. Mr. President, Martin Wolf said this:

Windfall taxes are a ghastly idea. . . . No sensible person should support them. So why do I now find the idea of a windfall tax on banks so appealing? Well, this time, it really does look different.

Mr. Wolf goes on to point out:

Ordinary people can accept that risk takers receive huge rewards. But such rewards for those who have been rescued by the state and bear substantial responsibility for the crisis are surely intolerable. . . . The public finances will be devastated for decades: taxes will be higher and public spending lower. Meanwhile, bankers are about to reap huge rewards. This damages the legitimacy of the market economy.

Mr. Wolf went on to support the very concept I am putting on the table today; that is, a one-time windfall profits tax on moneys that were earned in 2009 when this American taxpayer rescue of our financial system occurred, when earnings that occurred through work in 2009, which are paid in 2010—this is not a retroactive tax; one shot, balance the playing field and reward the people who stepped forward to help save our economy.

Sometimes it is hard for us to remember the circumstances that took place when we were asked to vote for TARP back in September of 2008 be-

cause so much has happened to our economy and to the debate in this country since then. But we should remember that in September of 2008, Secretary Paulson and Chairman Bernanke put us all on a conference call. They told us if we did not put \$700 billion of taxpayer money into a program to assist our major Federal financial institutions that the world as we knew it economically was going to fall into cataclysm. We voted in support of this \$700 billion—I voted for it—in order to help these financial institutions solve the problems, undo their systems of bad assets—which had taken place, quite frankly, through a lot of bad judgment in their leadership—free up our economic system and get credit going again. And we did it with the explicit understanding that it was the American taxpayers who were putting the money in and who, when the system righted itself, would get their money back. So this one-shot deal is designed to help do that.

It is fair to all parties. It allows the executives in these 13 companies that received more than \$5 billion each of taxpayer money to still reward their executives and at the same time share these profits, or these benefits that go beyond a \$400,000 bonus, with the people who basically pulled their fat out of the fire.

I hope we can get a vote on this amendment. I trust my colleagues will understand the care with which it was designed and the equity we are trying to deal with.

I yield the floor.

EXHIBIT 1

[From the Financial Times, Nov. 19, 2009]

TAX THE WINDFALL BANKING BONUSES

(By Martin Wolf)

Windfall taxes are a ghastly idea. They are a sop to prejudice, a burden on risk-taking and a form of arbitrary confiscation. No sensible person should support them. So why do I now find the idea of a windfall tax on banks so appealing? Well, this time, it really does look different.

First, all the institutions making exceptional profits do so because they are beneficiaries of unlimited state insurance for themselves and their counterparties. As Andrew Haldane of the Bank of England argues, the state has “become the last resort financier of the banks”. In the UK, total support amounted to a staggering 74 per cent of gross domestic product. These must be the largest business subsidies ever.

Second, the profits being made today are in large part the fruit of the free money provided by the central bank, an arm of the state. The state is giving the surviving banks a licence to print money.

Third, the case for generous subventions is to restore the financial system—and so the economy—to health. It is not to enrich bankers, particularly not those engaged in the sorts of trading activities that destroyed the financial system in the first place.

Fourth, ordinary people can accept that risk takers receive huge rewards. But such rewards for those who have been rescued by the state and bear substantial responsibility for the crisis are surely intolerable. What makes them yet more so is that the crisis has devastated the prospects of tens, if not hundreds, of millions of innocents all over

the globe. The public finances will be devastated for decades: taxes will be higher and public spending lower. Meanwhile, bankers are about to reap huge rewards. This damages the legitimacy of the market economy.

Fifth, it is hard to argue in favour of exceptional interventions to bail out the financial sector at times of crisis, and also against exceptional interventions to recoup costs when the crisis is past. "Windfall" support should be matched by windfall taxes.

Finally, these are genuine windfalls. They are, as George Soros has said, "hidden gifts" from the state. What the state gives, the state is entitled to take back, if it is not used for the state's purposes.

So the question, in my mind, is not whether a windfall tax can be justified but whether it can be designed successfully. All taxes have unintended consequences. One must be particularly careful with this one.

Since the aim of policy is to recapitalise the banks, the tax should not reduce their ability to do so. It would be far better then to impose a tax on contributions made to the bonus pool. There is no public interest in such payments. Since it would be a one-off event, it should not affect incentives (unless banks plan to create systemic crises every few years). If the tax applied to all banks operating within a given jurisdiction, it would not affect competitiveness among them. The case seems strong—even more so if the tax could be implemented across major jurisdictions, simultaneously.

Yet windfall taxes cannot contain financial excess, precisely because their goal is not to affect incentives. So what is to be done?

As Mr. Haldane notes, we have seen "a progressive rise in banking risk and an accompanying widening and deepening of the state safety net". As the liabilities of the banks have become ever more socialised and so equity cushions have become increasingly redundant, the incentive for both limited liability shareholders and employees to game the taxpayer has risen greatly. It is rational for banks to choose risky strategies because they take the upside and taxpayers much of the downside.

Over the past half century, UK bank capital has remained at between 3 per cent and 5 per cent of assets, these assets have risen tenfold, relative to GDP, and returns on equity have averaged 20 per cent. Such high returns, in an established industry, must mean either high barriers to entry or excessive risk-taking. The former are undesirable and the latter terrifying, particularly in view of the huge rise in the state's exposure to the risks.

We will never have a better opportunity than now to redress the deteriorating terms of trade between the banks and the state. A big part of the solution must be to shift incentives. The more credible are the pre-announced limits on support from government, the more effective will be the changes in incentives inside banks, and vice versa. The less we are able to shift these incentives, the more important it will be to impose heavy regulation. The combination of today's incentives with today's safety nets and yesterday's "light touch" regulation was devastating.

Yet, regardless of the success of reforms of incentives in—and regulation of—the financial sector, it is reasonable to recoup not only the direct fiscal costs of saving banks but even some of the wider fiscal costs of the crisis. The time has come for some carefully judged populism. A one-off windfall tax on bonuses would make the pain ahead for society so very much more bearable. Try it: millions will love it.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to thank Senator WEBB for offering this amendment, which is the same text as our bill that we introduced about a month ago. I think Senator WEBB has made an excellent case for this very important amendment which will reduce the deficit. It is an amendment that I believe reflects fairness and justice and the American way.

In 2008 and 2009, the financial sector, as well as the automobile industry, received generous and unprecedented aid from taxpayers. It was done in order to stave off another Great Depression. It was a tough vote to make, and we did it because we believed we were on the brink of another Great Depression and, frankly, a financial collapse. If we remember back to those days, credit was frozen, businesses couldn't borrow, and we were hearing predictions that this could be the end of capitalism. We heard that from Republicans and Democrats alike. So what we did has worked. We have avoided a Great Depression. The economy is growing, although we are very worried about the slow pace of job creation, which is why we are working so hard to continue to create new jobs.

But if we take a look at the financial institutions which received this huge bailout, what we see is they showed a resounding economic recovery in 2009. Thanks to taxpayer assistance, many of these companies are posting record profits. So you have these companies posting record profits, that benefited when times were bad with taxpayer help, and now they are paying out multimillion dollar bonuses to their top executives.

The United States pays its President—our highest paid Federal official—\$400,000. These company leaders are earning millions of dollars, and then, on top of that, bonuses. So what Senator WEBB and I are saying is this: If you have received a bonus of \$400,000 or more from one of the top recipients of the taxpayer bailout, you should pay a special one-time fee—50 percent of that bonus, which is on top of your salary. Fifty percent of the bonus of \$400,000 or more should go back to the taxpayers and reduce our deficit.

It is hard for me to imagine how these financial companies, which were bailed out by taxpayers, could have such a deaf ear to the plight of America's workers and why they would embark upon these enormous bonuses, especially since they are not lending the monies that we think they ought to lend to businesses. They are actually cutting back on lending to qualified businesses—I think it is an 18-percent reduction in loans to businesses—yet they are paying out these enormous bonuses. So what Senator WEBB and I are saying is we want a one-time, 50-percent fee paid on the bonus that exceeds \$400,000. This fee would only affect those recipients at the largest and most major companies who received this bailout.

I want to reiterate this. The fee is paid on the bonuses that exceed

\$400,000. We don't touch the bonuses \$400,000 or less. We are making a point. And even though we have been fair, it will return to the Treasury about \$10 billion, is our estimate, over time.

It is only fair that these institutions, which were so greatly assisted in 2009, should help our Nation with our fiscal problems. We inherited those problems from this economic collapse. We know that when President Bush handed the keys over to President Obama there already was a huge deficit in place, but President Obama had to act. We had to pass an economic recovery act. We had to make sure credit was flowing. So it added still more to the debt, and it seems to me only fair that people who are at those institutions that were bailed out—which only exist because of the generosity of taxpayers, because we knew if they failed there would be big trouble—if their bonuses are over \$400,000 they ought to pay this special one-time fee back to taxpayers.

Reducing the deficit is important and fairness is important. I want to thank my colleague from Virginia for working with me on this legislation, and I urge the Senate, in a bipartisan way, to join us in supporting this commonsense measure. We hear a lot of talk around here about the deficit, the deficit, the deficit. That is a very important priority for us—to reduce this deficit. Here is a way to do it that is totally fair and just. People who work at the institutions that got the biggest bailouts from Uncle Sam to save them, and those people who are now getting these enormous bonuses, ought to make a contribution to deficit reduction. We need it, we think it is right, and we hope there will be a big bipartisan vote in favor of the Webb-Boxer amendment.

I yield the floor.

AMENDMENT NO. 3338

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I rise to speak in opposition to the amendment submitted by the Senator from South Dakota, Mr. THUNE.

This amendment cloaks itself in the guise of fiscal responsibility, but nothing could be further from the truth. The amendment would rescind funding from the American Recovery Act—the so-called stimulus bill—to pay for the cost of program increases for small businesses. We can all agree that we should do more to support small business, but it is nonsensical to rescind funding from the Recovery Act, which is also creating jobs. I understand all too well that some on the other side of the aisle have argued that the stimulus bill was a mistake, but the facts are proving just the opposite.

Last week, the Congressional Budget Office—the CBO—released a report on the impact of those stimulus funds which have already been spent. The Congressional Budget Office report notes the extremely beneficial impact from this act. The report states that the stimulus funds are responsible for

an increase of somewhere between 1.5 and 3 percent in the gross domestic product during the last quarter of 2009, and with an estimated increase in this first quarter of up to 3.9 percent. Moreover, the CBO states that the stimulus bill accounted for an increase of at least 1 million jobs in the fourth quarter of 2009, and possibly as many as 2.9 million jobs. This is something to ponder.

The one thing the American people all agree upon is that we need to be doing more to create jobs. The American Recovery Act is doing just that. CBO estimates that the level of jobs created through 2010 from stimulus funds could be as high as 3.4 million jobs. That would mean a decline in unemployment of 1.8 percent in this country. No other action by this Congress has provided this kind of positive impact on the job market. So what possible logic is there in rescinding funds from this act which is providing so many benefits to the American people? Why would we support an amendment to cut funding from the act which is clearly helping to reduce devastating job losses?

No one can argue that the stimulus bill isn't working. The proof is at least a million jobs created last quarter. It has had an immensely favorable impact on our economy. I know some of those who oppose the bill don't want to hear it, but that is reality. The numbers from CBO tell the story.

The Thune amendment fails to offer any guidance to which programs it would cut. That is a rather strange amendment. Clearly, it is more politically expedient to simply cite a dollar figure to cut rather than identifying which specific programs the amendment would impact. The Thune amendment offers no direction as to which recovery programs it would shut down. The result could be cuts to the highway funding, new energy technology or reversing efforts to make government buildings and low-income housing more energy efficient.

Moreover, this amendment doesn't even allow the Congress to determine how the funds should be reduced. Instead, it directs the Office of Management and Budget—OMB—to determine where to reduce funding. I cannot believe the authors of this amendment want the Senate to give up the power of the purse to the bureaucrats at OMB to determine where we should spend our taxpayers' funds, but this is what this amendment would do.

For many reasons, this is a bad amendment. It is exactly what the country does not need at this time. We all know that the No. 1 malady facing the country today is unemployment. We now have proof from the Congressional Budget Office that the stimulus bill was the exact right medicine to treat this illness. I urge my colleagues to reject this amendment and allow our stimulus funds to work as planned: making wise investments in America and putting our people back to work.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Arizona.

Mr. MCCAIN. Mr. President, as we all know, yesterday the President issued a letter that said he was agreeing on "four policy priorities identified by Republican Members at the meeting" that we had. And he said, "I am exploring. I said throughout this process," I quote from the President's letter, "that I'd continue to draw on the best ideas from both parties, and I'm open to these proposals in that spirit."

So he mentioned several of them. In it, he talks about the four areas he would be considering: One by Senator COBURN, a proposal; another one that a number of people had discussed concerning demonstration projects through Health and Human Services for resolving medical malpractice disputes; one on Medicaid reimbursements; and then expanded health savings accounts.

He said: "That's why my proposal does not include the Medicare Advantage provision, mentioned by Senator MCCAIN at the meeting, which provided transitional extra benefits for Florida and other States. My proposal eliminates those payments, gradually reducing Medicare Advantage payments across the country relative to fee-for-service Medicare," et cetera.

Then he says, "In addition, my proposal eliminates the Florida FMAP provision, replacing it with additional federal financing" in all States.

Of course, this raises, I think, first of all, the legitimate question: How did this stuff get in there to start with? How did it take weeks of examining a 2,400-page bill? What about the other sweetheart deals that were included behind closed doors in this 2,400-page legislation? What about the deal for Vermont, a 2.2-percent Medicaid bonus for 6 years for their Medicaid Program? What about the Massachusetts deal, a .5-percent Medicaid bonus for 3 years? Hawaii? It adds money for Hawaii hospitals. Hospitals in Michigan and Connecticut have the option to benefit from higher payments; Connecticut, \$100 million for a university hospital. The Senate beneficiary of this provision was not originally known. Montana, South Dakota, North Dakota, Wyoming had increased Medicare payments for those States.

What is unique about those States? Libby, MT, Medicare coverage for individuals exposed to environmental health hazards, asbestos mining. That may be a worthy cause, but shouldn't it be the subject of an authorization and debate and appropriations?

Then, of course, we had the special deals that were cut with the special interests, not just PhRMA. The White House negotiators—the White House negotiators—not congressional negotiators—extracted an \$80 billion deal to gain more offsets from the drug industry, and their \$2-million-a-year lobbyists confirmed the deal in news reports. In exchange for PhRMA supporting the

Democratic Senate bill, PhRMA spent \$150 million in advertising support. And to further lock in the deal, the White House and Senate Democrats agreed to oppose drug reimportation and a shorter pathway for generic biologics.

To sum all this up, there is no better description of it than what is by the majority leader of the Senate, who, on Christmas Eve, when these deals became known as we examined the 2,400 pages, Senator REID, the majority leader, said—this, I think, encapsulates, summarizes the entire process they went through:

A number of States are treated differently from other States. That's what legislation is all about. That's compromise.

I want to repeat that. I want to repeat that quote from Senator REID.

A number of States are treated differently from other States. That's what legislation is all about. That's compromise.

That is not compromise. That is not the word. "Compromise" is an agreement between two parties on both sides of the aisle who reach an agreement. This is backroom wheeler dealing, special interest influence, and vote buying. That is what this was. Why would a State be treated differently from another State? Why would we have disparate impact on different States?

One of the reasons I have focused a lot of my attention on the 800,000-person carve-out in the State of Florida, as the President has said that would be changed, is because there are 330,000 Medicare Advantage enrollees in my State. Why should it ever happen that the residents of one State who are in the same program, the exact same Federal program, have different advantages over another State?

I am pleased the President's letter concerning the issue of the 800,000 people in Florida who will receive different coverage, that that would be fixed. But I also point out, as I just chronicled, that is one of many proposals, many sweetheart deals, many backroom deals. It has to be put in the context of the fact that the President of the United States promised the American people that we would change the climate in Washington. Eight times the President of the United States said all of these negotiations on health care reform will take place with C-SPAN cameras in the room.

My understanding of the process now is that there is going to be a vote in the House on the Senate bill and then there will be a reconciliation of 51 votes, which, of course, is offensive to the American people. But I assume, then, the Senate bill as passed will have all of these provisions in it that are these secret, backroom, unsavory deals that were made.

So let me just say it is disappointing, the contrast of the President's statement, when we have learned that last week's health care summit was not really a true effort. In other words, the summit at the Blair House did not reflect what the overwhelming majority

of the American people are demanding; that is, we start over and we stop what has been done.

One of the reasons they want it stopped is because they have become aware of these special deals for special interests and vote purchasing. That is what they have become aware of. So that is one of the major reasons they want us to start over.

At the townhall meetings I have, people are as upset about the process we went through as they are the actual legislative outcome, although they are very unhappy about that.

Let me just say I know a bit about working in a bipartisan fashion. I know people want us to get things done together. I know the approval ratings of Congress are extremely low, and there is a great disconnect between the people of this country and what we are doing in Washington, and they want us to work together, adhering to principle and addressing the enormous challenges that face them. But that means starting over.

We did identify areas on which we could agree. We did identify the fact that there are some areas. But unless we start over, then how in the world can we put lipstick on a pig? It is still a pig. It is still a bad and unsavory process that we went through in order to reach the legislative package we have now.

What we really need to do is start over and then we can get rid of all of these. We can get rid of the "Louisiana purchase," and Vermont and Massachusetts and Hawaii and Michigan, Connecticut—Connecticut twice, one \$100 million for a hospital and then higher payments—Montana, South Dakota, North Dakota, Wyoming. We can get rid of all of these if we start over.

I point out, finally, because we are going to be talking a lot about this—and I know other colleagues of mine are waiting to speak—I just point out again this whole issue of reconciliation. A lot of Americans had never heard that word before, certainly not in this context before this came up. But the word "reconciliation" means we would reconcile differences on small issues between the two bodies. It was the product of Senator ROBERT BYRD, who has said unequivocally that health care—that Medicare and health care should not be included in this process. It was Senator ROBERT BYRD who specifically exempted Social Security from being a part of reconciliation. He said, and I quote from Senator ROBERT BYRD:

I was one of the authors of the legislation that created the budget reconciliation process in 1974 and I am certain that putting health care reform and climate change legislation on a freight train through Congress is an outrage that must be resisted.

That was the author. Of course, all during the time when the other side of the aisle was in the minority they complained bitterly, and I think with some justification, that reconciliation was used as a means of getting legislation

through this body, bypassing the 60-vote requirement.

I would like to point out—and it may be a bit self-serving, but I would like to point out that when the so-called nuclear option was up, we would move to a process that only 51 votes would be required in order to confirm judges in this body, I and 13 others joined in a bipartisan fashion, and we said no. We will have circumstances that will attend our votes on confirmation and, for the good of the body, we preserved the 60-vote majority rule that has been the custom in this institution of the Senate in modern times.

The American people are watching very carefully what we are doing. There may be some belief that a lot of Americans are not appreciating what apparently is the plan, and that is to move serious legislation through the Senate with a 51-vote majority, legislation that would affect one-sixth of our gross national product.

I urge my colleagues, as I did when we were considering the "nuclear option on judges," that this nuclear option also be rejected and go back to the 60 votes and maintain the 60-vote majority requirement that basically governs our proceedings in the Senate.

Let's start over. Let's listen to Warren Buffett, a strong supporter of the President of the United States. He noted that this legislation includes nonsense, backroom deals for special interests.

He said:

Democrats should cut off all the kinds of things like the 800,000 special people in Florida or the Corn Husker kickback, as they called it, or the Louisiana Purchase, and we are going to get rid of the nonsense. We are just going to focus on costs and we are not going to dream up 2,000 pages of other things.

I hope we will heed the words of Warren Buffet, which basically is that he and the American people want us to start over. They certainly do not want to have legislation enacted by a bare majority. Again, I would remind my colleagues of history. Every major reform that has been enacted by this body, whether it be the Civil Rights Act, whether it be Medicare, whether it be other major reform, it has always been done with overwhelming bipartisan support.

It is not too late. Let's go back to the beginning. Let's start over. We have identified areas we can work together on and certainly reject this idea of 51 votes governing the way this body functions. I think it poses great danger to the future of this institution that all of us who have the privilege of serving here love as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3353, AS MODIFIED

Mr. SANDERS. Mr. President, I ask unanimous consent that my amendment which is pending, No. 3353, be modified with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. —. EXTENSION AND MODIFICATION OF CERTAIN ECONOMIC RECOVERY PAYMENTS.

(a) **SHORT TITLE.**—This section may be cited as the "Emergency Senior Citizens Relief Act of 2010".

(b) **EXTENSION AND MODIFICATION OF PAYMENTS.**—Section 2201 of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) in subsection (a)(1)(A)—

(A) by inserting "for each of calendar years 2009 and 2010" after "shall disburse",

(B) by inserting "(for purposes of payments made for calendar year 2009), or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made for calendar year 2010)" after "the date of the enactment of this Act", and

(C) by adding at the end the following new sentence: "In the case of an individual who is eligible for a payment under the preceding sentence by reason of entitlement to a benefit described in subparagraph (B)(i), no such payment shall be made to such individual for calendar year 2010 unless such individual was paid a benefit described in such subparagraph (B)(i) for any month in the 12-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010.";

(2) in subsection (a)(1)(B)(iii), by inserting "(for purposes of payments made under this paragraph for calendar year 2009, or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made under this paragraph for calendar year 2010)" before the period at the end,

(3) in subsection (a)(2)—

(A) by inserting ", or who are utilizing a foreign or domestic Army Post Office, Fleet Post Office, or Diplomatic Post Office address" after "Northern Mariana Islands", and

(B) by striking "current address of record" and inserting "address of record, as of the date of certification under subsection (b) for a payment under this section",

(4) in subsection (a)(3)—

(A) by inserting "per calendar year (determined with respect to the calendar year for which the payment is made, and without regard to the date such payment is actually paid to such individual)" after "only 1 payment under this section", and

(B) by inserting "FOR THE SAME YEAR" after "PAYMENTS" in the heading thereof,

(5) in subsection (a)(4)—

(A) by inserting "(or, in the case of subparagraph (D), shall not be due)" after "made" in the matter preceding subparagraph (A),

(B) by striking subparagraph (A) and inserting the following:

"(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if—

"(i) for the most recent month of such individual's entitlement in the applicable 3-month period described in paragraph (1); or

"(ii) for any month thereafter which is before the month after the month of the payment;

such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 of the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a-8a);";

(C) in subparagraph (B), by striking “3 month period” and inserting “applicable 3-month period”;

(D) by striking subparagraph (C) and inserting the following:

“(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if—

“(i) for the most recent month of such individual’s eligibility in the applicable 3-month period described in paragraph (1); or

“(ii) for any month thereafter which is before the month after the month of the payment;

such individual’s benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a-8a); or”;

(E) by striking subparagraph (D) and inserting the following:

“(D) in the case of any individual whose date of death occurs—

“(i) before the date of the receipt of the payment; or

“(ii) in the case of a direct deposit, before the date on which such payment is deposited into such individual’s account.”;

(F) by adding at the end the following flush sentence:

“In the case of any individual whose date of death occurs before a payment is negotiated (in the case of a check) or deposited (in the case of a direct deposit), such payment shall not be due and shall not be reissued to the estate of such individual or to any other person.”; and

(G) by adding at the end, as amended by subparagraph (F), the following new sentence: “Subparagraphs (A)(ii) and (C)(ii) shall apply only in the case of certifications under subsection (b) which are, or but for this paragraph would be, made after the date of the enactment of Emergency Senior Citizens Relief Act of 2010, and shall apply to such certifications without regard to the calendar year of the payments to which such certifications apply.”;

(6) in subsection (a)(5)—

(A) by inserting “, in the case of payments for calendar year 2009, and no later than 120 days after the date of the enactment of the Emergency Senior Citizens Relief Act of 2010, in the case of payments for calendar year 2010” before the period at the end of the first sentence of subparagraph (A), and

(B) by striking subparagraph (B) and inserting the following:

“(B) DEADLINE.—No payment for calendar year 2009 shall be disbursed under this section after December 31, 2010, and no payment for calendar year 2010 shall be disbursed under this section after December 31, 2011, regardless of any determinations of entitlement to, or eligibility for, such payment made after whichever of such dates is applicable to such payment.”;

(7) in subsection (b), by inserting “(except that such certification shall be affected by a determination that an individual is an individual described in subparagraph (A), (B), (C), or (D) of subsection (a)(4) during a period described in such subparagraphs), and no individual shall be certified to receive a payment under this section for a calendar year if such individual has at any time been denied certification for such a payment for such calendar year by reason of subparagraph (A)(ii) or (C)(ii) of subsection (a)(4) (unless such individual is subsequently determined not to have been an individual described in either such subparagraph at the time of such denial)” before the period at the end of the last sentence,

(8) in subsection (c), by striking paragraph (4) and inserting the following:

“(4) PAYMENTS SUBJECT TO OFFSET AND RECLAMATION.—Notwithstanding paragraph (3), any payment made under this section—

“(A) shall, in the case of a payment by direct deposit which is made after the date of the enactment of the Emergency Senior Citizens Relief Act of 2010, be subject to the reclamation provisions under subpart B of part 210 of title 31, Code of Federal Regulations (relating to reclamation of benefit payments); and

“(B) shall not, for purposes of section 3716 of title 31, United States Code, be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1), and all amounts paid shall be subject to offset under such section 3716 to collect delinquent debts.”;

(9) in subsection (e)—

(A) by striking “2011” and inserting “2012”;

(B) by inserting “section ____ (c) of the Emergency Senior Citizens Relief Act of 2010,” after “section 2202,” in paragraph (1), and

(C) by adding at the following new paragraph:

“(5)(A) For the Secretary of the Treasury, an additional \$5,200,000 for purposes described in paragraph (1).

“(B) For the Commissioner of Social Security, an additional \$5,000,000 for the purposes described in paragraph (2)(B).

“(C) For the Railroad Retirement Board, an additional \$600,000 for the purposes described in paragraph (3)(B).

“(D) For the Secretary of Veterans Affairs, an additional \$625,000 for the Information Systems Technology account”.

(c) EXTENSION OF SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES.—

(1) IN GENERAL.—In the case of an eligible individual (as defined in section 2202(b) of the American Recovery and Reinvestment Tax Act of 2009, applied by substituting “2010” for “2009”), with respect to the first taxable year of such individual beginning in 2010, section 2202 of the American Recovery and Reinvestment Tax Act of 2009 shall be applied by substituting “2010” for “2009” each place it appears.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 36A of the Internal Revenue Code of 1986 is amended by inserting “, and any credit allowed to the taxpayer under section ____ (c)(1) of the Emergency Senior Citizens Relief Act of 2010” after “the American Recovery and Reinvestment Tax Act of 2009”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION OF RULE RELATING TO DECEASED INDIVIDUALS.—The amendment made by subsection (a)(5)(F) shall take effect as if included in section 2201 of the American Recovery and Reinvestment Tax Act of 2009.

(e) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139), and designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Mr. SANDERS. I ask unanimous consent that Senator MENENDEZ of New Jersey be added as a cosponsor.

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

Mr. SANDERS. I yield the floor and 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. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SANDERS. Madam President, as senior citizens and disabled veterans all over this country know, this is the first year since 1975—36 years ago—that there will not be a Social Security cost-of-living adjustment or COLA. In my view, the fact that people in need—seniors, disabled veterans, people who have disabilities—will not be receiving a COLA this year is wrong and it is an issue we have to address and I hope we will address it successfully this afternoon, in terms of the amendment I will offer.

The reality is, in recent years, senior citizens, veterans, and persons with disabilities have slipped out of the middle class and into poverty. That is a reality—out of the middle class and into poverty. The reality is, today prescription drug costs are soaring, medical care costs for seniors and disabled people are soaring, and heating oil has gone through the roof, especially relevant to those of us in cold-weather States.

At a time when millions of seniors have seen the value of their pensions, their homes, and their life savings plummet, we cannot turn our back on some of the most vulnerable people in this country. They are hurting and they need our emergency support and that is why I am offering, today, along with Senators DODD, LEAHY, WHITEHOUSE, GILLIBRAND, LAUTENBERG, BEGICH, STABENOW, and MENENDEZ, an amendment which will provide over 55 million seniors, veterans, and persons with disabilities \$250—a one-time payment—in much needed emergency relief. This \$250 emergency payment is equivalent to a 2-percent increase in benefits for the average Social Security retiree, and it is the same amount seniors received last year as part of the Recovery Act.

Two percent is not a lot of money, but it will, in fact, provide much needed help to millions of people who are demanding we not turn our back on them. This amendment is supported by a wide array of seniors and veterans organizations representing tens of millions of Americans. Let me give some of the organizations that are supporting this amendment: the AARP, which is the largest senior group in America; the American Legion, the largest veterans group in America; the Veterans of Foreign Wars; the National Committee to Preserve Social Security and Medicare; the American Federation of Teachers Program on Retirement and Retirees; the Disabled American Veterans; the Alliance for Retired Americans; Easter Seals; the Military Officers Association; the Vietnam Veterans of America; the National Council on Aging; AMVETS; and many other organizations.

One of the side benefits of this amendment is that funds directed to this population will go almost immediately into the economy. These are folks who will spend that money, providing the quickest possible stimulus to local economies and thus creating jobs in every community in our country. President Obama is strongly supportive of this \$250 in emergency relief to seniors. The President has included it in his budget, and he has also recommended it be included in the underlying legislation we are debating today.

Here is what the President has said about this issue:

Even as we seek to bring about recovery, we must act on behalf of those hardest hit by this recession. That is why I am announcing my support for an additional \$250 in emergency recovery assistance to seniors, veterans, and people with disabilities to help them make it through these difficult times.

I very much appreciate the President's support for what we are trying to do here today.

In Vermont and all across this country, ordinary people believe the Congress is way out of touch with the realities of their lives. They believe that we just do not get it, that we do not understand that all over this country millions of people are hurting and that sometimes they are hurting desperately, that people are frantically trying to keep bread on their tables. People are trying to make sure they and their families can live with dignity, and they wonder if we in Congress get it. They know we are there for Wall Street. They know that. They know we are there to take care of big banks and insurance companies and drug companies, but they are not quite sure we are there to take care of vulnerable people who are elderly and who are disabled veterans.

Let me read some quotes from organizations and individuals on this issue. This is what the VFW has to say in support of this legislation:

This year veterans and seniors will not receive COLA. This could not come at a worse time. Your legislation would provide a one-time check of \$250 to 1.4 million veterans, 48.9 million Social Security recipients, and 5.1 million SSI recipients. We believe that this will provide some relief to those veterans and seniors living on fixed incomes.

We thank the VFW very much for their support.

Let me quote very briefly from the National Committee to Preserve Social Security and Medicare:

The National Committee strongly urges you to pass legislation to provide a \$250 payment to our Nation's seniors who did not receive a COLA this year. It is vitally important that we provide help for seniors of modest means who have been adversely affected by the economic recession and rapidly rising health care costs.

Here is a quote from AARP, a group that represents over 40 million Americans age 55 and older, in support of this amendment. This is what they say:

For over three decades, millions of Americans have counted on annual increases to

help make ends meet. In this economy, having this protection is even more critical for the financial security of all older Americans. AARP applauds the President for urging Congress to extend for 2010 the \$250 economic relief provided to older Americans last year.

Let me quote again from another statement by AARP which I think makes this case very cogently. I think they nail it, and they tell us why it is absolutely imperative that we pass this legislation.

Last year, the Social Security Administration announced that for the first time since it began in 1975, seniors will not receive an automatic cost of living adjustment for 2010. Although the lack of a COLA was triggered by low overall inflation—

And here is the point—the costs of the things seniors depend on most—prescription drugs and health care—have continued to increase above inflation. Seniors spend an average of 30 percent of their income on health care costs, 6 times greater than what those with employer-sponsored health care coverage spend, and these prescription drug costs, premiums, and copays have skyrocketed.

I think that is the main point to be made today. That is why we should support this one-time payment.

AARP, of course, is a large national organization.

Let me give some quotes from letters I have received from Vermont and from around the country.

A gentleman from central Vermont writes:

As you know, Social Security has not given a COLA increase on benefits in 2010, based on the CPI. I did some research and found these increases from January 2009 to January 2010.

This is what he has calculated.

Power rates are up by 7 percent; heating oil up by 15 percent; propane up by 24 percent; property taxes up 3.7 percent; gasoline up 16.6 percent; food up, conservatively speaking, 3 percent.

Here is where he said:

The CPI was obviously done by statisticians on vacation in Jamaica while sipping some tropical concoctions that impaired their judgment. These things above add up to nearly \$3,000. To cover this, I would require a 12 percent increase in my disability benefits.

This is from central Vermont. I do not agree with the writer of this letter that the statisticians came to their conclusions by sipping tropical concoctions in Jamaica. I don't think that is the case. But I do believe he is correct in suggesting that the methodology by which COLAs for seniors are established is not right. Here is why. COLA increases are determined by a look at the purchasing practices of the entire population—all of us—and that is not fair to seniors today, whose purchasing needs are very different from the average person's. As the AARP pointed out, seniors spend a very disproportionate amount of their limited incomes on health care, prescription drugs, et cetera. Those costs have gone up. In other words, while costs may have gone down for younger people who may be purchasing laptop computers, IPODs, GPSs, flatscreen TVs, cell phones, and

other products, they have not gone down for millions of seniors who are dependent and spend a whole lot on health care. By the way, that is why, when I was in the House, I offered legislation which received very strong bipartisan support to create a separate index for seniors in determining their COLAs. I do believe that is the direction we have to go.

I have received many letters. Let me read one more.

This comes from New Jersey. This is Claire from New Jersey:

I am 82 years old. Having been widowed and bankrupt at age 37 to raise my 3 young children alone, I thought that with my Social Security and my small pension plus by savings, I would never have to depend on my children to care for me in my old age. But now that my savings have been depleted by 30 percent and my health care insurance is costing me \$3,200 a year, I am very worried if my savings will last me much longer.

Elizabeth in Spur, TX, writes:

Social Security is my main source of income. I have bills that I couldn't pay if it wasn't for this income. I think that it is a disgrace that the Government will bail out the banks and car manufacturers but not sure if the elderly will get a COLA. The elderly are the people that have kept this country together for years and they are considering not giving them a little raise? I wish that some Members of the Congress and the Senate had to live on the income that we have to and see how they can manage, like the saying goes, if the shoe was on the other foot.

Let me conclude by pointing out that there is bipartisan support for the concept we are talking about today, especially in the House of Representatives. In that body, in the House, Congressmen WALTER JONES, RODNEY ALEXANDER, PHIL GINGREY, and ROSCOE BARTLETT—all Republicans—have introduced legislation which, frankly, goes further than the amendment I am offering. Instead of a one-time payment, they are proposing a 2.9-percent COLA for Social Security, which ends up, obviously, costing a lot more than a one-time payment of about 2 percent.

Here is what Congressman ALEXANDER, a Republican from Louisiana, said about his legislation:

Although the annual adjustment is a small increase, it is a much-needed benefit for our Nation's seniors to help them compensate for inflation and to sustain the skyrocketing prices of health care and prescription drugs. It is evident that the current Social Security system is not keeping up with our seniors' basic needs. Congress must take action today so that our Social Security beneficiaries are protected tomorrow.

That is from Congressman ALEXANDER, a Republican from Louisiana. I agree with the Congressman, and I hope all of my colleagues, Democrats and Republicans, will agree that seniors need emergency relief and they need it now.

Over 90 percent of the individuals who will receive this emergency relief make less than \$75,000 and over 8 million who will receive help under this amendment make less than \$14,000 a year.

That is where we are. Millions of people are wondering whether, in their times of need, when their costs are going up, when they are struggling to maintain their dignity—they are wondering whether a Congress that was there for Wall Street, a Congress which over a period of years has been there for the wealthiest people in this country, whether that same Congress will be there for disabled veterans and our seniors. I hope and believe we will be, and I ask for support for the amendment that will be voted on soon.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

AMENDMENT NO. 3352

Mr. BAUCUS. Mr. President, I understand we will have two amendments we will be voting on shortly; they will be the Thune amendment and the Grassley amendment. Let me say a few words about each—first, the Grassley amendment.

The Grassley amendment essentially extends the formula under which doctors are paid, reimbursed for Medicare services, by 3 more months. The underlying bill, in the formula known as sustainable growth rate, otherwise known as SGR, extends it for 7 months. Frankly, it is my preference, strange as it may sound, that the extension be not 7 months but 3 months, but when we negotiated out these provisions, it turns out the extension was 7 months.

You might ask why I favor a 3-month extension rather than 7 months. There are two reasons. The main reason is that I firmly expect health care reform to be passed within 3 months. If the formula, the sustainable growth rate, is extended for 3 months, that enables us, as soon as health care reform is passed, to then address how we then get a much better solution to the SGR, the sustainable growth rate, and my preference would be a permanent solution. I am afraid if we extend this for, say, 10 months and then health care reform is passed, fixing the permanent formula will not have the same urgency as it otherwise would.

So I do very much believe what we have now in the bill—7 months—is better than a 3-month extension. Another way of saying it, as much as I admire my good friend from Iowa, it would not be appropriate to adopt his amendment. In fact, I do not favor his amendment.

The second reason is probably more compelling, and that is, although he does pay for his amendment by extending the formula for 3 more months, he does so by taking the funds out of a fund which is used for Medicare. It is called the MIF, the Medicare Improvement Fund.

The Medicare Improvement Fund is very—it is almost essential so that we have funds to pay for the underlying health care bill. It is very important that the underlying health care bill be deficit neutral. We are working on certain modifications to the health care

reform bill, the bill that has passed the Senate. As we know, it is over in the House.

As the President announced just a few minutes ago, he wants us—I think it is the right thing to do—to pass a modification to that bill by a majority vote. If we are going to do that, we have to make sure it is deficit neutral. In fact, I would like it even better than deficit neutral; that is, that it would reduce the deficit. This Medicare Improvement Fund can help very much toward assuring us that the underlying bill, the health reform bill, is in fact deficit neutral.

So for those two reasons: One, I think it is better for us to pass health care reform using some of the funds in the Medicare Improvement Fund so we can make it deficit neutral, pass it, and then we can work on improving and finding a permanent solution to the sustainable growth rate formula, a formula that has bedeviled us for many years.

For those two reasons, I very much urge us to—as much as I appreciate the efforts of my good friend from Iowa, discretion is the better part of valor here. It would be better for us not to adopt that amendment because we do need those dollars to help make sure we can pay for the underlying health care reform bill.

There is another amendment we will be voting on soon. It is No. 3338, the Thune amendment. I support many of the small business tax relief concepts outlined by Senator THUNE. In fact, many of these will be discussed as part of the small business jobs bill to be introduced quite shortly. By that I mean in the next maybe week or two. I am not sure exactly when, but quite soon the Finance Committee will be marking up a small business jobs bill.

I spoke with Senator LANDRIEU, who is the chairperson of the Small Business Committee. We put together a small business jobs package which we think will be quite effective in helping small business people be more prosperous and have more people able to work for small business firms.

I might say, however, that Senator THUNE's amendment is problematic for two reasons. First, his amendment makes several provisions permanent. This is not the time for that discussion. Making these provisions permanent is expensive, and, therefore, permanent provisions need to be discussed as part of comprehensive tax reform.

Second, Senator THUNE's amendment would be offset with unspent and unallocated mandatory spending of stimulus funds. I might say there is growing evidence that the recovery package is working. There has been some debate over that proposition, but I think the wave of evidence is that the stimulus funds in the recovery package have had a significant positive effect. The Congressional Budget Office has said so.

Over the last 6 months of 2009, for example, the overall economy grew at an

annual rate of 4 percent. I am quite confident that had we not passed the stimulus measure, the growth rate would not be at that rate; it would be lower.

In the fourth quarter of 2009, the gross domestic product grew at an annual rate of 5.7 percent. Now, that might be somewhat artificially high because of inventory, but, nevertheless, that was the number. One year earlier, in the fourth quarter of 2008, it was actually declining at an annual rate of more than 5 percent.

Manufacturing in the United States expanded in August for the first time in 19 months. Just think of that. Manufacturing in our country expanded in August for the first time in 19 months.

Housing prices in many parts of the country have stabilized; some are even increasing. The Case-Shiller index of home prices has now risen 7 months in a row.

Unemployment is improving. According to the Congressional Budget Office, last year's Recovery Act added between 1 million and 2.1 million people to our country's payroll. The Recovery Act—that is the stimulus bill I am talking about—lowered the unemployment rate by between .5 percent and 1.5 percentage points from where it otherwise would have been.

In addition, the Federal Reserve and many independent economists have credited the stimulus with playing a role in stabilizing the economy. But we still have work to do. The national unemployment rate stands at 9.7 percent. The CBO estimates that 8 million jobs have been lost over the course of the "Great Recession." They also say unemployment may not be in its natural state of 5 percent until the year 2016.

Revoking stimulus funds now would send exactly the wrong signal to the American economy and to unemployed people in our country. Just think of that. Revoking stimulus funds now. Just think of the signal that would send. We know there are more funds in the pipeline. The stimulus program is working. We take that away, just think of the signal that would send across our country.

We passed stimulus to give a needed boost to our economy. The bill is designed to work over 2 years—2 years. We are in the second year now, just beginning the second year now. We have successfully started down the road to recovery, and the economy would falter if these funds were withdrawn.

I urge my colleagues to oppose this amendment.

AMENDMENT NO. 3338, AS FURTHER MODIFIED

Mr. President, I ask unanimous consent that at 2:45 p.m., the Senate proceed to vote in relation to the following amendments, in the order listed, with no amendments in order to the amendments prior to this vote; that prior to each vote there be 4 minutes of debate equally divided and controlled in the usual form: Thune amendment No. 3338, as modified, and that prior to the vote it be further modified with the

changes at the desk; and the Grassley amendment No. 3352.

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

The amendment, as further modified, is as follows:

AMENDMENT NO. 3336, AS FURTHER MODIFIED

At the end, insert the following:

TITLE —ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking “\$25,000” and all that follows in paragraph (1) and inserting “\$500,000.”,

(2) by striking “\$200,000” and all that follows in paragraph (2) and inserting “\$2,000,000.”,

(3) by striking “after 2007 and before 2011, the \$120,000 and \$500,000” in paragraph (5)(A) and inserting “after 2009, the \$500,000 and the \$2,000,000.”,

(4) by striking “2006” in paragraph (5)(A)(ii) and inserting “2008.”, and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “and before 2011”.

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking “January 1, 2011” in subparagraph (A)(iv) and inserting “January 1, 2012”, and

(2) by striking “January 1, 2010” each place it appears and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking “JANUARY 1, 2010” and inserting “JANUARY 1, 2011”.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking “PRE-JANUARY 1, 2010” and inserting “PRE-JANUARY 1, 2011”.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

“(iv) ‘January 1, 2011’ shall be substituted for ‘January 1, 2012’ in subparagraph (A)(iv) thereof, and

“(v) ‘January 1, 2010’ shall be substituted for ‘January 1, 2011’ each place it appears in subparagraph (A) thereof.”

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(5) Subparagraph (C) of section 168(m)(2), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

“(a) EXCLUSION.—

“(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

“(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

“(C) 100 percent, in the case of stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.

“(3) EMPOWERMENT ZONE BUSINESSES.—

“(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (2)(A) shall be applied by substituting ‘60 percent’ for ‘50 percent’.

“(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

“(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

“(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.”

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking “partial”.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking “Partial exclusion” and inserting “Exclusion”.

(C) Section 1223(13) is amended by striking “1202(a)(2).”.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: “The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.”

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking “\$10,000,000” and inserting “\$15,000,000”.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking “paragraph (1)(A) shall be applied by substituting ‘\$5,000,000’ for ‘\$10,000,000’” and inserting “the amount under paragraph (1)(A) shall be half of the amount otherwise in effect”.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking “\$50,000,000” each place it appears and inserting “\$75,000,000”.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the \$15,000,000 amount in subsection (b)(1)(A), the \$75,000,000

amount in subsection (d)(1)(A), and the \$75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$1,000,000 such amount shall be rounded to the next lowest multiple of \$1,000,000.”

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

“(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

“(A) 9 percent of the lesser of—

“(i) the qualified production activities income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year, and

“(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

“(i) the eligible small business income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year.”

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

“(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

“(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term ‘eligible small business’ means, with respect to any taxable year—

“(A) a corporation the stock of which is not publicly traded, or

“(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting ‘\$50,000,000’ for ‘\$5,000,000’ each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

“(2) ELIGIBLE SMALL BUSINESS INCOME.—

“(A) IN GENERAL.—For purposes of this section, the term ‘eligible small business income’ means the excess of—

“(i) the income of the eligible small business which—

“(I) is attributable to the actual conduct of a trade or business,

“(II) is income from sources within the United States (within the meaning of section 861), and

“(III) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

“(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

“(i) Any income which is attributable to any property described in section 1400N(p)(3).

“(ii) Any income which is attributable to the ownership or management of any professional sports team.

“(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

“(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

“(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

“(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.”

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC.—05. NONAPPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT.

(a) TAX-FAVORED BONDS.—Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

(b) STIMULUS PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subchapter IV of chapter 31 of title 40, United States Code, shall not apply to any project funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009.

(2) CONFORMING AMENDMENT.—Section 1606 of division A of the American Recovery and Reinvestment Act of 2009 is hereby repealed.

(3) EFFECTIVE DATE.—This subsection shall apply to contracts entered into after the date of the enactment of this Act.

Subtitle B—Transfer of Stimulus Funds

SEC.—11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues resulting from the enactment of this title.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, I ask unanimous consent to call up amendment No. 3358, that it be pending, and then set it aside.

Mr. BAUCUS. Mr. President, reserving the right to object, first, will the Senator tell me the content of the amendment?

Mr. COBURN. I am sorry?

Mr. BAUCUS. Reserving the right to object, tell me the content.

Mr. COBURN. This is an amendment that discusses the amount that the Secretary of the Senate will put up on

our Web site, the amount of new programs; that we publish the total amount of spending, discretionary and mandatory, passed by the Senate that has not been paid for.

Mr. BAUCUS. I appreciate that. This is something that I do not like doing. I am constrained to object, however, because we have had requests from other Senators who wish to bring up their amendments, and, frankly, we have asked them to defer temporarily so we can set up a reasonable order back and forth of Senators.

Regrettably, I do not like objecting, but I do feel constrained to object to the Senator's request.

The ACTING PRESIDENT pro tempore. Objection is heard.

AMENDMENT NO. 3358 TO AMENDMENT NO. 3336

Mr. COBURN. I ask again unanimous consent to call up amendment No. 3358, and immediately after it is called up it be set aside.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3358 to amendment No. 3336.

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

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

The amendment is as follows:

(Purpose: To require the Senate to be transparent with taxpayers about spending)

At the appropriate place, insert the following:

SEC. ____ . SENATE SPENDING DISCLOSURE.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (<http://www.senate.gov/>) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

Mr. COBURN. I thank my colleague from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

AMENDMENT NO. 3342 TO AMENDMENT NO. 3336

(Purpose: To amend the Internal Revenue Code of 1986 to impose an excise tax on excessive 2009 bonuses received from certain major recipients of Federal emergency economic assistance, to limit the deduction allowable for such bonuses, and for other purposes)

Mr. BAUCUS. I ask unanimous consent to set aside the pending amendment and call up amendment No. 3342 offered by Senators WEBB and BOXER.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. WEBB and Mrs. BOXER, proposes an amendment numbered 3342 to amendment No. 3336.

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

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

(The amendment is printed in the RECORD dated March 1, 2010, under “Text of Amendments.”)

AMENDMENT NO. 3338

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 3338, as further modified, offered by the Senator from South Dakota, Mr. THUNE.

Who yields time? If no one yields time, time will be charged equally.

The Senator from Montana.

Mr. BAUCUS. Mr. President, the first two votes will be on the Thune amendment and the Grassley amendment. The Thune amendment has its heart in the right place. It is trying to help small businesses and provide jobs. But, frankly, it has two very significant problems. Therefore, I urge it not be adopted.

First, it makes permanent many provisions of the tax law that actually should be considered in tax reform. This is not the place to be writing tax reform. Our code is riddled with inconsistencies. Many of the provisions in the code fit together. Some don't. There are loopholes. There is a lot of overhaul needed, if we are going to have significant tax reform. We should address those issues at the right time and the right place but not here. It does not make sense to make certain provisions in the Tax Code permanent.

The second flaw is, to pay for his provisions, Senator THUNE uses excess stimulus funds, funds out of the Recovery Act. The CBO says the Recovery Act is working well.

Last month CBO issued its report on the effects of the Recovery Act in the fourth quarter. In that report, CBO said:

CBO estimates that in the fourth quarter of calendar year 2009, the [Recovery Act] added between 1 million and 12.1 million to the number of workers employed in the United States, and it increased the number of full-time-equivalent jobs by between 1.4 million and 3 million.

They say the Recovery Act created or saved between 1 and 3 million jobs. That is why we need to defeat efforts such as those of the amendment offered by the Senator from South Dakota. The Recovery Act is working. Most economists say it is working. If it is working, we should let it continue working. We should not take away dollars from it.

I urge the Thune amendment not be adopted.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Who yields time in favor of the amendment?

Mr. BAUCUS. I don't see Senator THUNE. It may be a bit presumptuous, but I ask unanimous consent that the time be yielded back, although it is not my place to make that request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. Mr. President, I understand he is on his way.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I was going to inquire of the chairman if he had locked in a speaker after the vote.

Mr. BAUCUS. No, it has not been locked in, but I will do so right now. I ask unanimous consent that the Senator from North Dakota, Senator DORGAN, be recognized to speak immediately after the next series of votes and that the Senator from New Hampshire, Mr. GREGG, be recognized to speak thereafter.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

All time has expired.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending Thune amendment violates section 311 of the Congressional Budget Act.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. I move to waive the applicable section of the Budget Act with respect to the amendment and ask for the yeas and nays.

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

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 38, nays 61, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—38

| | | |
|------------|-----------|--------|
| Alexander | Bunning | Corker |
| Barrasso | Burr | Cornyn |
| Bennett | Chambliss | Crapo |
| Bond | Coburn | DeMint |
| Brown (MA) | Cochran | Ensign |
| Brownback | Collins | Enzi |

| | | |
|----------|-------------|----------|
| Graham | LeMieux | Sessions |
| Grassley | Lugar | Shelby |
| Gregg | McCain | Snowe |
| Hatch | McConnell | Thune |
| Inhofe | Nelson (NE) | Vitter |
| Isakson | Risch | Wicker |
| Kyl | Roberts | |

NAYS—61

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

NOT VOTING—1

Hutchison

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment fails.

AMENDMENT NO. 3352

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate prior to a vote in relation to amendment No. 3352 offered by the Senator from Iowa, Mr. GRASSLEY. The Senator from Montana.

Mr. BAUCUS. Mr. President, I oppose the Grassley amendment for two reasons. I oppose it reluctantly. Senator GRASSLEY is a very decent man. His heart is almost always in the right place. It is in the right place here, but I oppose this amendment.

First, the amendment seeks to extend a stopgap measure for the payments of doctors under Medicare, but we should not prolong stopgap measures. We should pass a short-term stopgap, and then we should make meaningful payment reform for the payment of doctors under Medicare. That is what doctors want. That is what would be very much in the best interests of seniors, and that is the responsible way to govern.

Second, the Grassley amendment takes its offsets away from the underlying health care bill; that is, the bill we are trying to pass in this next several weeks. Thus, it would undercut health care reform. We need the savings we included in the health care bill, especially the health reform bill. We should not be robbing the health care bill of its offsets. For those reasons, I oppose the Grassley amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, I ask unanimous consent to add Senators BOND and BENNETT as cosponsors.

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

Mr. GRASSLEY. Mr. President, my amendment extends critically needed

Medicare provisions for all of 2010, not just part of it. It replaces the provisions that are not fully offset with fully offset provisions, and it adds an additional 3 months for the physician update through the end of 2010. This amendment draws additional funds from the Medicare improvement fund to ensure these provisions are fully offset.

My friend from Montana said that is not the place to take the money from, but his substitute amendment takes money from the very same fund. I take a little bit more, yes, but I don't think a few billion in funding needed here will make much of a difference when it comes to the \$2.5 trillion cost of health care reform, as was suggested earlier. So I don't see that as a valid argument for not paying for these Medicare provisions.

Going back to the situation at hand, the 30-day extension that passed last night only prevents payment cuts until the end of March. Physicians and Medicare beneficiaries need to have certainty and be ensured access to care. This is the fiscally responsible way to pay for these important Medicare provisions.

We need to pass this very essential amendment now, so I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time do I have remaining?

The PRESIDING OFFICER. There is 57 seconds remaining.

Mr. BAUCUS. Mr. President, this is very simple: \$10 billion is \$10 billion. This amendment takes \$10 billion away from health care reform. We must pass health care reform this year, and we need the dollars we can get. Ten billion dollars is a lot. Right now, as we are trying to put this bill together, we are very close to making sure this budget is deficit neutral. In fact, we would like it to be better than deficit neutral. This \$10 billion counts. We should not rob health care reform in order to pay for an extension of the doc fix that is not needed at this time. We will take care of the doc fix after we take care of health care reform.

Mr. GRASSLEY. Mr. President, do I have some time?

The PRESIDING OFFICER. The Senator from Iowa has 26 seconds remaining.

Mr. GRASSLEY. Good. I am glad I have 26 seconds. His amendment takes \$8 billion away from the Medicare improvement fund, mine takes \$10 billion away.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, for all those reasons, I move to table the amendment, and I ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—54

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

NAYS—45

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

NOT VOTING—1

Hutchison

The motion was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is that following my presentation, Senator GREGG is going to be recognized, or a Republican speaker. I ask unanimous consent that following the Republican speaker, Senator STABENOW be recognized on our side. I do that with the consent of the chairman of the committee.

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

COBELL LAWSUIT

Mr. DORGAN. Mr. President, I wish to discuss two amendments, one of which I have filed and one of which I will file shortly. Before I do that, I have spoken with Senator INOUE, Senator FEINSTEIN, and some others about something that is very important. It is the settlement of the Cobell lawsuit. The Cobell lawsuit has been in the Federal courts for 13 years. After a long period of negotiation between the Secretary of the Interior, other parts of our Federal Government, and the plaintiffs in lawsuit, there is finally an

agreement that has been reached. The agreement would provide \$3.4 billion to settle outstanding claims and address issues going back well over 100 years in which the Federal Government was supposed to be taking care of the trust accounts of American Indians. Some of those trust accounts were fleeced, stolen, and mismanaged.

This lawsuit has been going on for a long period. The agreement settles the claims of American Indians who lost their money, lost their assets, and lost their income. Many American Indians have died during the process of this lawsuit.

Now that a settlement has been reached, there is an April 16 deadline. The parties to the settlement agreement set an end date by which the Congress must act, or the parties may return to litigation. My hope is that the Congress will be able to meet that deadline. We really do need to put this issue behind us. It is a sorry chapter in this country's history. For over a century we have mismanaged the property, income, and royalties of American Indians. All of this resulted in the filing of a lawsuit.

I commend the Secretary of the Interior, Secretary Salazar, who has worked so hard to reach this agreement.

Having said that, let me describe two amendments I wish to offer to this legislation. One is an amendment I have offered on a number of occasions over the years. It is important to offer it again this year and get it done.

President Obama mentioned during his State of the Union Address that he wanted this legislation passed by the Congress. It is painfully simple. My amendment says when an American business shuts down its manufacturing plant in this country, locks the doors, fires the workers, and then moves the jobs overseas someplace for the purpose of selling the product they produce overseas back into our country, they should not get a tax break. Yet, under today's Tax Code, they, in fact, are rewarded with a tax break.

This amendment would end that ill-advised tax break and say: You are not going to be rewarded anymore in our Tax Code by shipping jobs overseas and then selling the product back into our marketplace. This should have been corrected long ago. It should be corrected now.

The amendment I filed is amendment No. 3375. My hope is we will be able to debate and vote on this amendment.

I described the other day this issue we have of trying to find new jobs and seeing how we can incentivize the creation of new jobs in our country. About 17 million people woke up this morning in this country without work, without a job, and wanting a job and are going to spend today looking for work and not be able to find it. We are trying to find ways to incentivize the creation of jobs. That bill is the faucet, trying to put more jobs in this economy.

What about the drain? What about all these jobs leaking out of this econ-

omy to China and elsewhere? Let me describe some of them, if I might. These are well known. I have told other stories on the floor many times.

Levis, the product of America. America invented Levis. People wear Levis all around the world, except Levis are made virtually everywhere in the world except the United States. They are all gone. We do not make one pair of Levis in the United States. Fruit of the Loom underwear; gone to Mexico; gone to Asia. Samsonite went to Mexico, then to China. Maytag now makes their appliances in Mexico and Korea. Hershey's chocolate. You know, Hershey's chocolate advertises York Peppermint Patties and they say: The cool, refreshing taste of mint dipped in dark chocolate will take you miles away. Well, apparently so many miles it ends up in Mexico—Mexico.

I have mentioned often the cookies made by the Nabisco Company—Fig Newtons. If somebody says to you: How about going to have a Mexican dinner, just buy a package of Fig Newtons. They left New Jersey and went to Mexico. I don't know if it is cheaper to shovel fig paste in Mexico than it is in New Jersey, but it is made by a company called Nabisco. You know what that stands for? The National Biscuit Company. Except the national biscuit, in this case, is made in Mexico.

Well, the list goes on and on and on. Hallmark Cards. Hallmark Cards was here for a century—a privately held Kansas City, MO, company, founded by a high school dropout who started the company in 1910 with a shoebox full of postcards. He made a living by selling them while working out of a YMCA in Kansas City, and it became an unbelievably successful greeting card company. All of us know that. Under its current management, despite annual revenues, I understand, of over \$4 billion, they started to move jobs from Kansas City to three plants in China. You know, the company who cares enough to send you the very best? In this case, it sends you the very best from China.

My point is that I understand there are a whole lot of companies going to search for people who work for 50 cents an hour and whom they can work 7 days a week, 12 to 14 hours a day, and that is better for their bottom line. It enhances their profit when they can do that. But when they leave America, deciding they are going to produce Etch A Sketch in Shenzhen, China, and then ship it back to a Walmart here in the United States to sell—when that happens, and that town in Ohio that was known for producing Etch A Sketch, the little toy that all of us have used as a child—we ought not be saying good for you, we will give you a tax break.

When the Radio Flyer little red wagon—the wagon we have all ridden in, started by a guy in Chicago, and for 110 years they made Radio Flyer little red wagons in the United States—when they moved the production of little red

wagons to China, we shouldn't give a tax break for those that are sold back into this country—a company that moves their jobs elsewhere in order to produce and then sell back into our country. We ought to say: You know what, you are not going to get a tax break for that.

Let me give an example of two companies, and two companies that make bicycles; all right? They are made in factories that are on the same street corner but on different sides of the street. One is called Huffly Bicycles. Most people have known the Huffly Bicycles and ridden them in their youth. The other is ABC Bicycle, hypothetically. Huffly Bicycles decides they are paying \$11 an hour to their American workers, plus benefits, and they think that is way too much to pay an American worker so they leave America and go to China. And by the way, that is true. They did. The other company stays here and says: No, we are going to keep our American workers and keep our American plant open and keep these jobs in America. What is the difference between the two? When they are competing at Sears or Walmart or Kmart in this country, what is the difference between the two bicycles? Well, one was rewarded with a tax break because their production was sent overseas, and the other has a competitive disadvantage because it was made here by American workers. And that ought not stand.

This President asked during his State of the Union Address for us to plug this hole. It raises money, reduces the Federal budget deficit and finally says to American workers: We are on your side. We are not going to give a tax break to companies that ship their jobs overseas and sell their products back in America.

It is a very simple amendment. I don't know anyone who would wish to vote against this amendment. Yet, interestingly enough, I have offered it for many years and have not been successful for a number of reasons. Occasionally, we have had a vote, but most often it gets thrown off in a parliamentary procedure of some type. But this is a bill that is open to amendment on revenue issues, and my hope is that at last—at long, long last—at a time when so many millions of Americans wish they had a job and don't, at a time when we still have so many companies moving their jobs away from our country to other countries only to sell back into our country that which they made in China or elsewhere, my hope is that finally we will say we won't allow this to happen any more with a reward in our Tax Code for those that do it.

I was on an airplane a while back, and I sat next to a guy who was wearing casual clothes—sweat pants and so on—and we said hello to each other. I said: Where are you headed? He said: Asia. That is why I am dressed this way; I have 25 more hours of flying. I said: What are you going to do when you reach Asia? He said: Well, I am

going to Thailand, Singapore, and I am going to China. He said: What we are trying to do with my company is we are trying to move our jobs from the United States to Asian locations and save some money in the production of these products we make. So I am going out now to Thailand and Singapore and China to scout out locations for our new manufacturing plants in Asia because we are going to move our jobs.

I was sitting next to this guy thinking: You know, there will be hundreds and hundreds of American workers who, that morning, instead of getting on an airplane as he and I did, are going to a manufacturing plant somewhere to make a product for his company, but they don't know yet that he is on an airplane to try to find a way how to move their jobs to Singapore or to China or to Thailand. And isn't that a shame?

Some will listen to this and say: Well, that is just protectionism. Listen, closing a tax break that rewards people from moving jobs overseas isn't protectionism. Keeping that tax break open is, in my judgment, ignorance. Standing up for fair play and standing up for American jobs is not protectionism, it is doing everything we ought to do to be supportive of the kind of economy we want and the kind of good jobs we want in this country's future.

That is one amendment. The second amendment deals with an issue that most people, I am sure, can hardly believe their ears when they hear about it. This is an issue I have spoken about previously, and some of this issue has been resolved but not all of it. As is usually the case when something abusive is happening, it gets shut down in part but not in total, because you say: Okay, let's stop it as of this date.

I am talking about something called SILOs and LILOs especially SILOs, or sale-in/lease out transactions. Most people don't know what that means—sale in, lease out. It doesn't mean they aren't smart. It is a title in the Tax Code that describes an activity that was created by some people who wanted to avoid paying U.S. taxes. They want everything America has to offer, they just don't want to pay taxes to their country.

Let me describe what has been happening in the last couple of decades, and this is almost a perfect description of the perversion in our economy and the greed in our economy by some—not all, but by some—who steered this place into the ditch. Here it is: A cross-border lease of Dortmund, Germany's streetcars—a company called First Union Bank, which is now something else because it has been bought two additional times. So First Union Bank in America wants to lease streetcars in Germany. Why would it want to lease streetcars in Germany? Because it wants to run German streetcars? No, because from a German city it can lease the city's streetcars and take those assets in a lease-in/ leaseback

transaction and get tax breaks so it can avoid paying U.S. taxes.

Transactions involving streetcars is one thing, but here is a tunnel that one of our American companies bought—a tunnel in Antwerp, Belgium. Think of that, an American company deciding to buy a tunnel in Antwerp, Belgium. Why? Because they like tunnels, know something about tunnels? They don't have the foggiest idea about Belgian tunnels. It is a sale leaseback transaction used to avoid paying U.S. taxes.

But here is one that really struck my interest. Wachovia Bank which, by the way, has now been purchased by someone else. They ended up with a belly full of bad assets. And we ought to ask the question how did that happen? How did it happen that a massive amount of toxic bad assets landed in the belly of this bank—Wachovia Bank? But Wachovia Bank bought a sewer system in Bochum, Germany. Why would Wachovia Bank want to own a sewer in Germany? Because they have people on the board of directors who are experts in German sewers? I don't think so. Do we think maybe they have hired a new class of MBAs who are specialists in sewer valuations in Germany? I don't think so. An American bank wants to buy a German sewer system for the fact that it is a sale and leaseback. The German sewer system is sold to an American bank. Does this bank ever go over and seize possession of a sewer pipe? They never even see a sewer pipe. All they want is a paper transaction so they can depreciate the property to avoid paying U.S. taxes. And in this case it is reported on Frontline that Wachovia Bank saved \$175 million by this scam of buying a German city's sewer system. Unbelievable.

By the way, this has been going on for some while before we were able to shut most of it down. I would also say that I often speak of the fact that there are some companies that are now stepping forward to the IRS—I believe about 45 companies have now stepped forward—and said they are willing to pay for the benefits they received, even prior to the time this was shut down. But there are some transactions that were allowed to continue, and we have American companies that continue to get the benefit of those transactions. My position is simple: This is abusive, it is unmitigated greed, and it should have been shut down—all of it shut down. The Internal Revenue Service, by the way, is still going back even beyond that date which was in the Federal law and challenging these in court. In fact, there are a couple of very large companies at this point that are still disputing this and saying these are perfectly reasonable transactions. Shame on them. This doesn't meet a third grade laugh test—an American company picking up a German sewer system.

In fact, one American company bought a city hall from a German town, and the auditor in that town said: Well, we don't understand it, but

if that is what the Americans want to do with their money, God bless them. It wasn't their money. What they were doing was sucking money out of the coffers of this government, because in many cases they are companies that are trying to find every way possible to avoid their Federal tax obligations. Yes, they want all the benefits America has to offer, except they don't want the obligation of paying their full measure of taxes, as most people do.

Most people who go to work in the mornings work an honest day, they come home, and at the end of the year, when it is time, they file their tax return. They have had their withholdings and they pay their taxes to our country, to our government. But there are a whole lot of interests that are much bigger that find ways to send people around the world not only to move their jobs to where they can find 50-cent-an-hour labor, but perhaps while they are there, they might pick up a sewer system to boot so they can avoid paying U.S. taxes. That way they can move your job overseas and avoid paying taxes at the same time, because you get a tax break for shutting your American plant down and moving your American jobs overseas, which I hope to shut down with my first amendment; and then you get a tax break by buying a German sewer system and depreciating it and getting a tax break under the Tax Code.

Both of these amendments deserve to be passed. Both would raise money for the Federal Government, both would reduce the Federal deficit and both have substantial merit. Will I get a vote on these? I hope so. One is now filed and the other will be filed in a short period of time. I hope very much that I will be able to get the opportunity to have a vote here in the Senate and close these tax breaks.

Let me say that there are a whole lot of businesses in this country that are working very hard to make it. Many American businesses have had to steer through very difficult times. This is the deepest recession since the Great Depression, and there are a lot of businesses, large, medium, and small, that are struggling every day to try to navigate through this deep economic abyss. Boy, I give them great credit. Many of these owners have risked their entire life savings to run their business. They get up in the morning and put the key in the door and open their businesses.

So, look, what I want to have happen is for us to recognize good businesses in this country that do the right thing every day—that hire American workers, produce products and strengthen this country's economy. My point is those businesses are at a significant disadvantage if we continue to say to the business across the street: Move to China and produce these products in China and, by the way, we will give you a tax break for doing it. And we say to those who stay here: You know what, you shouldn't have stayed here, because you would have gotten a tax

break if you had left. That is exactly the wrong message. What we should do for those who stay is to reward them. They are the heroes. They make up the economy, the foundation, the strength of what America is, instead of rewarding those who do exactly the wrong thing for this country.

These are my two amendments that I would like to offer.

Let me just, finally, say this. I know I get upset sometimes when I talk about the abusive pieces of this tax policy and the abuse, I think, of trade policy that has resulted in the loss of more than 5 million manufacturing jobs. By the way, the loss of 1.5 million manufacturing jobs in the last 12 to 15 months—think of that. Think of 1.5 million households in which someone wakes up and says: I am jobless. I don't have a job anymore. I used to make furniture but that furniture manufacturer is gone. I used to make tool and die machines—gone. You name it.

I told the story the other day on the floor of the Senate about Pennsylvania House furniture, which is such a great example of what is happening in this country. Governor Wendell did everything he could to keep this great furniture company in Pennsylvania. They use Pennsylvania wood, so Pennsylvania House furniture was known as an upscale furniture manufacturer that used special wood from Pennsylvania. Then they were purchased by La-Z-Boy. By the way, La-Z-Boy is also leaving, but that is a different story.

They were purchased by La-Z-Boy, and La-Z-Boy decided they were moving Pennsylvania House furniture to China and just going to ship the Pennsylvania wood to China and put together the furniture and ship the furniture back. Governor Wendell did everything he could to prevent that from happening, but it happened.

The last day of work at the factory where they had spent a century, the craftsmen who put that furniture together got together, and the last piece of Pennsylvania House furniture that came off the manufacturing line every employee in that company gathered around, they tipped it upside-down, and every one of them signed the bottom. Somebody in this country, perhaps, has a piece of furniture they don't quite understand. It has the signature of every last craftsman to work in that manufacturing plant in this country.

That pride of production and contribution to this country is by workers who just want a job, who want a country that does not move its manufacturing jobs elsewhere but values its manufacturing jobs in this country.

In 2008, La-Z-Boy said in the next 2 years it would move 1,050 employees in Dayton, OH, to the plant in the Mexican State of Coahuila. They previously moved other jobs to China, but they did say this:

We regret the impact the moves will have on the families and lives of those employed affected, and greatly appreciate the contribution each of them made with their dedicated services.

So 1,050 people discovered their jobs were gone. But the same company, then, is the one who moved the Pennsylvania House furniture long before that.

We have a lot to fix in this country, but we will. I am convinced our country's better days are ahead if we make the right judgments. If we pass both of these amendments I have offered, it will make a contribution significantly toward things that matter a lot in American families: good jobs that pay well that give them some confidence in the future.

I suspect I can't ask unanimous consent to pass both pieces, both amendments at the moment, so I will negotiate with the chairman of the committee to see if we can't get votes on both in the days to come.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3382 TO AMENDMENT NO. 3336

Ms. STABENOW. I realize Senator GREGG is up to speak. I do not see him on the floor. I will be only a few minutes, and then I will ask unanimous consent he be recognized after me when he comes to the floor.

Mr. President, in a few moments I am pleased I am going to be offering an amendment that is strongly supported by Members on both sides of the aisle to focus on jobs and investments in equipment for companies that are currently not making a profit—which, unfortunately, is too many across the country right now. We want to make sure they have an opportunity to have the capital they need to be able to grow as well.

I thank Senator HATCH and Senator SCHUMER, Senator CRAPO, Senator SNOWE, and Senator RISCH for working with me on an amendment that would provide companies with an immediate source of capital to make increased investments in our country and spur job creation.

Since the start of the recession in December of 2007, the Nation has lost more than 8 million jobs, as we know. It is an economic tsunami, what has happened to families in this country. The national unemployment rate skyrocketed from 5 percent to 10 percent as companies are forced to cut costs and to lay off workers to remain viable just to keep the ship afloat.

Our State, of course, the great State of Michigan, is much worse since we are at about a 14.6-percent unemployment rate right now, and we certainly are feeling the brunt of what has been happening. These companies also continue to face significant challenges in raising much-needed capital for new investments to be able to keep people working.

This amendment would allow struggling companies of all kinds that do not benefit from other similarly designed incentives—such as bonus depreciation or expanding the NOL carryback period, and other things—to utilize their existing AMT credits based on new investments they make in 2010. So if they make investments, we would allow them to use credits they cannot use right now because those credits can only be used against a profit, and they don't have a profit.

In addition to encouraging companies to increase investments to maintain and expand jobs, the amendment also makes available a badly needed source of capital. We have all been talking about access to capital. This is an important way we can make this available at no real cost to the Federal Government. I think that is what is important about this amendment. AMT credits are actually prepayments of tax which the taxpayer can offset with future tax liability, dollar for dollar. So these are prepayments.

Normally, if they were making a profit they would be able to offset their taxes and maintain additional revenue and capital, but they are not in a position to do that right now. So at some point we, in fact, would be giving them credit, and they would be able to use these credits and be able to keep capital. But they cannot right now. So in a sense we are just moving up the day by which they can access the capital that is available with AMT credits. Since the credits never expire, the proposal merely accelerates when the credits are used.

This amendment would allow companies to be able to cash in their built-up tax credit so they can build factories, buy equipment, and create jobs. Specifically, it will allow companies to utilize their existing AMT credits up to 10 percent of a new investment that they make in a manufacturing facility and in equipment purchased this year, in 2010. No company would be able to claim more than 50 percent of the value of the credit.

To accelerate the economic impact of allowing companies to be able to access this capital and use the credits, the proposal would allow for an expedited refund process similar to current law rules for net operating losses.

A company that elects the 5-year, net-operating year-loss carryback enacted earlier, which I supported strongly, would not be eligible to claim the benefits of this proposal. So it would be only those who cannot access other proposals we put forward because of the critical nature of helping companies not making a profit, being able to help them access capital. The amendment would be offset by improving tax compliance from individuals who receive rental income from properties.

The provision, originally proposed in the President's fiscal year 2009-2010 budgets, would require people who received rental income on real estate to be subject to the same information re-

porting requirements as taxpayers who receive income from a trade or business.

This proposal would benefit a broad range of companies, including airlines, manufacturers, energy companies, high-tech companies—across the board, companies large and small that currently find themselves in a position where they are not making a profit but have built up these prepaid credits.

We have support from the U.S. Chamber of Commerce, the National Association of Manufacturers, the Association of Manufacturing Technology, Association of Equipment Manufacturers, and Motor and Equipment Manufacturers Association. Some of the many U.S. employers who support the proposal are American Airlines, Applied Micro Devices, Arch Coal, Associated Builders and Contractors, Bosch, Cliffs Natural Resources, CMS Energy, Consul Energy, Delta Airlines, Daimler, General Motors, Goodyear, Micron, National Mining Association, Owens Illinois, Peabody Energy, Qwest, T-mobile, and Xerox.

These are all major companies employing thousands, tens or hundreds of thousands of people who are needing access to capital. They have prepaid these credits. They need access to capital now so they can maintain their workforce and, hopefully, expand it and invest in the equipment that will allow them to grow.

This amendment, again, is one that has broad bipartisan support. It will allow us to essentially move forward the ability for companies to use these AMT credits that they have already paid into, the dollars they have already paid. This is something that will allow companies to get the equipment, the tools that are necessary; so as they are using that jobs credit we passed and hiring people or continuing to be able to grow and invest in the business and keep the employees they have, that they will be able to get some assistance within the legislation we are passing.

Again, let me just indicate that I very much appreciate colleagues who have joined me. Senator HATCH, Senator SCHUMER, Senator CRAPO, Senator SNOWE, Senator RISCH, and we have others, I know, who are very interested in joining us as well.

I believe at this point I have not heard for sure if we are in a position to actually call up the amendment at this point.

At the moment, if we are in a position to call up the amendment? I am looking to staff to determine whether we are in a position to do that at this point? We are? All right.

Then, Mr. President, I ask unanimous consent the pending amendment be set aside, and I will call up amendment No. 3382.

Mr. BAUCUS. Mr. President, I don't know that we are in that position yet at this point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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. I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 3382.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. HATCH, and Mr. SCHUMER, proposes an amendment numbered 3382 to Amendment No. 3336.

Ms. STABENOW. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain American jobs through new domestic investments, and for other purposes)

At the end of title VI, add the following:

SEC. 602. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

“(g) ELECTION FOR CORPORATIONS WITH UNUSED CREDITS.—

“(1) IN GENERAL.—If a corporation elects to have this subsection apply, then notwithstanding any other provision of law, the limitation imposed by subsection (c) for any such taxable year shall be increased by the AMT credit adjustment amount.

“(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term ‘AMT credit adjustment amount’ means with respect to any taxable year beginning in 2010, the lesser of—

“(A) 50 percent of a corporation's minimum tax credit determined under subsection (b), or

“(B) 10 percent of new domestic investments made during such taxable year.

“(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term ‘new domestic investments’ means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

“(A) the original use of which commences with the taxpayer during the taxable year, and

“(B) which is placed in service in the United States by the taxpayer during such taxable year.

“(4) CREDIT REFUNDABLE.—For purposes of subsections (b) and (c) of section 6401, the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not to any other subpart).

“(5) ELECTION.—

“(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once effective, may be revoked only with the consent of the Secretary.

“(B) INTERIM ELECTIONS.—Until such time as the Secretary prescribes a manner for making an election under this subsection, a

taxpayer is treated as having made a valid election by providing written notification to the Secretary and the Commissioner of Internal Revenue of such election.

“(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, any corporation’s allocable share of any new domestic investments by a partnership more than 90 percent of the capital and profits interest in which is owned by such corporation (directly or indirectly) at all times during the taxable year in which an election under this subsection is in effect shall be considered new domestic investments of such corporation for such taxable year.

“(7) NO DOUBLE BENEFIT.—Notwithstanding clause (iii)(II) of section 172(b)(1)(H), any taxpayer which has previously made an election under such section shall be deemed to have revoked such election by the making of its first election under this subsection.

“(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including to prevent fraud and abuse under this subsection.

“(9) TERMINATION.—This subsection shall not apply to any taxable year that begins after December 31, 2010.”

(b) QUICK REFUND OF REFUNDABLE CREDIT.—Section 6425 is amended by adding at the end the following new subsection:

“(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT AMOUNT.—The amount of an adjustment under this section as determined under subsection (c)(2) for any taxable year may be increased to the extent of the corporation’s AMT credit adjustment amount determined under section 53(g) for such taxable year.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 603. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

“(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

“(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) any individual, including any individual who is an active member of the uniformed services, if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

“(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

“(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3335, AS MODIFIED

Ms. LANDRIEU. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 3335 for the purposes of modification only.

I have already spoken about the amendment at length. I have already submitted a lot of documents to the RECORD about the importance of this amendment. But to recap, the amendment I am offering on behalf of myself and Senators VITTER, COCHRAN, and WICKER is an amendment that will help the recovery effort of the gulf coast, particularly as it relates to Louisiana, Mississippi, and Alabama.

If we do not get this amendment on this bill or the next bill—I prefer it on this bill—we will literally shut down 7,000 units that are under construction today of low-income and moderate housing along the gulf coast, from Mobile to Waveland to Gulfport to New Orleans, all the way over to Cameron Parish, the entire gulf coast. Many people witnessed the terrible catastrophe that happened in our State just 4½ years ago, and we will be marking the fifth anniversary of Katrina. The wounds seem a little bit fresh watching the scenes from Haiti and Chile. The situation in Haiti is much more disastrous in many ways than what happened in the gulf coast, but we most certainly went through our own horrors. Five years seems like a long time, but when you are digging out of rubble such as we see happening right now and when the flood waters don’t recede, in some places for 3 months, and people can’t return to their neighborhoods for 9 months, you can understand why it has taken us a little time to rebuild some of this housing. It has taken longer than we ever imagined.

In addition, despite the fact that we have worked as hard and as fast as we can, in the middle of rebuilding some of these multifamily units—we are trying to build them better, smarter, and more energy efficient, in a much better way than they were before for both public housing and low-income housing—the market collapsed, which is not the fault of the people of Louisiana. We don’t work on Wall Street. We don’t live on Wall Street. We are just busy trying to build our communities back. Wall Street collapses.

As a result, tax credits, which the Congress was so generous to give us some years ago to do this work, if we don’t get this extension of a placed-in-service date, the developers—which includes the Catholic Church, nonprofit developers, not just for-profit developers—will lose their opportunity to sell these credits in the marketplace for the financing necessary to finish construction. That is sort of the long and short of it.

I am not here asking for additional credits. We are grateful, those of us from the Gulf Coast States, for what the Congress has already given us. But if this amendment, a 2-year extension, is not attached to this bill, 7,000 units

currently under construction and we estimate about 13,000 jobs along the gulf coast will be lost.

So since this is a jobs bill, I thought it would be a good place to put this amendment because it will save 13,000 jobs, building great apartments for rent and purchase that our people need in the gulf coast. That is what the amendment does.

I ask unanimous consent for the amendment to be modified.

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

The amendment, as modified, is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to extend for 2 years the low-income housing credit rules for buildings in GO Zones, and for other purposes)

On page 268, between lines 11 and 12, insert the following:

SEC. ____ . EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking “January 1, 2011” and inserting “January 1, 2013”.

SEC. ____ . INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking “\$50” and inserting “\$100”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking “\$250,000” and inserting “\$1,500,000”.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking “\$15” and inserting “\$30”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking “\$75,000” and inserting “\$250,000”.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking “\$30” and inserting “\$60”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 are each amended by striking “\$150,000” and inserting “\$500,000”.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking “\$100,000” in subparagraph (A) and inserting “\$500,000”,

(2) by striking “\$25,000” in subparagraph (B) and inserting “\$75,000”, and

(3) by striking “\$50,000” in subparagraph (C) and inserting “\$200,000”.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking “\$100” and inserting “\$250”.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

“(f) ADJUSTMENT FOR INFLATION.—

“(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount adjusted under paragraph (1)—

“(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

“(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.”

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

Ms. LANDRIEU. At the appropriate time, I will call up the amendment for a vote and further debate. I wished to make sure we have the modification in. I have now suggested a pay-for for it. I again thank Members for being helpful to us. We thought actually these units would be finished by now. Of course, the people trying to move into them want them to be finished. But between us trying to get ourselves organized after the catastrophe and then with the market collapsing, we need additional time. That is all this amendment does.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3368 TO AMENDMENT NO. 3336

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 3368.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 3368 to amendment No. 3336.

Mr. FEINGOLD. Mr. President, 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:

(Purpose: To provide for the rescission of unused transportation earmarks and to establish a general reporting requirement for any unused earmarks)

At the appropriate place, insert the following:

TITLE _____—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. 01. DEFINITION.

In this title, the term “earmark” means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. 02. RESCISSION.

Any appropriated earmark provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end

of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year.

SEC. 03. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, the year when the funding expires, if applicable, and recommendations and justifications for whether each earmark should be rescinded or retained in the next fiscal year;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator COBURN be added as a cosponsor of the amendment.

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

Mr. FEINGOLD. Mr. President, I have offered an amendment to take a small step toward addressing the growing problem of the Federal deficits. The underlying bill we are considering would extend many vitally important programs, including various tax provisions, unemployment benefits, COBRA health benefits, and other provisions to help the millions of Americans who have lost jobs or who are struggling in this economy to get back on their feet again. While I support these provisions, I am disappointed the bill is not fully paid for. My amendment will not cover the whole cost of the bill, but it will make a small dent as we try to get our financial house in order and make the tough choices to avoid hamstringing future generations with this debt.

There is no single or easy solution to the massive deficits we face, but one thing we should be doing is taking a hard look at the Federal budget for wasteful or unnecessary spending. Hard-working American families have to make these kinds of decisions every week to make ends meet, whether it is skipping a trip to the movies or clipping coupons or paying attention to the sale ads. But in the end, by cobbling together a series of small actions, they try to get their budget back in line. I think we in Congress should be doing the same thing.

My proposal to rescind old, unwanted transportation earmarks would bring down our deficit by a modest sum by Washington, DC, standards—around \$600 million and perhaps a few billion dollars over time. But this is real money back in Wisconsin and one step on a path that is going to have to include many additional cuts.

I have put together a number of proposals for where we should begin tightening our belt, including the one for this amendment in a piece of legislation I introduced last fall called the Control Spending Now Act. The combined bill would cut the Federal deficit by about \$½ trillion over 10 years.

This amendment that is before us now would build off a proposal put forward in President George W. Bush’s fiscal year 2009 budget proposal to rescind \$226 million in highway earmarks that were over a decade old and still had less than 10 percent of the funding utilized. Transportation Weekly did an analysis of these earmarks at the time. They found that over 60 percent of the funding—\$389 million—was in 152 earmarks that had no funding spent or obligated from them. These clearly are either unwanted or a low priority for the designated recipients. This is nothing against transportation funding either. I fully realize the need for investment in our crumbling infrastructure and its potential for job creation in hard-hit segments such as construction, but having hundreds of millions of dollars sit untouched in an account at the Department of Transportation does nothing to address our infrastructure needs and it does nothing to put people back to work.

So what I have done is build on President Bush’s concept a little. My amendment expands this rescission to all transportation earmarks that are over 10 years old with unobligated balances of more than 90 percent. At a hearing recently before the Budget Committee, I asked Transportation Secretary Ray LaHood about these unwanted and unspent earmarks and whether he supported my proposal to rescind them. Secretary LaHood responded:

The answer is, yes, we are supportive of your proposal, and we have identified significant millions of dollars’ worth of earmarks.

It is unclear exactly how many hundreds of millions or even billions of dollars could be saved by this proposal being expanded to other transportation earmarks in addition to the previous estimate of \$626 million that would be rescinded from unwanted highway earmarks in the first year. This proposal would also be permanent so there would likely be additional savings as the unwanted earmarks in the most recent highway bill reach their 10-year anniversary.

I think this is a very modest proposal, going after just the lowest of the low-hanging fruit, and I would support going even further to make it cover all Federal agencies. But with the uncertainty about how many of these unwanted and unspent earmarks there might be across the whole Federal Government, my amendment simply requires an annual report by the OMB to collect information from each agency and include recommendations on whether these other unobligated earmarks should also be rescinded.

So as my colleagues can see, there is bipartisan support from the last two

administrations for this proposal, and there is bipartisan support in this Senate for this amendment. This shouldn't be a hard decision, and I hope to have more strong bipartisan support in the Senate. If we can't agree to take old earmarks that no one wants and use the money to pay down the deficit, then how are we ever going to get our fiscal house in order?

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

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

AMENDMENT NO. 3391 TO AMENDMENT NO. 3336

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment so that I may call up my amendment which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. BROWN] proposes an amendment numbered 3391 to amendment No. 3336.

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

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

The amendment is as follows:

(Purpose: To provide for a 6-month employee payroll tax rate cut, and for other purposes)

At the end of title I, add the following:

SEC. 103. EMPLOYEE PAYROLL TAX RATE CUT.

(a) IN GENERAL.—For the 6-calendar-month period beginning after the date which is 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall reduce the rate of tax under section 3101(a) of the Internal Revenue Code of 1986 and 50 percent of the rate of tax under section 1401(a) of such Code by such percentage such that the resulting reduction in revenues to the Federal Old-Age and Survivors Insurance Trust Fund is equal to 90 percent of the amounts appropriated or made available and remaining unobligated under division A of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5) (other than under title X of such division A) as of the date of the enactment of this Act.

(b) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(c) RESCISSION OF CERTAIN STIMULUS FUNDS.—Notwithstanding section 5 of the

American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 116), from the amounts appropriated or made available under division A of such Act (other than under title X of such division A), there is rescinded 100 percent of the remaining unobligated amounts as of the date of the enactment of this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

(d) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, this section is designated as an emergency for purposes of pay-as-you-go principles.

Mr. BROWN of Massachusetts. Mr. President, I intend to come back tomorrow and explain the pending amendment and allow my colleagues an opportunity to review the amendment.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3389 TO AMENDMENT NO. 3336

Mr. BURR. Mr. President, I ask unanimous consent to set the pending amendment aside and to call up amendment No. 3389.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR] proposes an amendment numbered 3389 to amendment No. 3336.

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

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

The amendment is as follows:

(Purpose: To provide Federal reimbursement to State and local governments for a limited sales, use, and retailers' occupation tax holiday, and to offset the cost of such reimbursements)

On page 268, between lines 11 and 12, insert the following:

SEC. ____ STATE AND LOCAL SALES TAX RELIEF FOR CONSUMERS.

(a) IN GENERAL.—The Secretary shall reimburse each State for 75 percent of the amount of State and local sales tax payable and not collected during the sales tax holiday period.

(b) DETERMINATION AND TIMING OF REIMBURSEMENT.—

(1) PREDETERMINED AMOUNT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall pay to each State an amount equal to the sum of—

(A)(i) 75 percent of the amount of State and local sales tax payable and collected in such State during the same period in 2009 as the sales tax holiday period, times

(ii) an acceleration factor equal to 1.73, plus

(B) an amount equal to 1 percent of the amount determined under subparagraph (A) for State administrative costs.

(2) RECONCILIATION AMOUNT.—Not later than July 1, 2010, the Secretary shall pay to each electing State under subsection (c)(2) an amount equal to the excess (if any) of—

(A) 75 percent of the amount of State and local sales tax payable and not collected in such State during the sales tax holiday period, over

(B) the amount determined under paragraph (1)(A) and paid to such State.

(c) REQUIREMENT FOR REIMBURSEMENT.—The Secretary may not pay a reimbursement under this section unless—

(1) the chief executive officer of the State informs the Secretary, not later than the first day of the sales tax holiday period of the intention of the State to qualify for such reimbursement by not collecting sales tax payable during the sales tax holiday period,

(2) in the case of a State which elects to receive the reimbursement of a reconciliation amount under subsection (b)(2)—

(A) the chief executive officer of the State informs the Secretary and the Director of Management and Budget and the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election,

(B) the chief executive officer of the State informs the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election and the additional information (if any) that will be required as an addendum to the standard reports required of such retail sellers with respect to the reporting periods including the sales tax holiday period,

(C) the chief executive officer reports to the Secretary and the Director of Management and Budget, not later than June 1, 2010, the amount determined under subsection (b)(2) in a manner specified by the Secretary,

(D) if amount determined under subsection (b)(1)(A) and paid to such State exceeds the amount determined under subsection (b)(2)(A), the chief executive officer agrees to remit to the Secretary such excess not later than July 1, 2010, and

(E) the chief executive officer of the State certifies that such State—

(i) in the case of any retail seller unable to identify and report sales which would otherwise be taxable during the sales tax holiday period, shall treat the reporting by such seller of sales revenue during such period, multiplied by the ratio of taxable sales to total sales for the same period in 2010 as the sales tax holiday period, as a good faith effort to comply with the requirements under subparagraph (B), and

(ii) shall not treat any such retail seller of tangible property who has made such a good faith effort liable for any error made as a result of such effort to comply unless it is shown that the retailer acted recklessly or fraudulently,

(3) in the case of any home rule State, the chief executive officer of such State certifies that all local governments that impose sales taxes in such State agree to provide a sales tax holiday during the sales tax holiday period,

(4) the chief executive officer of the State agrees to pay each local government's share of the reimbursement (as determined under subsection (d)) not later than 20 days after receipt of such reimbursement, and

(5) in the case of not more than 20 percent of the States which elect to receive the reimbursement of a reconciliation amount under

subsection (b)(2), the Director of Management and Budget certifies the amount of the reimbursement required under subsection (b)(2) based on the reports by the chief executive officers of such States under paragraph (2)(C).

(d) DETERMINATION OF REIMBURSEMENT OF LOCAL SALES TAXES.—For purposes of subsection (c)(4), a local government's share of the reimbursement to a State under this section shall be based on the ratio of the local sales tax to the State sales tax for such State for the same time period taken into account in determining such reimbursement, based on data published by the Bureau of the Census.

(e) DEFINITIONS.—For purposes of this section—

(1) HOME RULE STATE.—The term "home rule State" means a State that does not control imposition and administration of local taxes.

(2) LOCAL.—The term "local" means a city, county, or other subordinate revenue or taxing authority within a State.

(3) SALES TAX.—The term "sales tax" means—

(A) a tax imposed on or measured by general retail sales of taxable tangible property, or services performed incidental to the sale of taxable tangible property, that is—

(i) calculated as a percentage of the price, gross receipts, or gross proceeds, and

(ii) can or is required to be directly collected by retail sellers from purchasers of such property,

(B) a use tax, or

(C) the Illinois Retailers' Occupation Tax, as defined under the law of the State of Illinois, but excludes any tax payable with respect to food and beverages sold for immediate consumption on the premises, beverages containing alcohol, and tobacco products.

(4) SALES TAX HOLIDAY PERIOD.—The term "sales tax holiday period" means the period—

(A) beginning on the first Friday which is 30 days after the date of the enactment of this Act, and

(B) ending on the date which is 10 days after the date described in subparagraph (A).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(6) STATE.—The term "State" means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

(7) USE TAX.—The term "use tax" means a tax imposed on the storage, use, or other consumption of tangible property that is not subject to sales tax.

SEC. ____ . RESCISSION OF DISCRETIONARY AMOUNTS APPROPRIATED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

(a) IN GENERAL.—All discretionary amounts made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law No: 111-5) that are unobligated on the date of the enactment of this Act are hereby rescinded.

(b) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the reduction specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to subsection (a).

Mr. BURR. Mr. President, I am going to set this amendment aside and talk on it later.

I ask unanimous consent to set the pending amendment aside.

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

AMENDMENT NO. 3390 TO AMENDMENT NO. 3336
(Purpose: To provide an emergency benefit of \$250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of cost-of-living adjustment for such year, to provide an offset using unobligated stimulus funds, and for other purposes)

Mr. BURR. Mr. President, I call up amendment No. 3390.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR] proposes an amendment numbered 3390 to amendment No. 3336.

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

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

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

Mr. BURR. Mr. President, there is an amendment pending by Senator SANDERS to offer a \$250 stipend to seniors, veterans, and those disabled to replace the lack of a cost-of-living increase, a COLA increase. As we are all aware, the formulas that drive the cost-of-living increase are predominantly affected by inflation. With the lack of inflation, seniors, veterans, and the disabled did not receive a cost-of-living increase for this year.

Senator SANDERS' amendment is very clear. He wants to provide a \$250 stipend. That has broad-based support within the Senate body, but I think it is responsible to say that to do this, we should pay for it. To do this, we should not print more money, borrow that money just to provide a \$250 check. I think most of our Nation's seniors, veterans, and disabled would agree with that statement.

To ignore the fact that we are not paying for it would be to say that we are going to pass this stipend on to our children and our grandchildren; that we are going to take the money we are going to borrow and the debt and the obligation for that debt and we are going to pass it generationally down. As a parent of a 25-year-old and a 24-year-old, I do not think they deserve it. At some point, I hope they are both going to have children, and I do not think their children deserve for me to shove this down. And I think most Members of the Senate probably agree that it is time we start paying for it.

How does this get back? Senator SANDERS makes this an emergency declaration to spend. We have a lot of priorities, and there is probably not a priority that does not deserve us to pay for it, to find somewhere where we have prioritized and decided, here is how we are going to pay for it, versus to continue to go out and borrow.

Let me remind my colleagues, we have the largest debt we have ever had. It continues to climb every day. Of every dollar we spend, we borrow 43

cents. Over the next 10 years, right now our country is obligated at \$5 trillion in interest payments. That is trillion with a "t." I am reminded that the most popular bumper sticker in Washington today is "Don't tell Congress what comes after a trillion." I am not sure we know yet. At the rate we are going, we are going to find out. Do you know who is going to be saddled with that debt? It is going to be our children and our grandchildren. Nobody wants to leave our seniors, our veterans, and the disabled without the means they need to live. But I think even the people who are the recipients of these checks would look at us and say: Pay for it; don't put it on my grandchildren or my great grandchildren.

My amendment No. 3390 is very simple. It says this: Pay for the \$250 stipend and use the unobligated stimulus money, the money we have already appropriated. We cannot borrow it twice; we can only borrow it once. Use the unobligated stimulus money, a little over \$14 billion—I think it is about \$14.4 billion—to pay for the stipend. Let's do the COLA, but let's, in fact, make sure that COLA is paid for. The amendment is almost identical to Senator SANDERS' amendment which provides the emergency benefit; it just pays for it. I don't think there is anything unreasonable on that. The Congressional Budget Office estimates the cost of the Sanders amendment to be at 12.7 billion. I understand the Sanders amendment was modified, so that might be slightly higher. Millions of seniors and veterans are struggling on fixed incomes in this troubled economy. This amendment also provides them the ability to get through those tough times but it also gives them the comfort of looking at their grandchildren and their great-grandchildren and saying: I am not a burden on you because this was paid for. We accounted for it.

Senator BUNNING came to the floor yesterday—I think we were talking about \$10 billion yesterday—and he said: How can a country this great not find a way to pay for \$10 billion? Well, we didn't. And as that makes its way through, we are going to borrow that \$10 billion, and that \$10 billion is going to equate to \$10 billion of interest payments over the next 10 years. Let me say that again. What we did yesterday is going to compute to \$10 billion worth of interest payments over the next 10 years. No payment down of principal, just an obligation of interest on the debt.

Maybe some are smart enough here to tell me exactly what the interest rates are going to be in the open marketplace as we finance our debt 3 years, 5 years, 10 years down the road. I don't think it is going to be where it is today. There is every indication it is going higher. So when I state the number \$5 trillion over the next 10 years, you have to understand that is a static interest rate that we have applied to it. It is 3.45, is the projection of the Congressional Budget Office. And they

have said if it averages at this point, then we are going to, as a nation, owe \$5 trillion, if we didn't borrow another dime. Well, not only do we continue to borrow money, but the likelihood is, with the economic conditions and with the fragile nature of the international economy, anybody who buys our debt, anybody who loans us their money is probably going to want to require more than 3.45 percent to take the risk. When countries such as Greece are on the precipice of default, it drives the international market up. It drives the cost of risk up. It will drive the cost of our risk up. What is \$5 trillion today—we might not borrow another dime—may end up being next week, next month, next year \$10 trillion over 5 years, just with the change in interest rate; just with what it costs us to go out and attract somebody to loan us this money.

I think I have given us a best-case scenario of saying we owe \$5 trillion in the next 10 years. Excuse me, \$5 trillion plus 10 more billion that we spent last night. The question is: Today, are we going to add another \$14 billion to it? That is the decision in front of the Congress. My amendment, No. 3390, provides a \$250 stipend. What it does that the Sanders amendment doesn't do, is it pays for it. It assures every recipient—senior, veteran, disabled person—that they are not putting the obligation of their check on their grandchildren and their great grandchildren; that we are taking the responsibility now to fund that.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, the Baucus substitute amendment gives preferential treatment to the extension of three programs: unemployment insurance, COBRA, and what is known as FMAP, which is the Federal Government's aid that it provides to States in the payment of Medicaid. These are laudable things to do, especially in this difficult economic environment. In my home State of Florida, we have nearly 12 percent unemployment. It is the highest anyone can remember, and people are struggling. So these are laudable things to do. The challenge is we are not going to pay for these spending programs. We are going to put them on the backs of our children and grandchildren, as my colleague Senator BURR remarked in his comments.

A couple of weeks ago, we passed a bill here in the Senate called pay-go, and the President just signed this bill into law. I struggled with my vote on pay-go, being a new Member to the Senate and being very concerned about spending, and I thought about voting for it. I thought about voting for it because anything that cuts spending around here, on its face, seems like a good idea to me. But the challenge for me came in learning from some of my colleagues that we don't enforce pay-go. They came to me and said: Look,

they are not going to use this as a real measure to control spending. So the bill passed along party lines. And although I didn't support it, I hoped for the best.

But here we are, a couple of weeks after the President signed the pay-go law, and I want to remind the Senate of the comments of Majority Leader REID upon arguing for the passage of the bill. He said: This pay-go—pay-as-you-go rule—we are proposing for the government is the same one Americans use every day in their individual lives; the same ones we teach our children. In order to spend a dollar, we have to have that dollar in our wallet. This law will enforce that commonsense approach.

Sounds reasonable. Sounds like the right thing to do. The President, when he signed the law, said: You have to make hard choices about where to spend and where to save.

Well, here we are, a few weeks later, and unfortunately the prediction of my colleagues that this was not a true enforcement mechanism on spending has come true. Because we are going to designate the extension of these three programs as emergencies. They are emergencies. And if they are emergencies, then we don't have to make them play by the rules. We don't have to cut spending in order to pay for these programs.

Unfortunately, we seem to designate whatever we choose as an emergency and, therefore, we don't have to do the things Leader REID said. We don't have to do the things President Obama said. But families sitting around their tables who have bills to pay can't say: This is an emergency; therefore, I can go and spend money I don't have. Families can't do that. Businesses can't do that. Even State governments, that have to balance their budgets, can't do that.

So what is an emergency? What does the law tell us is proper to designate? Certainly we could think of circumstances that could be an emergency: a situation of war, the financial meltdown we had a couple of years ago. Certainly things such as that would justify being an emergency. Well, the Budget Act of 1974 lays out five different criteria that must be met. First, necessary, essential, or vital; second, sudden, quickly coming into being and not building up over time; three, an urgent pressing and compelling need, requiring immediate attention; four, unforeseen, unpredictable, unanticipated; five, not permanent, temporary in nature.

None of these three extensions is that. We saw these coming. To say this is an emergency is like putting \$5 of gasoline in your car and then running out of gasoline and saying: I have an emergency. I couldn't foresee that the \$5 wasn't going to get me very far.

Again, these are laudable programs, and the point of order I am about to make is not going to stop this going forward. All it is going to say is that you can't declare something an emer-

gency that is not an emergency, and that we should pay for this by the end of the year. What a commonsense idea to bring to Washington and perhaps to the Congress, that we pay for the programs we decide need funding, that we don't balance it on the backs of our kids and grandkids. As Senator BURR said, we shouldn't borrow \$10 billion to spend \$10 billion. The spending in Washington is unsustainable.

Let's do these good programs, but let's take a novel approach and let's pay for them.

Mr. President, at this time I wish to make a point of order. Pursuant to section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I raise a point of order against the emergency designation provision contained in the pending substitute amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the substitute amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. BAUCUS. Mr. President, this is a killer motion the Senator from Florida is making. This amendment kills jobs. This amendment tells people who are currently unemployed: You are not going to get an unemployment check. This amendment tells people who are trying to get health insurance under COBRA: Sorry, no more. This amendment tells doctors who are trying to take care of patients, Medicare patients, that they are not going to get paid what they should be paid.

Let me give a few numbers. Our legislation will help half a million workers who lose their jobs get help under COBRA. That is the health insurance substitute provision for those who have lost their jobs. But the amendment of the Senator from Florida says to those half a million workers who lose their jobs today that they will not get insurance benefits under COBRA.

This amendment also will have the effect, if adopted, of preventing nearly 40 million Medicare beneficiaries and nearly 9 million TRICARE beneficiaries from getting access to their doctors—40 million seniors and about 9 million military personnel under TRICARE.

This amendment will also prevent 400,000 Americans from getting unemployment insurance benefits.

That is just for starters. This motion, if adopted, is not a poison amendment, it is a killer amendment. It kills the bill we are trying to pass in a short period of time. The bill is basically to extend unemployment benefits, to extend the COBRA benefits, and to make sure that people who should get relief under current law are able to maintain that.

This is very similar to the situation we faced because of efforts of the Senator from Kentucky not long ago. We finally resolved that. That was a 30-day extension, and the Senate voted 78 to 19 to continue those benefits under that 30-day provision. The Senator from Kentucky tried to stop it. Finally, the Senator relented and the Senate agreed by a vote of 78 to 19 that we should proceed, and it passed that 30-day continuation.

This is an emergency. We are now in an economic emergency. Unemployment is close to 10 percent. This economy is still in a recession. It is slowly getting better, but if this amendment were to pass—if the amendment offered by the Senator from Florida were to become law—then, frankly, think of the signal that would send to Americans who are now relying upon COBRA benefits and unemployment benefits.

This point of order is a killer, and that is why we need to waive the budget point of order so we can vote for a bill that would come before us later on this evening. I urge Senators, when the vote comes on this waiver, that we waive the budget point of order, because otherwise the provision of the Senator from Florida will send a terrible signal to millions of Americans.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. With all due respect to my colleague, the chairman of the Finance Committee, my point of order will not stop these programs from being extended. What it will do is it will make sure we have to pay for them by the end of the year—a novel idea, that we actually pay for a program. So we will have to look at programs we have now, perhaps, and we cut other programs. Do we not think there is some inefficiency in the administration of the Federal Government? We had a proposal we tried to pass last year to require all the agencies of the Federal Government to cut 5 percent—just 5 percent—when they have had 5, 10, 15 and 20-percent increases year after year after year. Surely governing and leadership is about making decisions.

I voted for the 30-day extension. I want to vote for this bill, but I want to pay for it. I want to make sure we are not borrowing money from the children and grandchildren of Floridians and other Americans to pay for this bill. I want to make sure we are not going to be paying interest to the Chinese to pay for this bill. I think it makes perfectly good sense that we are required, by the end of the year, to find the money to pay for this.

Every dollar we spend is a choice. It is a choice on what we should spend it on. In this body and in this Congress it is a choice, unfortunately, to put a burden upon our children and grandchildren because we spend much more than we have.

I am supportive of extending unemployment compensation. I am supportive of extending COBRA, which is

health care. I am supportive of helping out the States with Medicaid payments. All I am asking is let's pay for it. Surely, there is some other program, duplicative in government, inefficiencies we can find to offset this payment.

This is not a killer, this is just responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I hope we can vote on this fairly soon. Basically, let's remind ourselves this is an emergency. We have lost over 7 million jobs in this recession. We are not out of the recession. Unemployment is close to 10 percent. We hope it comes down. This is an emergency and in emergency situations you take emergency action and that is why this legislation is necessary now.

I hope when the economy does recover we have the fortitude to start to live within our means, as we should. Nobody debates that. But we are in a situation now where we have to make sure we extend those benefits and that Medicaid dollars go to the States right now because we are still in an emergency.

I urge, frankly, the motion to waive the point of order. I hope it is successful.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak about 5 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. BURRIS pertaining to the introduction of S. 3065 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 3390

Mr. GRASSLEY. Mr. President, in October of 2008, the Social Security Administration, SSA, announced that beneficiaries would receive a 5.8-percent COLA in 2009, the biggest increase since 1982.

This increase was primarily due to record high energy prices. Energy prices have since declined resulting in a 2.1-percent year-over-year decline in the consumer price index, CPI, as determined by the Bureau of Labor Statistics.

Because current law precludes a negative COLA, the SSA announced this past October that there will be no COLA in 2010.

It was also announced that there will be no increase in Medicare Part B premiums for current beneficiaries, except for those with incomes greater than \$85,000—single—and \$170,000—married.

I understand the concerns about Medicare Part D and Medigap premiums. Unlike Part B premiums—which cannot go up when there is no COLA—these other premiums are not subject to such a restriction.

However, beneficiaries have other options to reduce these premiums. For

example, there may be a competing drug plan with lower premiums. I always encourage people to reevaluate their coverage on an annual basis to see if there is another plan that offers the benefits they need at a lower price. Or, there may be a Medicare Advantage plan that covers both prescription drugs and provides coverage similar to a Medigap plan for a lower premium.

As an aside, senior citizens at my town hall meetings frequently ask about congressional COLAs. I remind them that Congress did not receive a COLA this year either. I have consistently voted against automatic COLAs for Congress.

However, I recognize the financial need of many seniors who rely on Social Security. A \$250 check would be roughly equal to a 2 percent COLA for the average beneficiary.

Congress enacted the automatic COLA in 1972 in order to provide an objective, nonpartisan way to determine benefit adjustments. The annual COLA has been based on the CPI calculations of the Bureau of Labor Statistics ever since.

Any decision to change, or override, the current process needs to be carefully vetted. History shows Congress has often played partisan politics with Social Security without regard to the solvency of the program or the burden placed on future taxpayers.

I understand the desire to send \$250 checks to current Social Security beneficiaries to compensate for the lack of a COLA. But, we are also facing an annual budget deficit in excess of \$1 trillion for the second year in a row.

We cannot continue to add to our deficit without any regard to the consequences.

The Sanders amendment fails to include an acceptable way of offsetting the \$13 billion cost of this proposal.

The amendment offered by Senator BURR would offset the cost by reducing unspent stimulus funds.

Last year, CBO scored the stimulus bill at \$787 billion. But earlier this year CBO revised its estimate to \$862 billion.

CBO estimates that we have already spent \$200 billion in 2009 and we will spend \$400 billion in 2010. That leaves more than \$250 billion for future years.

This amendment would simply reduce the unspent balance by \$13 billion.

It has been suggested by some on the other side of the aisle that we should not use stimulus money to pay for other things.

They insist the stimulus money is needed to create jobs. Given the fact we have lost nearly 4 million private sector jobs since last year, I doubt the stimulus money has created any net new jobs. But for those who choose to believe government spending can create more jobs than it destroys, CBO says payments that can be made quickly are more effective than those that take a long time.

By that standard, using less effective stimulus dollars to pay for more effective stimulus dollars is the best alternative.

I urge my colleagues to support this amendment which is fully paid for, and reject the amendment of my colleague from Vermont that needlessly increases the deficit.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think we will soon be entering an order to vote on several amendments. I would like to point out the theme of these amendments, most of which are offered by the other side, are to cut back Recovery Act dollars, cut back stimulus dollars, take away stimulus dollars.

We know the stimulus program has created millions of jobs. At least that is what CBO says. Certainly, it has created a great number of jobs. When these amendments come up, I would like all Members to know the basic theme of these amendments is to pay for them by cutting stimulus dollars, which I think is a bad idea. We should not be cutting stimulus dollars. We should be maintaining the Recovery Act and stimulus program. We will soon get an order so we can start voting on amendments.

Mr. President, I ask unanimous consent that at 5:55 p.m. this evening the Senate proceed to vote in relation to the following amendments and the Baucus motion to waive in the order listed, that prior to each vote in the sequence, there be 2 minutes of debate divided and controlled in the usual form, and after each vote in the sequence the remaining votes be 10 minutes' duration.

I might say the 2 minutes of debate, equally divided and controlled, be amended to 4 minutes of debate, equally divided and controlled, with respect to the two Bunning amendments. Those two Bunning amendments are Nos. 3360 and 3361.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, just to make it clear what the amendments are, it is Burr amendment No. 3390; Sanders amendment No. 3353, as modified; Bunning amendment No. 3360; Bunning amendment No. 3361, and Baucus motion to waive the Budget Act.

I thank the Chair.

For the information of all Senators, the first vote will be on the Burr amendment, which is similar to the Sanders amendment. One big difference, that Burr amendment takes stimulus dollars to pay for the Sanders amendment.

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

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

There are 2 minutes, equally divided, prior to a vote on the Burr amendment.

The Senator from North Carolina.

Mr. BURR. Mr. President, I will take my minute to simply say my amendment does exactly what the Sanders amendment does. It provides a \$250 stipend to seniors, veterans, the disabled who did not receive a cost-of-living increase because the inflation formula did not provide one this year. The difference between mine and Sanders is novel—I actually pay for the \$14 billion we are paying out to seniors, veterans, and the disabled. I am saying to every recipient of a check, we are not going to bill this to your children and grandchildren, we are going to pay for it now with money that is unobligated but already appropriated by the Congress. I think this is a reasonable approach. I think every Member should support it. We should be pleased we are doing a stipend to seniors, but we should sleep well tonight because we paid for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senate voted yesterday, 53 to 43, against the Bunning amendment to cut back Recovery Act funds for the 30-day extension bill. Earlier today, the Senate voted 61 to 38 against the Thune amendment to cut back Recovery Act funds to pay for tax cuts, and now we have the pending Burr amendment to cut back Recovery Act funds. In all three cases, we turned away those efforts to cut back Recovery Act/stimulus funds. I think we should do the same here, so people can get their benefits—excuse me, so the Sanders amendment gets passed.

Mr. President, I raise a point of order against the emergency provisions in the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. I move to waive the appropriate provisions in the Budget Act and ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER (Mr. BURRIS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—38

| | | |
|------------|----------|-------------|
| Barrasso | Collins | Klobuchar |
| Bayh | Corker | LeMieux |
| Bennet | Cornyn | Lincoln |
| Bennett | Crapo | Lugar |
| Brown (MA) | DeMint | McCain |
| Brownback | Enzi | McCaskill |
| Bunning | Graham | McConnell |
| Burr | Grassley | Murkowski |
| Chambliss | Hatch | Nelson (NE) |
| Cochran | Isakson | Nelson (FL) |

Pryor
Risch
Roberts

Shelby
Snowe
Thune

Vitter
Webb

NAYS—59

Akaka
Alexander
Baucus
Begich
Bingaman
Boxer
Brown (OH)
Burr
Byrd
Cantwell
Cardin
Carper
Casey
Coburn
Conrad
Dodd
Dorgan
Durbin
Ensign
Feingold

Feinstein
Franken
Gillibrand
Gregg
Hagan
Harkin
Inhofe
Inouye
Johanns
Johnson
Kaufman
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Menendez

Merkley
Mikulski
Murray
Reed
Reid
Rockefeller
Sanders
Schumer
Shaheen
Specter
Stabenow
Tester
Udall (CO)
Udall (NM)
Voinovich
Warner
Whitehouse
Wicker
Wyden

NOT VOTING—3

Bond

Hutchison

Sessions

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion rejected.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending Burr amendment violates the pay-as-you-go provisions, of S. Con. Res. 21, 110th Congress, the concurrent resolution on the budget for fiscal year 2009.

The PRESIDING OFFICER. The point of order is sustained.

The amendment falls.

AMENDMENT NO. 3353

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. What is the regular order?

The PRESIDING OFFICER. There is 2 minutes evenly divided with respect to the Sanders amendment No. 3353, as modified.

Who yields time?

The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, for the first time in 36 years, seniors and disabled veterans and persons with disabilities will not be receiving a cost-of-living adjustment, a COLA on their benefits. The argument for that is that they are not seeing inflationary costs. Go back home and talk to seniors, talk to disabled veterans. They will tell you they are paying sky-high costs for prescription drugs and health care. This amendment is supported by AARP, the American Legion, the VFW, the National Committee to Preserve Social Security, and a wide number of veterans organizations and senior citizens organizations that know it is wrong to turn our backs on seniors in this moment of economic difficulty.

Mr. LEAHY. Mr. President, Social Security represents a strong commitment to our nation's seniors. Ever since Ida May Fuller of Vermont received the first Social Security check issued, vulnerable seniors have had a safety-net to fall back on in retirement and to supplement individual retirement savings or pensions. Nearly 70

percent of beneficiaries depend on Social Security for at least half of their income, and Social Security is the sole source of income for 15 percent of recipients.

Social Security is an immensely important program, one that has helped millions of Americans stay out of poverty once entering retirement. While facing the rising costs of health care, food and fuel, Social Security has been a successful safety net for more than 70 years. However, for the first time in its history, this year Social Security recipients will not receive a cost-of-living adjustment, COLA, due to the economic deflation, rather than inflation, our economy experienced this past year. Since the COLA will not go into effect this year, Congress needs to act to ensure those who need it most will receive this essential benefit.

That is why I was proud to join Senator SANDERS in cosponsoring the Emergency Senior Citizens Relief Act, which would provide all Social Security recipients, railroad retirees, SSI beneficiaries and adults receiving veterans' benefits with a one-time additional check for \$250 in 2010, similar to the payment beneficiaries received as a part of the American Recovery and Reinvestment Act passed last year. Today, we have the opportunity to include this important emergency relief in legislation aimed at helping all struggling Americans. This amendment represents our continued commitment to providing a safety net to our nation's seniors and those with disabilities in this uncertain economy.

I urge my fellow Senators to support the Sanders amendment.

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

Mr. GREGG. Mr. President, this amendment would add billions of dollars to the deficit which would have to be paid for by our children. Of course, the reason the COLA is not being given this year is because the law says it should not be. Therefore, I raise a point of order that the Sanders amendment violates section 403(a) of the budget resolution.

Mr. SANDERS. Pursuant to section 904 of the Congressional Budget Act of 1964 and section 4(g)(3) of the statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 50, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—47

| | | |
|------------|------------|-------------|
| Akaka | Gillibrand | Nelson (FL) |
| Baucus | Hagan | Pryor |
| Begich | Harkin | Reed |
| Bingaman | Inouye | Reid |
| Boxer | Johnson | Rockefeller |
| Brown (OH) | Kaufman | Sanders |
| Burr | Kerry | Schumer |
| Byrd | Klobuchar | Snowe |
| Cantwell | Kohl | Specter |
| Cardin | Lautenberg | Stabenow |
| Casey | Leahy | Tester |
| Conrad | Lincoln | Udall (NM) |
| Dodd | Menendez | Webb |
| Dorgan | Merkley | Whitehouse |
| Durbin | Mikulski | Wyden |
| Franken | Murray | |

NAYS—50

| | | |
|------------|-----------|-------------|
| Alexander | DeMint | McCain |
| Barrasso | Ensign | McCaskill |
| Bayh | Enzi | McConnell |
| Bennet | Feingold | Murkowski |
| Bennett | Feinstein | Nelson (NE) |
| Brown (MA) | Graham | Risch |
| Brownback | Grassley | Roberts |
| Bunning | Gregg | Sessions |
| Burr | Hatch | Shaheen |
| Carper | Inhofe | Shelby |
| Chambliss | Johanns | Thune |
| Coburn | Kyl | Udall (CO) |
| Cochran | Landrieu | Vitter |
| Collins | LeMieux | Voinovich |
| Corker | Levin | Warner |
| Cornyn | Lieberman | Wicker |
| Crapo | Lugar | |

NOT VOTING—3

| | | |
|------|-----------|---------|
| Bond | Hutchison | Isakson |
|------|-----------|---------|

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The emergency designation is stricken.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I make a point of order that the amendment violates section 201 of S. Con. Res. 21 of the 110th Congress.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 3360

The PRESIDING OFFICER. There will now be 4 minutes equally divided before a vote in relation to the Bunning amendment No. 3360.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, it is my understanding that there are 4 minutes equally divided on these two amendments; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUNNING. Thank you, Mr. President.

Amendment No. 3360 is simple. It contains all of the extensions in the Baucus substitute, but rather than adding over \$100 billion in cost to the deficit and debt, which the Baucus substitute does, my amendment pays for the spending in this bill by rescinding unspent stimulus funding.

My colleagues on the other side of the aisle have stated repeatedly that CBO considers money spent on extending unemployment benefits to be one of the best kinds of stimulus because the

people who receive it are likely to immediately spend it. So let's redirect money from an ineffective stimulus bill in which some of the funding won't be spent until fiscal year 2013 or beyond. Let's stimulate the economy now and prevent a massive increase in the debt at the same time.

I am having a hard time understanding why some Senators believe stimulus funding is so sacred. Was the stimulus brought down from the mountaintop by Moses? If that is the case, why did the majority raid stimulus money to pay for an extension of cash for clunkers?

I will be the first to admit that neither side of the aisle has clean hands when it comes to out-of-control spending. We can't control what was done in the past, but we can control what happens today. It is time to take a stand—a stand for our children and grandchildren so they won't have to pay back trillions more in debt.

I am tired of China holding the mortgage on our country. I am tired of the massive national debt that will be doubled in 5 years and tripled in 10. It is hard for me to look my grandchildren in the eye when I know this generation is handing them a country where they won't have the same opportunities to succeed and prosper as I did. It has to stop.

I urge my colleagues to support my amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUNNING. Mr. President, our spending has to stop.

I urge my colleagues to support my amendment, and I yield back.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this Bunning amendment is the fourth attempt in 2 days to pay for emergency safety net programs by cutting back stimulus spending, by cutting back from the Recovery Act. This is the same amendment. We have voted on this basic topic four times.

Yesterday the Senate voted 53 to 43 against the Bunning amendment to cut back Recovery Act funds for the 30-day extension bill. Earlier today the Senate voted 61 to 38 against the Thune amendment to cut back Recovery Act funds, and just a few minutes ago the Senate voted down the Burr amendment. Now we have the Bunning amendment to cut back Recovery Act funds again to pay for the pending bill.

CBO does say the Recovery Act has added jobs. Between 1 million and 2.1 million jobs have been added to our economy because of the Recovery Act. Just to repeat, the CBO says the Recovery Act added between 1 million and 2 million to the number of Americans employed in the fourth quarter of last year. CBO also says the Recovery Act increased the number of full-time equivalent jobs by between 1.4 and 3 million jobs. The Recovery Act is creating jobs, so I think the last thing we should do is scale back something that

is working. If it is working, don't change it. If it is working, let's continue with it.

I move to table the Bunning amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—56

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

NAYS—41

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

NOT VOTING—3

| | | |
|------|-----------|---------|
| Bond | Hutchison | Isakson |
|------|-----------|---------|

The motion was agreed to.

AMENDMENT NO. 3361

The PRESIDING OFFICER. There will now be 4 minutes equally divided prior to a vote in relation to Bunning amendment No. 3361.

The Senator from Kentucky.

Mr. BUNNING. Mr. President, let me briefly describe my amendment No. 3361. Like other amendments, this amendment contains all the extensions in the Baucus substitute, and it also completely pays for that spending. But it provides a different alternative for paying for it: eliminating wasteful and duplicative government programs.

Many of these programs are the ones President Obama has recommended terminating, and others have been highlighted by the CBO and the Congressional Research Service as wasteful.

I thank Senator COBURN publicly for the good work he has done compiling this list of programs.

We voted on a similar spending reduction when the Senate passed a record \$1.9 trillion increase in the debt limit to \$14.3 trillion. I hope we have a different outcome today. I hope my colleagues will not choose bloated bureaucracy over our children and grandchildren. They will face over \$100 billion more in debt and compounding interest on the debt if we do not pay for this bill. Enough is enough.

If we cannot find the money to pay for programs, we ought to make the hard choices to reduce the deficit and debt.

I hope my colleagues will make the right choice today and support my amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii.

Mr. INOUE. Mr. President, we find ourselves debating an amendment that we voted down just last month. Proponents make the rescissions sound like good policy when you listen to them. But Members need to understand this amendment causes harm to our national and international security and to our economy.

First, this amendment proposes rescissions throughout the agencies that are completely random and based on subjective assumptions.

Second, rescinding discretionary funds that have been available for more than 2 years will jeopardize our national defense, our homeland security, and the well-being of our citizens.

This is simply irresponsible governing. For example, a ship is not built in a year or 2 years. A hospital is not built in a year. And if they are not built in a year, these funds are rescinded.

This amendment proposes to cut billions in funding the Congress voted on and agreed to provide just months ago. This amendment is not based on careful review and, if adopted, would have serious consequences on our procurement process and many critical programs for fiscal year 2010.

The majority of the Members acted responsibly in January and rejected the same approach. I urge my colleagues to do the same today.

Accordingly, Mr. President, I move to table the Bunning amendment and ask for the yeas and nays.

The PRESIDING OFFICER. 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.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—61

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

NAYS—36

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

NOT VOTING—3

| | | |
|------|-----------|---------|
| Bond | Hutchison | Isakson |
|------|-----------|---------|

The motion was agreed to.

BAUCUS AMENDMENT NO. 3336

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote on the motion to waive a budget point of order on amendment No. 3336.

Who yields time?

Mr. LEMIEUX. Mr. President, I made this point of order not because I am not in favor of the extension of the unemployment insurance or the COBRA or the money for Medicaid but only that it be paid for.

Just a few weeks ago, this Chamber voted to pass a pay-go bill, which the President signed, and it said we will pay as we go. But we have designated each of these three extensions as emergencies. They are not emergencies under the 1974 Budget Act requiring that it be sudden, quickly coming, unforeseen, or unpredictable. It is not an emergency.

All my point of order does is to say that by the end of the year, we will have to pay for these. It will not stop them from going forward, but it will make sure we have to pay for them, just as the pay-go law requires. These are nonemergencies.

I urge my colleagues to oppose the motion to waive the point of order.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, this is a killer point of order. This point of order would kill the underlying substitute amendment. It would prevent people from getting COBRA benefits. It would prevent people from getting their unemployment checks. It would cause doctors to have their payments

for Medicare patients cut 21 percent. It endangers access for 40 million Medicare beneficiaries. It will kill unemployment insurance benefits for 400,000 Americans. This is a point of order that will, in effect, kill the bill. That is why it is vitally important that Senators vote to waive the point of order so we can pass the bill.

Mr. LEMIEUX addressed the Chair.

The PRESIDING OFFICER. The Senator has no time.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 60, nays 37, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—60

| | | |
|------------|------------|-------------|
| Akaka | Feinstein | Mikulski |
| Baucus | Franken | Murray |
| Bayh | Gillibrand | Nelson (NE) |
| Begich | Hagan | Nelson (FL) |
| Bennet | Harkin | Pryor |
| Bingaman | Inouye | Reed |
| Boxer | Johnson | Reid |
| Brown (OH) | Kaufman | Rockefeller |
| Burr | Kerry | Sanders |
| Byrd | Klobuchar | Schumer |
| Cantwell | Kohl | Shaheen |
| 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 |

NAYS—37

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

NOT VOTING—3

| | | |
|------|-----------|---------|
| Bond | Hutchison | Isakson |
|------|-----------|---------|

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAUCUS. I move to reconsider that vote.

Mrs. LINCOLN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 3400

Mr. SPECTER. Mr. President I have sought recognition to speak on an

amendment I am offering to H.R. 4213, the Tax Extenders Act. This amendment would create a loan guarantee program to maintain the domestic manufacturing capacity for shipbuilding.

With the U.S. economy still struggling to recover, manufacturing investments can have an immediate impact. Manufacturers have lost more than 2 million jobs since the recession began in December of 2007, so there is an opportunity to create a large number of jobs in the industry and to simultaneously revitalize our economy and overall global competitiveness. One area where benefits can immediately be seen is the shipbuilding industry. U.S. shipyards play an important role in supporting our Nation's maritime presence by building and repairing our domestic fleet; and the industry has a significant impact on our national economy by adding billions of dollars to U.S. economic output annually.

These shipbuilding investments are vital to the United States, creating thousands of good-paying jobs across the country. The commercial shipbuilding and ship repair industry is a pillar of the American skilled labor workforce employing nearly 40,000 skilled workers; and the ships produced domestically are an integral part of commerce, international trade, the Navy, Coast Guard, and other military and emergency support. With more than 80 percent of the world's trade carried in whole or part by seaborne transportation, the shipbuilding industry has always had and will continue to have a large industrial base that can support significant job creation and economic growth.

Since the mid 1990s, the industry has been experiencing a period of expansion and renewal. The last expansion was largely marketdriven, backed by long-term customer commitments. Those new assets created much more productive and advanced ships than those they replaced. For example, articulated double-hull tank barge units replaced single-hull product tankers in U.S. coastal trades, and new dual propulsion double-hull crude carriers replaced 30 plus-year-old, steam propulsion single-hull crude carriers. The new crude carriers are larger, faster, more fuel efficient and have a fourfold increase in efficiency over the vessels they replaced.

During the last expansion, the Department of Transportation's Maritime Administration touted the success of Aker Philadelphia Shipyard as a great achievement for the American shipbuilding industry. In 2000, Aker Philadelphia Shipyard was rebuilt on the site of a closed U.S. Navy shipyard. In a few short years, the shipyard became the country's most modern shipbuilding facility employing 1,200 highly skilled professional workers. Since 2003, it has built more than 50 percent of the large commercial vessels produced in the United States. Additionally, the shipyard contributes over \$230

million annually to the Philadelphia region, \$5 to 7 million per month in local purchases, \$8.6 million in annual tax revenues to the city of Philadelphia, and supports over 8,000 jobs throughout the region. Today, Aker Philadelphia Shipyard is one of only two companies producing large commercial vessels in the United States and is a critical asset to the economic viability of the mid-Atlantic region and the domestic shipbuilding industry.

Despite these successes, the economic collapse has stalled the shipbuilding industry by delaying planned ship acquisitions, constraining the credit markets, and making large vessel acquisitions impossible to finance. The long-term customer-driven commitments that drove the last expansion are not a possibility in this economic climate. As a result, this industry, which is a part of the national security industrial base, supports thousands of highly skilled jobs, and is critical to the industrial fabric of our Nation, is struggling to survive.

Since the economic downturn, shipyards such as the Aker Philadelphia Shipyard do not qualify for loan guarantees under existing programs at the Department of Transportation. Without assistance, shipyards will be forced to begin reducing their highly skilled workforce, apprentice programs, and vendor and supplier contracts, at a time when we can least afford additional job losses. If this situation persists and companies like Aker were to cease operations, our Nation's ability to construct commercial vessels would be severely limited and the investments we made to build this state-of-the-art facility would be lost.

At the same time, there is a strong and direct correlation between the performance of shipbuilding and the global economy and trade. Shipbuilding activities rise when global trade and economy grow. Likewise, shipbuilding will be among the first activities to suffer when trade slumps and the economy stutters. This puts shipbuilding at the forefront of one of the world's key and most important economic activities, and a reliable barometer of economic performance.

As the economy recovers, so will the need for ships and our domestic shipbuilding capacity. The Maritime Administration has recognized that construction of vessels for the Nation's marine highway system could result in significant new opportunities for U.S. shipyards. The shipbuilding industry is also developing vessel portfolios that can be leveraged by the government including military vessels to meet the Nation's needs in time of national emergency. For example, the Navy's Littoral Combat Ship and Joint High Speed Vessel programs are based on commercially designed and available vessels. There will also be a need for additional ships as almost \$5 billion worth of double-hull construction and conversion work will need to take

place by 2015 to meet the double-hull requirement under the Oil Pollution Act of 1990.

To address the dire situation facing the domestic shipbuilding industry, I am seeking the establishment of a loan guarantee program, where the Secretary of Transportation can issue a loan guarantee for \$165 million to qualifying shipyards. Because of loan guarantees leverage funding, the program would require only \$15 million to leverage \$165 million. This \$15 million is offset by reprogramming previously appropriated funds, so there is no additional spending associated with this program.

The Federal assistance would be a short-term financing bridge to enable shipyards to remain in operation and meet the future anticipated demand for domestically produced ships. I encourage my colleagues to help maintain the commercial shipbuilding capacity of the United States through the inclusion of a loan guarantee program.

Mr. BEGICH. Mr. President, I am pleased to have filed an amendment that would give Alaska Native corporations, ANCs, parity for an important tax incentive encouraging the permanent protection of land through the charitable donation of a conservation easement.

America's wildlife, waters, and land are an invaluable part of our Nation's heritage. It is imperative to preserve these natural treasures for future generations. Congress long ago concluded that it was good public policy to encourage the charitable contribution of conservation easements to organizations dedicated to maintaining natural habitats or open spaces help protect the Nation's heritage. A conservation easement creates a legally enforceable land preservation agreement between a willing landowner and another organization. The purpose of a conservation easement is to protect permanently land from certain forms of development or use. The property that is the subject to the easement remains the private property of the landowner. The organization holding the easement must monitor future uses of the land to ensure compliance with the terms of the easement and to enforce the terms if a violation occurs.

In 2006, Congress enhanced the charitable tax deduction for conservation easements in order to encourage such gifts. With the 2006 legislation, Congress temporarily increased the maximum deduction limit for individuals donating qualified conservation easements from 30 percent to 50 percent of the taxpayer's adjusted gross income. Congress also created an exception for qualified farmers or ranchers, which are nonpublicly traded corporations or individuals whose gross income from the trade or business of farming is greater than 50 percent of the taxpayer's gross income. In the case of a qualified farmer or rancher, the limitation increased from 30 percent to 100 percent. The 2008 farm bill extended

the temporary rules for 2 additional years to charitable contributions made before December 31, 2009.

Unfortunately, the way the law was crafted has disadvantaged a number of important landowners in my home State. Alaska Native corporations, ANCs, own nearly 90 percent of the private land in Alaska, including some of the most scenic and resource rich. However, although they are very similar to the small communal family farms that are eligible, subsistence-based Alaskan Native communities are ineligible for these important new tax incentives. For thousands of years, Alaska has been home to Native communities, whose rich heritages, languages, and traditions have thrived in the region's unique landscape. Members of Alaska Native communities continue to have a deeply symbiotic relationship with the land even today. Much like their ancestors, many Native Alaskan communities engage in traditional subsistence activities, with nearly 70 percent of their food coming from the land or adjacent waters. For many communities, subsistence is an economic necessity considering both the lack of economic development and the cost and difficulty involved in purchasing food. For example, in Kotzebue a community in northwestern Alaska, milk costs nearly \$10 per gallon. In Buckland, a village home to approximately 400 people, a pound of hamburger—when it is actually available—costs \$14.

In Alaska, the Native corporations have an important role to be stewards of the land. Their shareholders see themselves as the caretakers of the land and water as their ancestors have for thousands of years. Nonetheless, in Alaska today this means they have to balance the need for resource development and the need to cultivate the land for subsistence activities. The traditional lifestyles of Native Alaskans are under increasing stress from outside influences. Population growth and the pressure to pursue cash-generating activities have increased the desire for substantial development, significantly adding to the ecological stress on already fragile ecosystems. Without permanent protection, their lands could be developed in a manner that would destroy its ability to support the traditional ways and subsistence lifestyles crucial to Alaskan Native communities. Making use of tax incentives available to other Americans will make it easier for Native communities to make the right decisions for their shareholders.

Today, Alaska Native communities are not eligible for the 50 percent deduction available to individuals because they are federally chartered as C corporations under the Alaska Native Claims Settlement Act of 1971, ANCSA. This leaves Alaska Natives without the ability to convert to an eligible entity as other landowners can. In addition, most Alaska Native corporations do not have sufficient gross income from

the trade or business of what is considered traditional farming to be eligible for the 100 percent deduction available to qualified farmers or ranchers. This is in spite of the fact that as a group the Alaska Native shareholders of Alaska Native corporations receive far more in subsistence benefits than they receive in income from the Alaska Native Corporation. As a result, Alaska Native corporations do not have the same ability to offset the cost to permanently protect their properties, which contain important wildlife, fish, and other habitats, through donations of qualified conservation easements.

This amendment will allow Alaska Native corporations to protect these important wildlife habitats, many used for subsistence, by providing an enhanced deduction for qualified conservation easements. The amendment modifies section 170(b)(2) of the Internal Revenue Code by creating a new subsection that provides Alaska Native corporations with a deduction for donations of certain qualified conservation easements. In order to be eligible, a qualified charitable conservation contribution must: (1) otherwise qualify under section 170(h)(1); (2) be made by a Native corporation; and (3) be land that was conveyed by ANCSA. The corporations would be limited to 10 percent of their land allotment under ANCSA. Under section 170(b)(2)(iii)(I), "Native Corporation" is defined by ANCSA, section 3(m). Under section 170(b)(2)(i), the maximum deduction limit would be set at 100 percent of the taxpayer's adjusted gross income. If the taxpayer has deductions in excess of the applicable percentage-of-income limitation, section 170(b)(2)(ii) would allow the taxpayer to carry-forward the deduction for up to 15 years.

Congress must act to assist Alaska Native communities in permanently protecting their culturally, historically, and ecologically significant land, preserving the communities and their rich traditions in the process. I urge my colleagues to support this important amendment.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

REMEMBERING CONGRESSMAN JOHN PATRICK MURTHA

Mr. DODD. Mr. President, I rise in commemoration of the life of John Patrick Murtha.

John Murtha gave nearly six decades to the country he loved. At the age of 20, he left college to join the Marines. As soon as he arrived, the Marines knew they had a gem of a young man on their hands. Routed to Officer Candidate School, he became a leader of