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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

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

Let us pray.

God of power and might, wisdom and justice, through You authority is rightly administered, laws are enacted, and judgment is decreed. Today, assist our Senators with Your spirit of counsel and fortitude. May they always seek the ways of righteousness, justice, and truth as You empower them to lead with honesty and integrity.

Lord, make them so faithful to their calling of public service that Americans may lead tranquil and quiet lives in all godliness and reverence. Give them wisdom to make decisions that will strengthen and prosper our land. We pray in the Redeemer's Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 13, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a

Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER 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, following the remarks of the leaders, if there be any, there will be a period of morning business with Senators allowed to speak for up to 10 minutes each. That time will be controlled equally until 5 p.m. The two leaders can fix who their designees will be.

We expect to be in a position sometime today to vote on adoption of the conference report to H.R. 1. Our cloakroom has issued an alert to all Senators. Any Senators who want to come and speak, they should at least alert the cloakroom they need some time to do that. We have an order in effect of 10 minutes each. If someone wants to talk longer, fine; we have no problem with that at all. But we do need some idea as to how many people wish to speak on this legislation. There have been a number of speeches given during the last few days about it, but if some want to amplify or add to those remarks, that would be fine.

I have been in close touch with the Republican leader during the last 24 hours, and we are going to do our best to try to come up with a time today.

### RECOGNITION OF THE REPUBLICAN LEADER

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

### TIMING OF VOTE

Mr. MCCONNELL. Let me second the remarks of the majority leader. We have a number of Members, not surprisingly on an issue of this magnitude, who would like to speak—Senator MCCAIN is already here—and we will be doing that during the day. I will get a sense of how many speakers we have, and after that I think we should be able to come to an agreement for a time certain on the vote.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, while the leaders are on the floor, I would like to mention, I hope we will continue to observe the one side speaking and then the other side that we have been going through in the last few days. I think a lot of people have been able to voice their views on this very important issue before the Senate. I reiterate, if my colleagues who would like to speak on this issue would call the cloakroom and also indicate how long they plan to speak, it would help us arrive at a time for a vote today.

The ACTING PRESIDENT pro tempore. Will the Senator suspend?

Mr. MCCAIN. Certainly.

### RESERVATION OF LEADER TIME

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

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



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## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each and the time to be equally divided between the leaders or their designees.

## STIMULUS PACKAGE

Mr. MCCAIN. Mr. President, I object to the 10-minute time restraint. This is a very difficult issue. We are talking about hundreds of billions of dollars of stimulus. I hope my colleagues on the other side of the aisle would understand that more than 10 minutes may be required for some statements.

Mr. DURBIN. If the Senator will yield, this is a very important matter, and complex, and we are not going to limit the Senator from Arizona. We would like to have rough parity in terms of the time given to both sides of the aisle to explain this matter, but we are not going to limit or even try to limit, under the standing rules, any speech by the other side.

Mr. MCCAIN. I thank my friend. I ask we keep track of the timing on both sides as both sides talk so we can try to make sure there is parity on timing throughout the day. Obviously, it will be dictated by the number of speakers who want to speak on either side, but we should try to preserve parity throughout the day.

I thank the Senator from Illinois.

Mr. DURBIN. I say to Senator MCCAIN, I am sorry to interrupt him again. Could we enter a consent to that effect, that we will divide the time?

Mr. MCCAIN. I would agree with the Senator from Illinois, but I think it is pretty clear there are going to be more speakers on this side than that side. I would like to have our leader, the Republican leader, agree to that before I could.

Mr. DURBIN. I am informed by the Senate staff that it is already part of the agreement.

Mr. MCCAIN. I thank the Senator from Illinois.

Mr. President, today the Senate will pass a \$789 billion bill, \$1.1 trillion with interest added in—and we do, when we calculate the costs of these appropriations bills, count in the interest. It is the so-called stimulus bill, and it is under the guise of a bipartisan compromise.

Let me reiterate what I have so often stated during the past 2 weeks: The Nation needs a stimulus bill. The Nation expects the Congress and the President to act in a truly bipartisan manner to address this crisis. But, unfortunately, this measure is not bipartisan. It contains much that is not stimulative and is nothing short—nothing short—of generational theft.

At times of great challenge, history tells us our Nation will work collectively to remedy the problems we face.

Working on this measure together was that opportunity. Republicans offered a good-faith alternative to the measure that is before us. Our alternative provided the American taxpayers with a stimulus bill devoid of porkbarrel projects and excessive spending programs that fail to create jobs.

Our bill was not simply to advocate policies we could not otherwise pass; our bill, in fact, was a real stimulus proposal. Instead, partisan legislation was pushed through.

Sadly, when we could be uniting to assist hurting Americans, we have exacerbated our differences and burdened our children and grandchildren with a debt the proportions of which have never been seen before.

Mr. President, before I go too much further, the bill is 1,071 pages. We got it last night, I believe, at 10:20 p.m. That was the first moment a copy was made available. It was not numbered correctly. At 11 p.m. we received notification it had just become available on the House Web site.

Compare the process that we have been through with the Web site that is from the Obama campaign. The Web site of the Obama campaign stated, and I will quote in a second—this is a quote from the Obama Web site:

End the practice of writing legislation behind closed doors. As President, Barack Obama will restore the American people's trust in their Government by making Government more open and transparent. Obama will work to reform congressional rules to require all legislative sessions, including committee markups and conference committees, to be conducted in public.

What happened in the last few days—law and sausages—it is certainly a long way from the Obama Web site that said:

Reform congressional rules to require all legislative sessions, including committee markups and conference committees, to be conducted in public.

All day yesterday the media made different reports about the process that was going on, in which, by the way, there was no Republican leadership anywhere in the vicinity.

I recognize this will be greeted as a victory for the administration and the Democrats today. I recognize that, and it is a victory. But I am not sure it is the right kind of victory. I think words which will haunt us for a long period of time were uttered by the Speaker of the House: "We won, we write the bill." "We won, we write the bill."

I think on both sides of the last campaign there was a commitment not to use those words: "We won, we write the bill." That commitment was to sit town together in a bipartisan fashion and work together to come up with solutions to the enormous domestic and foreign policy and national security challenges we face. I understand who won. I think I understand it about as well as anybody in this body. I have often said elections have consequences. This is one of the consequences of my side of the aisle losing. But it was not the promise that was made to the American people.

I understand the other side of the aisle—and many in the media—will say: Well, Republicans are recalcitrant. Republicans are trying to block it. Republicans don't want anything.

We had a provision, we had a proposal of over \$420 billion. We had a proposal that got 44 votes for a trigger that, once our economy begins to recover and is in recovery, the spending stops. One thing that Milton Friedman said, among many others I have always appreciated, was: Nothing is so permanent as a temporary Government program. There is nothing more permanent than a temporary Government spending program. So I think we had an opportunity and, hopefully, there will be opportunities in the future, to sit down, Republican and Democrat together—and at the beginning, not the end. If you are not in on the takeoff, then you are certainly not going to be in on the landing.

This bill took off with the Speaker of the House saying: We won, we write the bill. That was repeated on several occasions by the President of the United States.

Now, I want to say again, my side of the aisle, for 8 years, did not include the other side of the aisle. We were guilty. We were guilty of not observing the rights and privileges of the minority party. I do not excuse it, nor do I rationalize it. But I do believe that some Members did work in a bipartisan fashion and that times are different. The times are different. The American people spoke.

So yesterday, not the Republican leadership, not the majority of my colleagues sat by while the bill was finally written, and that is why the final legislation here will have three Republican votes, probably, out of all of the Republicans in the House of Representatives and the Senate. It may pick up a couple in the House. But to call this bipartisan is clearly an inaccurate and false description of the legislation that will pass sometime this evening.

So we passed up an opportunity. I hope we will, in the future, since there will be TARP III somewhere—some estimates, \$500 billion; some estimates, \$1 trillion; no one knows. The Secretary of the Treasury testified the day before yesterday before the Senate. He had no idea. He could give us no clue as to how much the next TARP was going to be. But I hope that will then present us with another opportunity to work together from the beginning, not at the end.

Again, this side of the aisle is not blameless on partisanship. But this was an opportunity for all of us to join together.

USA Today stated in an editorial: Republican opposition seems more like partisan positioning than a sincere effort to reach compromise with the White House at a time of severe economic distress.

I cannot speak for all of my colleagues, but I can, I know, speak for the majority of them. That is a false

statement. That is a false statement. Nothing could be further from the truth. Every Senator here wants a reasonable, workable stimulus bill that will help turn our economy around and put people to work. That is why 40 Republican Senators voted for an alternative that sought to fix our housing crisis—remember, it was housing first, and it is housing that is going to restore our economy. The stimulus package has not a lot of it to start with and comes out of the “conference” with less—invest in our Nation’s infrastructure through effective and restrained spending; put money immediately back in the hands of all Americans through a payroll tax holiday; allow businesses to keep more of their profits to hire new employees, invest in capital, or expand their businesses; finally begin to focus our attention on entitlement reforms; and then, most importantly, put a halt to the spending once our economy turns around. And the total cost of our alternative proposal was about half the cost of this conference report.

There are a couple of cautionary tales. One was a study by John Taylor of Stanford and the Hoover Institution that showed that the last time we gave Americans a paycheck—and that is one of the big parts of this stimulus package, checks of \$400 to \$800—it had no effect on the economy. It is also a cautionary tale as to what the Japanese did over the last decade, and I am afraid some of this stimulus package repeats that.

We missed an enormous opportunity to rein in excessive spending despite the support of 44 Senators eager to get our fiscal house in order when our amendment that would have required unobligated funding to be returned to the taxpayer upon two consecutive quarters of economic growth greater than 2 percent of inflation-adjusted GDP was defeated.

We have seen time after time stimulus packages at other times when we were in fiscal difficulty, financial difficulty—not to the degree of this one—but much of the spending has taken place after the economy recovered and contributed enormously to the deficit and consequently putting burdens on future generations of Americans. Why would we not agree that once the economy has recovered, we should proceed on a path to a balanced budget and stop some of these spending programs that are going to be adopted tonight in the way of stimulus? Why wouldn’t we bring them to a stop? Could it be that some want these spending programs to be permanent?

I repeat, Milton Friedman said, “There is nothing so permanent as a temporary Government program,” and I am sure we will see many of these programs in the stimulus live a long, long life.

In a recent Washington Post op-ed entitled “\$800 billion Mistake,” Martin Feldstein, an economic professor at Harvard University and president emeritus of the National Bureau of

Economic Research, wrote: The fiscal package now before Congress needs to be thoroughly revised. In its current form, it does too little to raise national spending and employment. It would be better for the Senate to delay legislation for a month or even two if that is what it takes to produce a much better bill. We cannot make an \$800 billion mistake.

Of course, it is a \$1.1 trillion mistake. We cannot make that mistake. By passing this conference report, we are essentially engaging in an act of generational theft. How can anyone ignore the cold hard facts? The current national debt is \$10.7 trillion. The 2009 projected deficit is \$1.2 trillion. The cost of this stimulus is \$1.124 trillion; that is, \$789 billion plus interest. The expected omnibus spending bill to fund the Federal Government through September 30, 2009, is \$400 billion. The expected supplemental request for the wars in Iraq and Afghanistan the Armed Forces Committee staff estimates at \$80 billion. The appropriations bills for 2010 that we will consider this year are untold billions. Tarp I and II are \$700 billion, and TARP III is possibly upwards of \$1.5 trillion. These numbers are staggering. These numbers are staggering. We have never dealt with numbers such as this, not in the Great Depression, not in any other era in time of our country. Every dollar of spending in this conference report will be added to our national debt, which now stands, as I said, at \$10.2 trillion or 70 percent of GDP.

According to the Center for Data Analysis, if Congress borrows the funds for its economic stimulus package—which, of course, it will do—total debt could grow to \$13 trillion in fiscal year 2009 or 92 percent of our gross domestic product. By 2010, the total debt could grow to \$14 trillion or 95 percent of our GDP. The center further finds that the stimulus package will add about \$30,000 in new Federal debt per American household.

Remarkably, while we are on the brink of saddling our children and grandchildren and great grandchildren with this enormous debt load, the conference report before us does little to actually address the core issue that brought us to the point of needing a stimulus bill in the first place, and that is the housing crisis.

I would remind my colleagues that history shows us that if you run up enough debt, the answer to it is to print more money, which is the basis of the currency, which inevitably leads to inflation, which is the greatest enemy of the middle class in America.

I see my colleague from New York who is going to talk on many things, including the terrible tragedy that has taken place in the crash of the airliner in New York. But I also want to, while he is on the floor, strongly disagree with his comment that the American people do not care about little porkey projects. Americans care. I can only speak for my constituents in Arizona,

who have flooded my office with calls. They care about little porkey projects that are to the tune of millions of their tax dollars.

Just yesterday, the National Association of Realtors reported the largest drop in home prices—12.4 percent—since the Association started gathering such data in 1979. Prices declined in almost 9 out of every 10 cities. Despite the fact that this extremely sobering statistic was released yesterday, this bill cuts almost half of the only significant housing provision in the conference report.

This provision, written by Senator ISAKSON, a former real estate agent, and approved by all Republicans and Democrats would have allowed any homeowner to take a nonrepayable tax credit of \$15,000 or 10 percent of the purchase price of a house used as a principal residence. Senator ISAKSON argued that such a generous tax credit would help the market recover swiftly. As a real estate agent during the economic crisis of the 1970s, he saw tax credits spur the purchase of many homes, which served to reduce the glut of vacant homes in the market, thereby allowing home values to stabilize, the housing inventory to drop, and the market to recover. We could have achieved a similar result here, I believe. But, instead, it was cut—the only housing provision in the report that was roundly supported by both Republicans and Democrats and millions of potential home buyers. Instead, they decided to cut the tax break to \$8 thousand and limit it to only first-time buyers. My belief is that this will not produce any real change to our sagging housing market.

The Congressional Budget Office has estimated that the stimulus bill would create anywhere from 1.3 million to 3.9 million jobs. At \$789 billion, 1.3 million jobs would work out to cost \$506,923 per job, and for 3.9 million jobs, the cost would be \$202,308 per job. If you add the cost of interest to the price tag, it comes to \$1 trillion. Every economic estimate I have seen lately falls within the category of 1.3 to 3.9 million jobs. The administration says it could be 4 million or more.

In a new letter from CBO dated February 11 providing a year-by-year analysis of the economic effects of spending of the pending stimulus legislation, CBO finds:

Beyond 2004 the legislation is estimated to reduce GDP by between 0 and 0.2 percent. The reduction in GDP is therefore estimated to be reflected in lower wages rather than lower employment. The increased debt would tend to reduce the stock of productive private capital. In economic parlance, the debt would “crowd out” private investment. Workers will be less productive because the capital stock is smaller. The legislation’s long-run impact on output also would depend on whether permanently changed incentives to work are saved. The legislation would not have any significant permanent effects on those incentives.

I know my colleagues are going to say we are going to do other things.

And we need to do other things—reform entitlements. We should have, in this legislation, put ourselves on a path to entitlement reform by setting up commissions for both Social Security and Medicare reform, but we did not, just as we should have had a trigger to stop spending and put us on a path to a balanced budget once our economy recovers.

It is unfortunate that even in these difficult economic times, Members of Congress couldn't resist the temptation to lard up this bill with billions of dollars in unnecessary spending that will do nothing to stimulate the economy. What makes this most disturbing, in order to include these questionable provisions in the final measure, the conferees cut some of the few truly important spending provisions that had been included in the House and Senate bills.

For example, I don't understand how, on the one hand, the conferees can cut close to \$3 billion from the Senate bill for Department of Defense and veterans hospital and medical facilities and, on the other hand, add funding above either House- or Senate-passed bills for State Department information technology upgrades, totaling \$290 million. Information technology may be worthwhile, but I am dumbfounded as to the conferees' rationale for adding funding for information technology programs that exceeds either Chamber's recommendations and cuts defense and veterans. We all talk about our commitment to veterans. Certainly VA hospital and medical facilities are badly needed, as we found in the scandal of Walter Reed.

Just as egregious, the conference report provides \$1 billion for prevention and wellness programs that were previously struck by the Senate and reported to be for smoking cessation programs and STD prevention. Why is this added back in, even though it may be worthy, at the expense of military members, families, and veterans whose funding was cut?

The conference report provides more funding for grants to provide high-speed Internet to Americans, \$7.2 billion, than it does for military and veterans affairs construction—again, at the expense of our Nation's bravest and most worthy. The conference report falls short in addressing the needs of our military and veterans who have given so much in support of this country and our democratic values.

Again, these are not tiny, porky amendments. The American people do care what we are talking about. If the American people don't care, then on behalf of the American people, we should take out these little tiny, porky items that will provide questionable stimulative effects.

I have a long list, and I ask unanimous consent that it be printed in the RECORD.

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

EXAMPLES OF QUESTIONABLE PROVISIONS IN THE CONFERENCE REPORT—STIMULATIVE?

\$200 million to consolidate the DHS headquarters in Washington, DC.

\$15 million for historic preservation grants for historically black colleges and universities.

\$25 million for the Smithsonian.

\$50 million for the National Endowment for the Arts.

\$5.55 billion for the Federal Buildings Fund, including \$750 million for Federal buildings and U.S. Courthouses; \$450 million for the Department of Homeland Security headquarters; \$4.5 billion to convert GSA facilities to "High-Performance green facilities".

\$300 million for new energy efficient vehicles for the Federal government including hybrid vehicles, and electric vehicles, and "commercially-available, plug-in hybrid vehicles" which many believe would include golf carts.

\$100 million for grants to small shipyards. \$7.2 billion to accelerate broadband deployment in unserved and underserved areas and to strategic institutions, split between the Department of Commerce, to administer \$4.7 billion in grants, and the Department of Agriculture, to administer \$2.5 billion in grants and loan activity.

\$50 million to upgrade the computer systems at the Farm Service Agency.

\$50 million for aquaculture producers.

\$300 million in grants for a diesel emission reduction program.

\$50 million to build biomass plants.

\$165 million for U.S. Fish and Wildlife Service fish hatcheries and wildlife refuges.

\$25 million for habitat restoration, trails repairs, and the cleanup of abandoned mines on BLM lands.

\$140 million for USGS stream gauges, and volcano monitoring systems.

\$200 million to repair leaking underground storage tanks under the Leaking Underground Storage Tank Trust Fund.

\$85 million to upgrade the computer systems at the Indian Health Service.

\$1 billion for the Bureau of the Census, including \$250 million for partnership and outreach efforts to minority communities and hard-to-reach populations.

\$650 million for digital television converter box coupon program, with \$90 million for education and outreach to vulnerable populations.

\$230 for operations, research and facilities at the National Oceanic and Atmospheric Administration (NOAA).

\$600 million for the procurement, acquisition and construction at the NOAA.

\$400 million for science at the National Aeronautics and Space Administration (NASA).

\$150 million for aeronautics at NASA.

\$2.5 billion for the National Science Foundation (National Science Foundation), of which \$300 million is for the Major Research Instrumentation program, and \$200 million for academic research facilities modernization.

\$400 million for major research equipment and facilities construction at the NSF.

\$375 million for Mississippi River and Tributaries.

\$2.5 billion for applied research concerning energy efficiency and renewable energy including \$800 million for biomass and \$400 million for geothermal activities and projects.

\$5 billion for the Weatherization Assistance Program.

\$2 billion for Advanced Battery Manufacturing grants.

\$300 million for the Energy Efficiency Appliance Rebate program and the Energy Star Program.

\$3.4 billion for Fossil Energy Research and Development including: \$1 billion for fossil energy research and development programs; \$800 million for Clean Coal Power Initiative Round III Funding Opportunity Announcement; \$1.52 billion Clean Coal Demonstration plants; \$50 million for competitive solicitation for site characterization activities in geological formations; \$10 million for geologic sequestration training and research grants; \$10 million for program direction funding.

\$1.6 billion for DOE Science program.

\$1.2 billion for summer youth jobs (for individuals up to age 24).

\$1.5 billion to provide short term rentals assistance for families who may become homeless.

\$2.25 billion to install new windows and furnaces for HUD homes.

\$100 million to remove lead-based paint.

\$8 billion for high speed rail.

\$90 million for additional passport facilities.

\$53.6 billion for a State Fiscal Stabilization Fund for education—\$14 million for administration, oversight, and evaluation; \$5 billion for State Incentive Grants and an Innovation Fund.

\$86.6 billion to State Medicaid programs through a temporary increase in the Federal Medical Assistance Percentage.

\$1.1 billion for comparative effectiveness research: \$300 million for the Agency for Healthcare Research and Quality; \$400 million for the NIH; \$400 million to be used at the discretion of the Secretary of HHS.

\$2 billion for the Office of the National Coordinator for Health Information Technology.

\$13 billion for Education for the Disadvantaged: \$10 billion for title I formula grants; \$3 billion for School Improvement grants.

\$720 million for School Improvement Programs: \$650 million for Enhancing Education through Technology program; \$70 million for Education for the Homeless Children and Youth program.

\$10 billion for the National Institutes of Health: \$1.3 billion for the National Center for Research Resources; \$8.2 billion for the Office of the Director; \$500 million for buildings and facilities for Bethesda, MD.

Mr. MCCAIN. Among these are \$200 million to consolidate the DHS headquarters in Washington, DC; \$15 million for historic preservation of Historically Black Colleges and Universities; \$25 million for the Smithsonian; \$50 million for the National Endowment for the Arts; \$5.55 billion for the Federal Buildings Fund, including \$750 million for Federal buildings and U.S. courthouses.

The list goes on: \$300 million for new energy-efficient vehicles for the Federal Government; \$100 million for grants to small shipyards; \$7.2 billion to accelerate broadband deployment in unserved and underserved areas and to strategic institutions. By the way, certainly the Presiding Officer knows we cannot spend within the next year \$7.2 billion or anything like it to accelerate broadband deployment because of the nature of the challenge. There is \$50 million to upgrade the computer systems at the Farm Service Agency; \$50 million for aquaculture producers; \$300 million in grants for a diesel emission reduction program; \$50 million to build biomass plants; \$150 million for USGS stream gauges and volcano monitoring systems; \$200 million to repair leaking

underground storage tanks under the Leaking Underground Storage Tank Trust Fund; \$1 billion for the Bureau of the Census. We will be talking more about this issue. We can't have the census taken from the Department of Commerce and put in the White House. We can't politicize the process of the system. We will be talking more about that later on.

There is \$230 million for operation, research, and facilities at the National Oceanic and Atmospheric Administration. You can make arguments for all these programs as worthwhile. You cannot make arguments that they stimulate the economy in a short period. There is \$150 million for aeronautics at NASA; \$2.5 billion for the National Science Foundation, of which \$300 million is for the Major Research Instrumentation Program and \$200 million for academic research facilities modernization; \$275 million for the Mississippi River and tributaries; \$10 million for program direction funding in fossil energy research and development; \$1.6 billion for DOE science program; \$2.25 billion to install new windows and furnaces in HUD homes; \$3 billion for high-speed rail.

The high-speed rail program is very interesting. It started out at \$2 billion and now has been raised to \$8 billion, a remarkable increase in funding, when we think about it. There are media reports that state this could probably be used for the Las Vegas-Los Angeles high-speed rail. The list goes on.

The fact is, there are also policy provisions. The conference report still includes the protectionist "Buy American" provisions that will damage the ability of U.S. corporations to export and create jobs at home. If passage of this bill triggers retaliatory trade action by foreign countries against the United States, Congress will have succeeded in deepening one of the worst recessions of our time.

There is an article in this week's Economist magazine entitled "The return of economic nationalism. A specter is rising. To bury it again, Barack Obama needs to take the lead." It talks about the "Buy American" provisions. At the end it states:

Once again, the task of saving the world economy falls to America. Mr. Obama must show that he is ready for it. If he is, he should kill any "Buy American" provisions. If he isn't, America and the rest of the world are in deep trouble.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Economist, Feb. 5, 2009]

#### THE RETURN OF ECONOMIC NATIONALISM

Managing a crisis as complex as this one has so far called for nuance and pragmatism rather than stridency and principle. Should governments prop up credit markets by offering guarantees or creating bad banks? Probably both. What package of fiscal stimulus would be most effective? It varies from one country to the next. Should banks be

nationalised? Yes, in some circumstances. Only the foolish and the partisan have rejected (or embraced) any solutions categorically.

But the re-emergence of a spectre from the darkest period of modern history argues for a different, indeed strident, response. Economic nationalism—the urge to keep jobs and capital at home—is both turning the economic crisis into a political one and threatening the world with depression. If it is not buried again forthwith, the consequences will be dire.

#### DEVIL TAKE THE HINDMOST

Trade encourages specialisation, which brings prosperity; global capital markets, for all their problems, allocate money more efficiently than local ones; economic co-operation encourages confidence and enhance security. Yet despite its obvious benefits, the globalised economy is under threat.

Congress is arguing about a clause in the \$800 billion-plus stimulus package that in its most extreme form would press for the use of American materials in public works. Earlier, Tim Geithner, the new treasury secretary, accused China of "manipulating" its currency, prompting snarls from Beijing. Around the world, carmakers have lobbied for support (see article), and some have got it. A host of industries, in countries from India to Ecuador, want help from their governments.

The grip of nationalism is tightest in banking (see article). In France and Britain, politicians pouring taxpayers' money into ailing banks are demanding that the cash be lent at home. Since banks are reducing overall lending, that means repatriating cash. Regulators are thinking nationally too. Switzerland now favours domestic loans by ignoring them in one measure of the capital its banks need to hold; foreign loans count in full.

Governments protect goods and capital largely in order to protect jobs. Around the world, workers are demanding help from the state with increasing panic. British strikers, quoting Gordon Brown's ill-chosen words back at him, are demanding that he provide "British jobs for British workers" (see article). In France more than 1m people stayed away from work on January 29th, marching for jobs and wages. In Greece police used tear gas to control farmers calling for even more subsidies.

Three arguments are raised in defence of economic nationalism: that it is justified commercially; that it is justified politically; and that it won't get very far. On the first point, some damaged banks may feel safer retreating to their home markets, where they understand the risks and benefit from scale; but that is a trend which governments should seek to counteract, not to encourage. On the second point, it is reasonable for politicians to want to spend taxpayers' money at home—so long as the costs of doing so are not unacceptably high.

In this case, however, the costs could be enormous. For the third argument—that protectionism will not get very far—is dangerously complacent. True, everybody sensible scoffs at Reed Smoot and Willis Hawley, the lawmakers who in 1930 exacerbated the Depression by raising American tariffs. But reasonable people opposed them at the time, and failed to stop them: 1,028 economists petitioned against their bill. Certainly, global supply-chains are more complex and harder to pick apart than in those days. But when nationalism is on the march, even commercial logic gets trampled underfoot.

The links that bind countries' economies together are under strain. World trade may well shrink this year for the first time since

1982. Net private-sector capital flows to the emerging markets are likely to fall to \$165 billion, from a peak of \$929 billion in 2007. Even if there were no policies to undermine it, globalisation is suffering its biggest reversal in the modern era.

Politicians know that, with support for open markets low and falling, they must be seen to do something; and policies designed to put something right at home can inadvertently eat away at the global system. An attempt to prop up Ireland's banks last year sucked deposits out of Britain's. American plans to monitor domestic bank lending month by month will encourage lending at home rather than abroad. As countries try to save themselves they endanger each other.

The big question is what America will do. At some moments in this crisis it has shown the way—by agreeing to supply dollars to countries that needed them, and by guaranteeing the contracts of European banks when it rescued a big insurer. But the "Buy American" provisions in the stimulus bill are alarmingly nationalistic. They would not even boost American employment in the short run, because—just as with Smoot-Hawley—the inevitable retaliation would destroy more jobs at exporting firms. And the political consequences would be far worse than the economic ones. They would send a disastrous signal to the rest of the world: the champion of open markets is going it alone.

#### A TIME TO ACT

Barack Obama says that he doesn't like "Buy American" (and the provisions have been softened in the Senate's version of the stimulus plan). That's good—but not enough. Mr Obama should veto the entire package unless they are removed. And he must go further, by championing three principles.

The first principle is co-ordination—especially in rescue packages, like the one that helped the rich world's banks last year. Countries' stimulus plans should be built around common principles, even if they differ in the details. Co-ordination is good economics, as well as good politics: combined plans are also more economically potent than national ones.

The second principle is forbearance. Each nation's stimulus plan should embrace open markets, even if some foreigners will benefit. Similarly, financial regulators should leave the re-regulation of cross-border banking until later, at an international level, rather than begging their neighbours by grabbing scarce capital, setting targets for domestic lending and drawing up rules with long-term consequences now.

The third principle is multilateralism. The IMF and the development banks should help to meet emerging markets' shortfall in capital. They need the structure and the resources to do so. The World Trade Organisation can help to shore up the trading system if its members pledge to complete the Doha round of trade talks and make good on their promise at last year's G20 meeting to put aside the arsenal of trade sanctions.

When economic conflict seems more likely than ever, what can persuade countries to give up their trade weapons? American leadership is the only chance. The international economic system depends upon a guarantor, prepared to back it during crises. In the 19th century Britain played that part. Nobody did between the wars, and the consequences were disastrous. Partly because of that mistake, America bravely sponsored a new economic order after the second world war.

Once again, the task of saving the world economy falls to America. Mr Obama must show that he is ready for it. If he is, he should kill any "Buy American" provisions. If he isn't, America and the rest of the world are in deep trouble.

Mr. McCAIN. Of course, we know about Davis-Bacon that will inflate the construction costs of the bill by \$17 billion. Section 604 requires that only domestic apparel and textile products may be procured by the Department of Homeland Security, unless the Secretary of DHS determines the quality and quantity cannot be procured in the United States at market prices, whatever "market prices" means. There is a provision which states that within 45 days of enactment, the Governor of each State shall certify that they will request and use taxpayer funds provided in the bill. It goes on to say that if any of the money provided by this bill is not accepted by the Governor, then that State's legislature can simply pass a resolution to bypass the Governor and receive those funds. I have never seen a provision such as that in the Congress.

I repeat, if the Governor of a State says his State doesn't need the money, then the State's legislature can simply pass a resolution to bypass the elected Governor of the State and receive the funds. What does that say about States rights and States electing their Governors to lead. It is remarkable. Every Governor in America should be on notice that we may have established a precedent that if you don't want to take taxpayer money, then you can be bypassed by your legislature. It is unconstitutional and should be challenged in court.

It adds a new far-reaching policy with respect to unemployment compensation entitled "Unemployment Compensation Modernization"—an interesting description. The new policy would allow a person to collect unemployment insurance for leaving his job to care for an immediate family member's illness, any illness or disability as defined by the Secretary of Labor. This provision stems from legislation introduced in the Senate during the 110th Congress that was not approved. Each State would need to amend their unemployment insurance in order to receive a portion of the \$7 billion added to the bill for this additional unemployment compensation program. It provides a total waiver of cost savings related to inland waterways projects; 50 percent of the cost is supposed to be carried by private companies that utilize the waterways.

The report establishes the Federal Coordinating Council for comparative effectiveness research. The bill text does not use the term "clinical" when referring to comparative effectiveness research, leading to the possibility that the bill does not protect against the research being used to make coverage decisions based on cost-effectiveness rather than clinical effectiveness.

It includes the Health Information Technology for Economic and Clinical Health Act, a massive overhaul of our health IT infrastructure that deserves more consideration.

It is 1,071 pages and a 41-page statement of the managers, a total of 1,492

pages. It was negotiated in a partisan fashion, behind closed doors, in direct contradiction to President Obama's commitments during the campaign. I understand his spokesman yesterday said it was "an emergency." It may have been an emergency, but that was not mentioned during the commitments made by then-candidate Obama.

Among other things, the conference report contains \$450 million for Amtrak security grants through the Department of Transportation. It wasn't in the House bill, wasn't in the Senate bill. It duplicates a program that already exists.

I urge my colleagues, when they have a few spare moments, to look at the history of Amtrak, a railroad that was taken over by the Federal Government with the intent to turn it over to the private sector in a short period. We have propped it up with billions and billions of taxpayer dollars, funding that will never become profitable.

A provision recreates the slush fund that was unanimously rejected by both the House and Senate. The slush fund allows agency heads to move money around between programs as they see fit without any real oversight by Congress.

I mentioned high-speed rail. That is \$8 billion. The Senate included \$2 billion for these programs, and the House didn't include anything. The conference now has added \$6 billion. I mentioned earlier the veterans and military construction spending has been cut by over \$3 billion below both the House and Senate bills. Of course, the conference report, among many other items, contains \$50 million for NEA, a worthwhile endeavor, but I don't see how you can make the argument it creates jobs.

A commitment was made that the spending would be done quickly. The conference agreement drops provisions that require all funds in the bill to be awarded within 30 to 120 days of enactment. Instead, the report allows numerous programs to have 3 years or more to actually begin spending the funding.

I know many of my colleagues, including my friend from Illinois, are here. I don't want to take too much time, as many of my colleagues wish to discuss the legislation. I wish to mention there is \$2 billion for a neighborhood stabilization program which could go for money for groups such as ACORN. You could make arguments about whether ACORN should be funded. I do not see how that possibly creates jobs.

I understand this bill will be passed this evening. I hope the next time—maybe with TARP—because there are going to be other issues of enormous consequence that the Congress and the President of the United States will face in the coming weeks and months. I do not believe things are going to get better in the world real soon. We see activities around the world, from the behavior of the Russians to the Iranian

testing of a missile, to renewed aggressive rhetoric by North Korea, to others, including developing a strategy for Afghanistan. But there are also enormous economic challenges here at home.

The American people would like us to, and the message they have sent us is, that they want us to sit down and work together. As I said, this bill began with a statement by the Speaker of the House: We won. We write the bill. We need to sit down together before the bill is written, outline the principles, turn those principles we share into concrete legislation, and work together. I hope we never again have a repetition of a bill that has such enormous consequence that would pass through both bodies with literally no Republican support—three Senators out of 178 Members in the House and 40 in the Senate. That is not bipartisanship.

I think we passed up an opportunity this time. I hope the American people will respond again by sending us the message. They want us to address the economic woes we face, but they want us to address them together. This legislation, in my view, is very bad for the economic future of America.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

#### CONTINENTAL AIRLINES FLIGHT 3407

Mr. SCHUMER. Mr. President, I rise today to honor the lives and the memories of the victims of the tragic crash of Continental Airlines Flight 3407 in Clarence, NY, last night. Our Nation woke up this morning to the deeply saddening news that 50 lives were lost in this inexplicable tragedy, and our hearts, our prayers, and our minds are with the families and friends who lost a loved one, the first responders at the scene, and the residents of Clarence.

I was deeply saddened to hear that one of the victims was Beverly Eckert, whose husband Sean Rooney perished in the tragic events of September 11. I knew Beverly. I worked with her and so admired her fight to make sure another 9/11 never happens again.

Beverly was a national role model who turned tragedy into inspiration. She was traveling to Buffalo for what would have been her husband's 58th birthday, to take part in a presentation of a scholarship award in his memory at Canisius High School. She, and all the victims of this accident, will be greatly missed. Of course, the family members of the other victims, whose names have not been made public yet, will relate in the future episodes of quiet strength and bravery of their loved ones as well.

I spoke with Transportation Secretary Ray LaHood early this morning, and he reassured me that the Department of Transportation is taking quick action to figure out what caused this accident. Secretary LaHood told me the first responders who rushed to the

scene immediately last night have been remarkably brave in their efforts to save lives.

To all the brave men and women who risked their lives to protect the families who live in the area of the accident and to the many who are still on the ground fighting the fires that remain, thank you for your service.

I also spoke, this morning, with Congressmen CHRIS LEE and BRIAN HIGGINS, county executive Chris Collins, and Clarence supervisor Scott Bylewski to offer help. I am comforted that everyone at the Federal, State, and local levels stands ready to provide whatever help is needed.

Our thoughts and prayers also go out to the people of Clarence and the entire Buffalo area who were, no doubt, leaving for work and school with very heavy hearts this morning.

As a Senator, I am proud to serve the people of western New York. They are a resilient community, and if there is any comfort to this tragedy, it is in knowing that their outreach to the victims' families will be generous and loving.

Just last month, the world exalted when flight 1549 landed on the Hudson River without a single loss of life. Yet today we are faced with this horrible tragedy. At times such as this, the only thing that helps us is our faith that there is a greater wisdom that, at times such as this, is hard to understand.

Again, I offer my deepest condolences to the victims' families and friends as we continue to learn more about the cause of this tragic accident.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore, The Senator from Arizona.

Mr. McCAIN. Mr. President, I say to my colleague from New York that all of us join in expressing sympathy and sorrow at the loss of these wonderful Americans. Thank you for your eloquent words. They are deeply appreciated.

Mr. President, I would like to mention to my colleagues that so far we have speaking requests from Senators COBURN, ENZI, ROBERTS, BENNETT, HUTCHISON, BARRASSO, ENSIGN, THUNE, KYL, CORNYN, SESSIONS, and then ALEXANDER, GRASSLEY, BROWNBACK, and GRAHAM. So I would urge my colleagues to come over so we can move forward with this process.

The ACTING PRESIDENT pro tempore, The Senator from Illinois.

#### CONTINENTAL AIRLINES FLIGHT 3407

Mr. DURBIN. Mr. President, I join in saluting my colleague, friend, and roommate—we share a house on Capitol Hill—Senator SCHUMER. I am sure he speaks for Senator GILLIBRAND, as well, in expressing sympathy for the loss that occurred outside the city of Buffalo last night, with the crash of this Continental Airlines flight.

My sympathy goes out to all the families and friends and my admiration to

all the first responders. This is a time when communities gather together, become a family, work hard to try to appease the loss but to make certain we are doing everything in our power to lessen the pain these families will feel.

#### STIMULUS PACKAGE REPORT

Mr. DURBIN. Mr. President, Senator McCAIN is a friend of mine and someone I respect. We came to the House of Representatives together 27 years ago. He came to the Senate before me, and we have served together for over 12 years. I respect him very much, and I know he speaks from the heart when he addresses this stimulus package. But I would like to take a few moments to reflect on some of the arguments he has made, and at any point in my presentation invite the Senator, if he is nearby, to come join me on the floor to discuss this matter in debate. Sadly, the Senate no longer debates in the old style. We give speeches and many times are like ships passing in the night. So I hope, if he is available—and I know he may not be; he has a busy schedule, too—I hope he will return to the floor, and we can talk about some of the arguments he made, and he can address them directly. In the meantime, I would like to speak to a few of them myself.

Senator McCAIN argues that spending \$790 billion, which the President has suggested for a recovery and reinvestment, is too much money. He argues the bill is too large, there is too much money in this bill. Keep in mind, this money is going to be spent out over a 2-year, maybe 3-year period, most of it on the front end, most of it in the first 18 months, but much of it over a longer period of time. So we are talking about roughly \$350 billion to be spent, for example, in the first year, maybe as much as \$600 billion or \$700 billion by the end of the second year. It is a huge sum of money. It may be the largest bill we have ever considered, certainly the largest stimulus bill we have ever considered, on the floor of the Senate.

But I will tell you that most economists, in looking at this bill, raise the question about whether it is enough, considering the size of the American economy, No. 1. It is an economy that generates more than \$14 trillion a year in the production of goods and services. It is an economy that is flat on its back. It is an economy deep in recession, with high unemployment, with businesses failing, with families losing their health insurance, with a lot of misery being spread across the country. The obvious question is: What can we do to change it?

Last year, President George W. Bush saw this coming, and he suggested the way to change it was to offer tax breaks, tax rebates to families. The Democratic Congress said to the Republican President: If this is what you want us to do to try to turn the economy around, we will do it. We enacted bipartisan legislation to give President

Bush about \$150 billion to send back to families in checks of \$300 or \$600 in the hopes that would breathe some life back into the economy, cause people to go out and spend more money, buy more goods and services, invigorate businesses, save and create jobs. We did it. We signed up for that approach. It did not work. Mr. President, \$150 billion was spent for individual families. There was the \$300 or \$600 check, which I am sure provided some relief. But at the end of the day, when we took a look at the economy, it continued to cascade downhill. Simply doing \$150 billion in tax cuts did not do it.

Then President Bush came to us and said: I need \$700 billion. It was a staggering amount of money, but we were told by Secretary Paulson, Secretary of the Treasury, Ben Bernanke, Chairman of the Federal Reserve, and others, that if we did not do it and do it quickly, the economy could go into a crisis which could be felt worldwide.

It was the most sobering meeting I ever attended as a Member of Congress when I heard this, and I felt duty-bound to do everything I could to cooperate with the Republican President, to give him the resources he wanted to try to breathe life back into this economy, to get the credit institutions moving forward, and I voted for it. At the end of the day, \$350 billion was spent and, I am afraid to say, very little positive occurred. In fact, we are still trying to get an accurate accounting of what happened to that money.

These were the first two attempts by the previous Republican administration; first, a \$150 billion tax cut, then a \$700 billion TARP funding they called it—the Troubled Asset Relief Program—which the Democrats cooperated in and said: Mr. President, though we are of a different political party, this is a national crisis, and we will work with your best minds to try what we can to turn this economy around.

We debated it, and we changed parts of it. We are expected to. That is what Congress has as a responsibility. But there was no question from the beginning that the Democratic Congress was going to cooperate with the Republican President because we had a national emergency on our hands.

Now comes the new President, President Barack Obama, sworn in a little over 3 weeks ago. The crisis, which we had hoped would have turned, in fact, had worsened. He inherited the worst economic crisis in 75 years. You have to go back to President Franklin Roosevelt and the awful Depression he saw to find another President faced with this kind of an economic challenge. President Obama came to office and said: We have to do something. We have to try to find a solution. We need to put the best minds, the best economists, and the best leaders together to come up with an approach which will stop this recession from growing and getting worse and will turn this economy around. He said, similar to President Bush: I would like the help of both political parties to do it.

Well, it is natural a President would ask for that. Because the crisis that faces us is not a Democratic crisis or a Republican crisis. Families who do not vote, families who are Independents, families of both political parties are being affected.

President Obama made a presentation of this recovery and reinvestment program, and he estimated the cost to be around \$750 to \$800 billion. The Senator from Arizona thinks that is an unnecessarily large sum. I might say to the Senator that he knows, as well as I do, that last year the U.S. stock market lost \$7 trillion in value. You can see it in the Dow Jones index—now somewhere near 8,000. At one point, it was near 15,000. Mr. President, \$7 trillion in lost stock market value is \$7 trillion in lost savings and lost retirement plans.

To argue that spending \$350 billion to try to stop this slide is overspending, overlooks the obvious. With \$7 trillion lost in stock market value, to do nothing, to allow this to continue, is to run the risk that even more value will be lost and the dreams and plans of families across America will have to be changed.

There is something else we know as well. Because of the state of the economy, we have what the economists call the paradox of thrift. If you look to your near future for your family, and you are worried about your job or your wife's job or your children, you are likely to say: We better be careful. We shouldn't make big purchases now until things are pretty clear. Put more money in savings and hold back a little. Be thrifty. That is a natural reaction. It is a defensive mechanism when people see a troubling economy. Although it makes sense on an individual family basis, it creates in the overall economy exactly the opposite of what we need. What we need is more confidence and people stepping forward and saying, I think we are through this; I think we will be through this soon, and I need to make some purchases that I have held off making. As they buy things, they create more economic activity, businesses flourish, and jobs are created and saved. So as people are thrifty in an economy and hold back, it deepens the recession. Deflation is what they call it. This year we will lose \$1 trillion in spending in America. We estimate that families holding back, consumers holding back will spend \$1 trillion less. Remember, our overall economy is about \$14 trillion, so that represents about 7 percent of our economy which will contract because of fear, concern about our future.

What President Obama has said is at this moment we need to inject money into this economy. We need to show the American people we can save and create jobs. We need to have more economic activity so that businesses will survive, and we need to see our way through this crisis. That is what he has come forward with. So the critics of President Obama's plan have no alter-

native. They are not proposing anything that will stimulate this economy to this measure. They offered a plan which I think was at least thoughtful in one respect which tried to address the housing crisis, but it didn't come close to investing the money in this economy that we need to try to turn it around. So I say to my friends on the Republican side: If you can't come up with a viable alternative, if you can't come up with a solution, then being critical of President Obama's plan doesn't have much credibility. You need to acknowledge we have a problem and work with us to try to solve it.

It is interesting too that there is this argument on the Republican side—and I heard it from the Senator from Arizona—that this is too much money. If we don't do something, if the recession continues and gets worse, here is what happens: Fewer people are working, fewer dollars are collected for income tax, fewer dollars are being spent, less sales tax is collected, values of real estate continue to go down, property tax receipts go down, and we find that the receipts and revenues of the Government start getting fewer and constricted. At the same time, the demands for government services go up. Unemployed people need a helping hand. They need a hand to feed their families and keep them together. They need a hand to provide some kind of health insurance. So the demands for government services go up and revenues go down, and it is a perfect recipe for deficit.

It is no surprise—and I think this chart, if I am not mistaken, shows it—across America 46 States are now facing budget deficits, and it could get worse. It shows a cumulative budget deficit of \$350 billion through 2011. So failing to respond to this situation will mean even deeper deficits. To argue that spending about \$790 billion now will add to the deficit is to ignore the obvious. Doing nothing and allowing the recession to occur and get worse will give us deficits not only this year but for years to come, not to mention the suffering that families and businesses will go through in the process.

If I came to Senator McCain and said to him: I know of your interest in national defense. You are a war hero from Vietnam and I respect you so much for it, and I know you have focused on Americans' national security more than any other issue. If I told you there was a threat to America, whatever it might be, and that we had better prepare ourselves to defend ourselves, would you stop and say first tell me how much it costs, or would you first say keep America safe, that is our first obligation; we will talk about the cost later? I expect that would be his reaction. It might be my reaction as well—it probably would be my reaction as well. So here, when we face a national economic crisis, for any Senator to stand up and say, You know, there is only a limited amount of money we can spend on this, is to ignore the fact that

if you don't make the right investment and turn this economy around, we will pay dearly for years to come.

Now, there was also talk about the way this bill was written. It is true that much of the negotiation for this bill occurred behind closed doors, but there was a conference committee, which is a rarity on Capitol Hill, where Members of both political parties came forward to talk about the bill. Why did so much of it happen outside of the conference committee? Well, it reflects the reality of how business is done most of the time here on Capitol Hill. I know it needs to get better, Senator McCain does, and I am sure President Obama agrees, but this is what we came down to. This is the dilemma we came down to: President Obama reached out to House Republicans and Senate Republicans and said join me in writing this bill, and only three stepped up. Three Republican Senators said we will join you in writing the bill. They have played a major role, those three Republicans, in writing this bill. They have changed priorities in spending. They have eliminated some programs. They have pushed forward with more money in some areas and less in others. They have made a profound difference in the bill because they started with the premise that if we can bring this bill to a point where they can accept it, they would vote for it. Now, that is not an unreasonable thing to ask.

If someone wants to sit down and amend the bill and change the bill, the obvious question is—and at the end of the day we are successful and make the changes you asked for—will you help us pass the bill? For many Republicans, the answer has been: No; we want it both ways. We want to change this bill, but we are never going to vote for it.

I recall an amendment offered by a Republican Senator from Iowa in the Senate Finance Committee which added \$70 billion in costs to this bill for a tax cut I personally approve of but wasn't in the original bill. So he added \$70 billion in costs to the bill and then came to the floor and said I can't vote for this bill because it costs too much. Now, wait a minute. You can't have it both ways. You can't add to the cost of the bill in the committee and then come to the floor and say I can't vote for the bill because it costs too much. It happened.

Another Senator on the floor offered what I thought was a valuable idea. It needed some changes here and there but a valuable idea: Create tax incentives for people to buy homes. I like it. I believe we have improved it in this bill, but it was at least a sound idea to start moving the housing market forward. Well, it turns out that Senator as well added between \$11 billion and \$30 billion to the cost of the bill with his amendment which was adopted, and then said I can't vote for the bill; it costs too much. Again, you can't have it both ways. If many Republican Senators wonder why they aren't in the

room talking about the ultimate bill, it is because they have already made a public pronouncement that no matter what you do to the bill, we are not going to vote for it. How much time should we spend talking to those Senators? We are never going to pass a bill if we spend our time agreeing to amendments they like so they can vote against the bill. That is the case, unfortunately, too many times.

There is also this notion Senator MCCAIN raised that Speaker PELOSI said, We won the election; we wrote the bill. Well, I can tell my colleagues the American people did speak on November 4 and there was a decision in the election, but President Obama could not have reached out more to try to bring in Republicans in the House and Senate to help write this bill. Three stepped forward. Those three were in on the negotiations. Those three had a profound impact on the bill. I respect them very much; the two Senators from Maine, OLYMPIA SNOWE and SUSAN COLLINS, and the Senator from Pennsylvania, ARLEN SPECTER. If you would ask them today: Did you influence this bill, the answer is obvious. They did. They made a big impact on this bill because they were prepared to sit down and work with us and said, If we can find an agreement, we will vote for it. So, in fact, we did win the election, but we know we need the help of both political parties to solve our Nation's problems, and we are trying our best.

Senator MCCAIN also raised questions about the cost per job. If you take the overall cost of the bill—\$790 billion, roughly—and the projected increase in jobs—anywhere from 1 million to 3.9 million—he does simple math and comes to the conclusion that we are spending too much money for each job we are creating. What the Senator did not note was that about a third of this bill goes to tax cuts to everyone. It isn't in the creation of a single job, but in trying to help all families—at least those in income categories that we characterize as middle-income families, working families—so that is about a third of the bill.

The second thing he didn't acknowledge was the money spent in creating a job has to be looked at in the long term. If you create a job for a worker in Illinois and that worker ends up getting paid \$50,000 a year, that worker is going to take his or her paycheck and spend it. In spending that paycheck, it is going to put more money back into the economy. At the shops and stores they go to there will be receipts, profits, more people working, and the people who are working there will take their paychecks and go on and spend them as well. It is the so-called multiplier effect which I am sure the Senator from Arizona is well aware of. So to assign the value of each job as being \$100,000, \$200,000, whatever the cost is, is to overlook the fact that that money, through the workers, is spent and respent time and again. That is what helps us rebuild the economy.

We also had some criticism from the Senator from Arizona about the "Buy American" provisions. I have to tell my colleagues something. I respect him, because I know he believes this in his heart of hearts. I certainly do not stand here and endorse isolationism, protectionism, or economic nationalism, but shouldn't our priority with America's tax dollars be in putting Americans to work, creating good-paying jobs right here at home, buying as many goods and services within our economy as we can?

Senator DORGAN of North Dakota offered an amendment which was a very thoughtful amendment and it said: We are going to buy American, but whatever we do will be consistent with our international trade agreements. That is a reasonable approach. I think as far as we can go under existing law and treaties, we need to try to help American families get back on their feet and Americans back to work. There is nothing unreasonable about that. I think it may go a little too far with this economist's article and others who argue we are getting back into some era of protectionism. Senator DORGAN's amendment I think was a thoughtful one and will help us address that issue.

There was also some concern about Governors. I can tell my colleagues why there is a provision in this bill relative to the power of Governors. We have this amazing situation where there are literally Governors—only a handful—across the Nation who are saying we don't want the money. We don't need the money for our States. I don't know why you are going to force us to take this money.

Well, that is their political point of view. Most States are having trouble. So what we said at the outset is we want Governors to request the funds. Literally billions of dollars will be coming to their States and they should request it. That is not unreasonable. We went on to say that if your Governor doesn't request the funds, doesn't ask for the funds to help people in their States, that the legislature in each State can do it. Why did we put that in there? Because some of the money will not go through the Governor's office, but will go directly, for example, to school districts. Take an example in my State. In my hometown of Springfield, IL, the school district there will get additional funds for IDEA. That is the Federal program that provides money to school districts so they can educate and help children with special needs. It is an expensive commitment and it is one the Federal Government has not done its share of over the years. That money would go to the school district to help them meet their needs for teachers and classrooms, and it would also suppress the need to raise property taxes which no one wants. Also, money will go to the schools in my hometown that have a larger percentage of disadvantaged kids, kids from low-income families. It is called title I. That money is coming from the

Federal Government down to my local school district. Well, the Governor in my State is going to accept the funds, I can assure my colleagues, but what if we were in a State where the Governor said we don't need this money. I don't know why Washington did it. I am not going to sign up and ask for it. There ought to be a way that school district can still benefit even if the Governor sees it differently, and that is the reason for the provision Senator MCCAIN raised.

Senator MCCAIN also said that bill was done in a partisan fashion, behind closed doors. I can tell you the Republican Senators who were engaged in this process on the Senate side made it as bipartisan as possible. They were involved—all three of them—in very detailed discussions about what was included in the bill. Yes, it is true, some were discussions behind closed doors, but, ultimately, this bill is public for those interested in reading and carefully looking through it, and they should. That is part of the process.

I might add, there is more to follow. This bill has no earmarks in it. There is no specific project that is appropriated funds in this bill. That was our promise. There is increased funding in all the agencies receiving more funds for oversight so the inspectors general can keep an eye on the money being spent. There will be an accountability and transparency board to coordinate and provide regular reports to Congress. We are going to have a recovery Web site where people across America can follow the expenditures of these funds, so they can see what is happening nationally and in their States.

I think it also is going to protect State and local whistleblowers. These are tax dollars collected for people who work hard for them. These dollars should be spent in a responsible way, with transparency.

Senator MCCAIN also spoke about Amtrak. Senator MCCAIN is on the record for a long time against Amtrak. Again, I respect his position but disagree with it completely. We found in Illinois and across the Nation when the price of gasoline went over \$4, millions of Americans rediscovered, or discovered for the first time, Amtrak. You need a reservation to get on a train in Illinois because they are packed with people who realize it is a lot cheaper to use the train. Of course, in using a train, there is less traffic congestion and less pollution. Ultimately, expanding Amtrak—even high-speed rail, which is part of this—is part of the future. Senator MCCAIN sees it differently. I respect him for that, but I think the investment in Amtrak is money well spent, jobs right here in America building tracks, expanding Amtrak service, and providing train service that will benefit our country for a long time to come.

I might say, as well, to my friend from Arizona that this bill, though he and his fellow Senators may vote against it, is going to create or save

70,000 jobs in Arizona over the next 2 years. It will provide a tax cut of up to \$800 for more than 2 million workers and their families in the State of Arizona—a tax cut they will greatly appreciate, I am sure. And 75,000 Arizona families will now be eligible, under this bill, to deduct college education expenses for their kids in a way to give them a helping hand so the kids can stay in college, get their degrees, and go on to be employed profitably and successfully in their lives. It is going to provide additional money for the unemployed in Arizona of \$100 a month and give them a helping hand in paying for health insurance.

So whether the Senators voted for this or not, there are benefits coming directly to their States, which most people would agree are important. It will provide funding sufficient to modernize at least 193 schools in Arizona so the children will have laboratories and libraries and modern classrooms for the 21st century. Money will be invested in renewable energy so we will have less dependence upon foreign oil. We are going to move toward the computerization of health records in every State, including Arizona, Illinois, and Virginia, because we believe that means doctors can do a better job. They can see the background of a patient when making a diagnosis. It means there are fewer medical errors. Though that was criticized as being part of the bill, I think it is money well spent.

If we are talking about health care reform, we need to modernize the way we capture and hold health records. Also, the Veterans' Administration's system already has computerized records. It is the way to go. This bill moves America in that direction. This bill, when it comes to the VA, has \$1.2 billion for VA hospital and medical facility construction and improvements. Money that otherwise would not have been spent on the VA will be spent because of the stimulus bill. There is \$2.3 billion for Department of Defense facilities such as housing, hospitals, and childcare centers. There is \$555 million to expand the DOD homeowners assistance program. There is \$150 million that will be used for more personnel to process disability claims—something we need in Illinois, and I bet other States need as well.

These are things I think are critically important to put spending in this economy, to breathe life into it, to create and save up to 3 million or 4 million jobs, to try to stem the tide of this recession.

Again, at the end of the day, we may only have three Republican Senators voting for it, but unless we stand and act together, we are not going to solve this problem.

When President Bush needed help last year with his economic stimulus plan, we stood together, Democrats and Republicans, and gave it to him—first, the \$150 billion in tax cuts and then the President's request for the so-called

TARP funds of \$700 billion. We gave the President the bipartisan support he wanted, even though some of us may have questioned whether it was exactly the right thing to do. We knew we had to act together.

Now there is a different mood. President Obama's plan is facing a different standard by some of the Senators on the other side of the aisle. I think we need to jumpstart this economy and not only bring us to recovery but reinvest in this economy so we have less dependence on foreign oil, better sources of energy that don't pollute the environment, modernize our health care system, modernize our school system, prepare it for the 21st century, and do all these things by creating jobs in America. That is what this is all about. That is why it is so critically important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, as we come to the final vote on the stimulus package, I express my great regret that I am going to be unable to vote for it because we clearly need a stimulus package that works. The economy is in serious trouble, and we need to do the very best we can to restore confidence in our economy and in our future.

Indeed, confidence is the basic issue. Confidence is what it is all about. We have had glimpses that have led us to believe some sense of confidence could be restored. Unfortunately, in my view, we have squandered the opportunity.

Let me put it in context. Let's go back to the time when President Obama was newly inaugurated and people were looking forward to the stimulus package and the activity with respect to banks and what would happen in the financial industry. If I can quote from an editorial that appeared in the Wall Street Journal over the weekend of February 7 and 8, they were talking about the gamble that the stimulus package represents. This is what they had to say:

The biggest gamble with this stimulus is what it means if the economy doesn't recover. Monetary policy is already as stimulative as it can safely get, and the Obama administration is set to announce its big financial fix on Monday.

That Monday was the Monday of this week, Mr. President. It goes on to say:

Stocks rallied Friday on expectations of the latter, despite the job loss report, with big bank stocks leading the way. If done right, this will help reduce risk aversion and gradually restore financial confidence.

Again, confidence is what we need to get the economy going in the right direction. Continuing to quote:

We hope it does, because the size and waste of the stimulus means we won't have much ammunition left. The spending will take the U.S. budget deficit up to some 12 percent of GDP, about double the peak of the 1980s and into uncharted territory. The tragedy of the Obama stimulus is that we are getting so little for all that money.

What did they mean when they talked about getting so little? Picking

out a few examples, again quoting from the Wall Street Journal on the same day and an editorial on that issue, they point out:

The Milwaukee public school system, for example, would receive \$88.6 million over two years for new construction projects under the House version of the stimulus—even though the district currently has 15 vacant school buildings and declining enrollment. Between 1990 and 2008, inflation-adjusted MPS spending rose by 35 percent, per-pupil spending increased by 36 percent and state aid grew by 58 percent. Over the same period, enrollment fell by a percentage point and is projected to continue falling, leaving the system with enough excess capacity for 22,000 students.

Yet they are going to receive \$88.6 million to build new capacity. Do the schools they represent have difficult conditions? Back to the editorial and quoting:

In general, MPS facilities have been described by school officials as being in good to better-than-good condition—

Reports the Milwaukee Journal Sentinel—

the kind of situations that create urgent needs for renovation or new construction in some cities have not been on the priority list for MPS officials in recent years.

So we are going to spend money to build Milwaukee schools and they don't have students to fill them. That is the kind of thing the Wall Street Journal was talking about.

Let's look at what happened this week. Now, I go not to an American publication but to the Economist, printed in Great Britain, which has perhaps a more objective view than a publication focused on American politics:

There was a chance that this week would mark a turning point in an ever-deepening global slump, as Barack Obama produced the two main parts of his rescue plan. The first, and most argued-over, was a big fiscal boost.

They are referring to the stimulus package.

The second, and more important, part of the rescue was team Obama's scheme for fixing the financial mess. . . .

They refer there to the unveiling of the program that Secretary Geithner gave us on Tuesday of this week. They go on to describe the situation:

America cannot rescue the world economy alone. But this double offensive by its biggest economy could potentially have broken the spiral of uncertainty and gloom that is gripping investors, producers and consumers across the globe.

Again, Mr. President, they are pointing out that we have a significant crisis of confidence. They say it applies to investors, producers, and consumers. Then they gave their judgment:

Alas, that opportunity was squandered. Mr. Obama ceded control of the stimulus to the fractious congressional Democrats, allowing a plan that should have had broad support from both parties to become a divisive partisan battle. More serious still was Mr. Geithner's financial-rescue blueprint which, though touted as a bold departure from the incrementalism and uncertainty that plagued the Bush administration's Wall Street fixes, in fact looked depressingly like

his predecessor's efforts: timid, incomplete and short on detail. Despite talk of trillion-dollar sums, stock markets tumbled. Far from boosting confidence, Mr. Obama seems at sea.

These are comments not of an American publication, or of a Republican or Democratic partisan, but the comments of an objective observer from overseas. They go on:

The fiscal stimulus plan has some obvious flaws. Too much of the boost to demand is backloaded to 2010 and beyond. The compromise bill is larded with spending determined more by Democrat lawmakers' pet projects than by the efficiency with which the economy will be boosted.

I will give you an example that fits that category. Quoting from the Wall Street Journal of today:

An obscure Commerce Department office with a \$19 million budget and fewer than 20 grant officers would end up in charge of \$7 billion in grants to expand Internet access in rural areas.

Mr. President, you have had executive responsibility at the State level. I have had executive responsibility in the private sector. Think for a moment about the workings of this situation. There is an office with 20 employees administering a \$19 million budget that is going to receive, under this stimulus package, a check for \$7 billion and then being told: Spend it wisely in expanding Internet access in rural areas.

Mr. President, \$7 billion does not get spent by 20 people overwhelmed by the task. It does not get spent expanding Internet access in rural areas without careful studies and an intelligent plan laid out.

That is an example of what "The Economist" is talking about when they say, and I go back to their quote:

The bill is larded with spending determined more by Democrat lawmakers' pet projects than by the efficiency with which the economy will be boosted.

They go on to talk about more details of the stimulus plan, as well as the Geithner plan, but they summarize it this way under the heading, "A great failure of nerve." They say:

How serious is this setback? One interpretation is that Mr. Obama's crew mismanaged expectations—that they promised a plan and came up with a concept. If so, that is a big mistake. Managing expectations is part of building confidence and when so much about these rescues is superhumanly complex, it is unforgivable to bungle the easy bit.

More worrying still is the chance that Mr. Geithner's vagueness comes from doubt about what to do, a reluctance to take tough decisions, and a timidity about asking Congress for enough cash. That is an alarming prospect.

I wish I could support this stimulus package. I am more than happy to reach out to the administration and do whatever I can to help solve this problem because our country is in serious difficulty and the world, as a whole, is in even more.

I regret, in the words of "The Economist," that this is an opportunity that has been squandered. I hope in the coming weeks we can do something to regain the opportunity and regain the

momentum we need in order to get to where we need to be.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, like my colleague from Utah, I too wish I had something I could vote for, something I believe would stimulate the economy, would get the job done. But on this package, based on its size, based on its magnitude, and based on what I believe are fundamental flaws in it, like my colleague, I will also need to vote no.

The other day I was on a local radio station in Casper, WY, KTWO, "Brian Scott in the Morning." Brian said: How do we know, how are we going to judge the success or failure of this bill? And I said, because this is statewide in Wyoming: Ultimately the people of America will judge the success or failure of this bill. If the people believe the Government is working for them, then it is going to be a success. But if, on the other hand, the people of America believe they are working for the Government because of the debt and they feel burdened by this package through increased taxes, through inflation, through less buying power, through more Government regulations, then people will judge this a failure. I want it to work. I want something that is going to make a difference in the lives of the people of Wyoming and the people of America.

Brian then specifically said: How will it work? How is the program actually going to work?

That is where I have to turn to the headlines and the sort of things Senator BENNETT was talking about because I don't think anyone knows. The Members of this body don't know. The Members of the House don't know. The program is much too big. As Alice Rivlin, the former adviser to Senator Bill Clinton said, we should go with something half the size. Take a look and do the emergency spending now, and then let these other programs, whether it is energy, environment, education, health care—let's discuss those in a deliberate manner.

But the headlines from the Washington Post say, "Trim to Stimulus Carves Into Goals For Job Creation." Are we not trying to create jobs? Isn't that what this is supposed to be all about? Not these backed-up projects people have had as their pet projects for years.

Another headline, same page: "Despite Pledges, Package Has Some Pork." "Sifting Through Details of the Deal," as the Members of this body are still waiting for the copies to come to the floor.

Investors Business Daily: "Stimulus Bill Funds Programs Deemed 'Ineffective' by [Office of Management and Budget]." Page 1 headline: "Stimulus Bill Funds Programs Deemed 'Ineffective' by the [Office of Management and Budget]." Then why are those programs still here? That was yesterday's Investors Business Daily.

Today's headline: "\$789.5 Bill Stimulus Coming, But Will It Revive Economy?"

We are going to spend all of this money, and every dollar we spend that does not actually work to contribute to reviving the economy is an extra dollar our children and their children are going to owe to foreign nations because we did not have the self-control to limit our spending now.

And then the front page of the Wall Street Journal today, the big question: "Next Challenge on Stimulus: Spending All That Money."

Senator BENNETT talked about a very expensive proposal that is going to be spent, and the Wall Street Journal said it would probably take them about 8 years. By then, this economy is going to have changed dramatically.

This "Next Challenge on Stimulus: Spending All That Money" talks about the Department of Energy. What does it have to say?

[Department of Energy] is going to have to dramatically change how it does business if it hopes to push all this money out the door. . . They are going to need more people, more oversight and more freedom to waive regulations.

If they are going to spend all this money in a timely manner, because that is what this program is supposed to be—timely, temporary, and targeted—if they are going to be able to spend this money in a timely manner, they are going to have to waive regulations.

We will see how they do. This is the Department of Energy that has a history of delays and of letting costs spiral during the delay process. And that is today's Wall Street Journal.

Is there waste in this program? Absolutely. I think the people of Wyoming get it right. I have had telephone town-hall meetings. I have been home every weekend for the past three weekends. But the Powell Tribune in Powell, WY, has a headline that says: "Stimulus: Take time to get it right."

If you live in Powell, WY, and you write for the paper in Powell, WY, you are not one to ever want to quote the New York Times. Yet in this editorial they do. They talk about the New York Times. They said: A New York Times editorial said, "A bill that is merely better than nothing won't be nearly good enough."

"A bill that is merely better than nothing won't be good enough. The economy is too fragile. And the numbers are too huge."

What I think we should do is people should, once the bills get to their desks, pack them up, take them home with them, read them on the plane, read them in the car, read them on the train, read them as they go home, and then talk with people about what is in the bill, and then come back and vote on it. Then I think this Senate and the House would know what the people of America would say. Take the time to get it right. This bill is too big. It spends too much. The cost is too great.

The risk is too high. And for somebody from Wyoming, it seems to me as though we are firing all our bullets at once, spending close to \$1 trillion on a package that we don't know whether it is going to work, and if additional help is needed, we will have run out of ammunition.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent to be recognized for up to 15 minutes.

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

Mr. UDALL of Colorado. Mr. President, today we will pass an economic recovery bill designed to create and save jobs. There are many reasons our economy is in trouble. One can point to the housing bubble and bust, failure to properly regulate financial markets, two wars that we have not paid for, and a global credit crunch. But whatever the causes for our economic crisis, a common thread running through the fabric of our economy is energy. I believe that a decade of shortsighted energy policies and missed opportunities has contributed to the economic crisis we face today.

I also believe a way out of this crisis can be found if we develop a smart energy policy. That is what I want to talk about today.

Investments in energy technology, energy conservation, and sustainable energy will be an important part of the path to economic recovery. We need to get on that path soon. One way we can move forward is to pass legislation establishing a national renewable electricity standard, which is known as an RES. This week, I am joining Senator TOM UDALL from New Mexico in introducing such a bill.

Establishing a national renewable electricity standard is a goal I have been striving to achieve for many years. In 1997, as a Colorado State legislator, I introduced several bills designed to advance renewable energy, including a State renewable portfolio standard. While my bills were voted down in committee and never reached the full House floor, my work in the Colorado House laid a path for action.

In 2004, as a Member of the House of Representatives, I traveled across Colorado with our then-State House Speaker, Republican Lola Spradley, campaigning for the Nation's first statewide RES ballot measure.

Despite well-publicized objections from Colorado's electricity providers, Colorado voters approved amendment 37, which required 10 percent renewable energy production for our State by the year 2015. After we easily reached that goal within a few years, the Colorado legislature increased this RES to 20 percent by the year 2020, this time with the support of those very electricity providers who opposed the measure initially because they came to realize the bottom line benefits of utilizing renewable sources of energy.

I have continued this work at the Federal level since being elected to the House of Representatives. In 2003, again along with my cousin TOM UDALL, I introduced a bill to create a national RES. This bill became the basis for a measure we passed out of the House in 2007. This measure would have created an RES of 15 percent by the year 2020 for our entire Nation.

Unfortunately, this amendment did not make it through the Senate. It failed by one vote and was not included in the 2007 Energy bill. But now thankfully, under the leadership of Energy and Natural Resources Committee Chairman JEFF BINGAMAN, and with the growing support of a number of new Senators, we will have opportunities in this Congress to again pursue a national RES.

Early this week, Chairman BINGAMAN held a hearing on his draft language for an RES of 20 percent by the year 2020. I would like to thank Chairman BINGAMAN for holding this important hearing and for his leadership on this issue. I look forward to working with him to get a strong bill through the committee, through both Houses of Congress, and to the President's desk.

My desire to win this fight and to help the chairman is why I joined with Senator TOM UDALL to introduce this Udall-Udall RES bill that would require 25 percent of our electricity produced from renewable energy sources by 2025. RES is important for many reasons. As demand for energy continues to grow in this country, we need to make sure we continue to have affordable and reliable electricity supplies.

As demand for energy continues to grow in this country, we need to make sure that we continue to have affordable and reliable supplies. And, most importantly, as we move to more competition in the delivery of electricity, we must make sure consumers and the environment are protected. So it makes sense to put incentives in place to ensure that less polluting and environmentally responsible sources of energy can find their way into the marketplace. That is what a renewable electricity standard, or RES, would help to do.

Not least, our bill would reduce air pollution from dirty fossil fuel powerplants that threaten public health and our climate.

But this bill is also about addressing two of the greatest challenges facing our country—national security and economic growth. With almost all of the new electricity generation during the last decade fueled by natural gas, our domestic supply cannot sustain our needs.

Just think, Iran, Russia, and Qatar together hold 58 percent of the world's natural gas reserves. As demand for power continues to grow, we should not be forced to rely on these unstable regions to sustain our economy, nor do we have to.

The best way to decrease our vulnerability and dependence on foreign en-

ergy sources is to diversify our energy portfolio.

Half of the States in our great Union have already figured this out and have made the commitment to producing a percentage of their electricity using renewable energy.

But all of our States will benefit from a national standard, which will lower natural gas costs nationwide, create new economies of scale in manufacturing and installation, and offer greater predictability to long-term investors. By reducing the cost of new clean technologies and making them more available, as a national RES would do, it would help restrain natural gas price increases.

This bill will spur economic development with billions of dollars in new capital investment and new tax revenues for local communities, as well as millions of dollars in new lease payments for farmers and rural landowners.

For those not yet convinced of the benefits of an RES, I would ask them to look at what has happened in Colorado. Vestas, a major wind turbine supplier, identified our State RES as a determining factor in locating 2,500 jobs in Colorado for its wind turbine manufacturing headquarters. Additionally, Colorado Governor Bill Ritter has estimated that just the solar component of the RES has brought 1,500 new solar jobs to Colorado.

Now, Mr. President, some have argued that a national RES would burden some regions of the country at the expense of other regions. I would argue the opposite. A national RES would, in fact, create public benefits for all.

The bill's definition of "renewables" is broad, including biomass such as cellulosic organic materials; plant or algal matter from agricultural crops, crop byproducts, or landscape waste; gasified animal waste and landfill gas, otherwise known as biogas; and all kinds of crop-based liquid fuels. The definition includes incremental hydropower; solar and solar water heating; wind; ocean, ocean thermal, and tidal; geothermal; and distributed generation. Every State has one or more of these resources.

Further, the argument that the Southeast would be disadvantaged by a national RES—that the Southeast has no renewable resources—has been shown to be inaccurate. In fact, the Southeast is one of the regions of the country that would see the most benefit from this proposal. According to the Department of Energy's Energy Information Administration, the technology that does best under a national RES is biomass. Already, 2,500 megawatts of generation come from biomass in the Southeast, and much of the waste from pulp and paper mills has yet to be used for generating electricity.

In summary, a national renewable electricity standard will reduce harmful air and water pollution, provide a sustainable, secure energy supply now,

and create new investment, income and jobs in communities all over our country. That is why I look forward to working closely with my colleagues in the Senate to ensure the adoption of a national renewable electricity standard.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum, and if it is necessary, to be fair to the other side, I will take it out of the time I have over here, or equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, on Friday the 13th, there is superstition that says we shouldn't be walking under ladders, we should avoid black cats crossing our paths, and certainly you wouldn't purposely break mirrors, would you. But since this is the first significant piece of legislation in this Congress, and under our new President, we ought to take a look in the legislative mirror at what we are doing when we vote here today.

If you look at the developments of this legislation, you will see some patterns. No. 1, House Democrats put together their priorities and drove their priorities through the House of Representatives. They didn't pretend to take any Republican input and they left out 11 of their own Members in the House of Representatives, as we saw from the 11 Democrats who voted against it. In the Senate, Republicans were consulted, and that is a very positive thing, but we were never invited to the negotiating table.

We saw this pattern repeat itself at committee levels and on the floor here and, of course, the most obvious one, at the conference stage. When Republicans offered ideas, generally they were rejected. There were a few exceptions, and the chart behind me will show what those few exceptions were.

The chart deals with one of the improvements—the alternative minimum tax. This is 2006 return data, so it might understate its impact, but you can see that every State would add up to about 20 million for the year 2006. If the 2008 patch were not passed, it would probably add up to 23 million, 24 million middle-class Americans who would be hit if we didn't do something on the alternative minimum tax. Each one of us can look at our own individual State. But you can see that there are high percentages of middle-class people who would be hit by the alternative minimum tax. That needs to be done.

I heard detracting remarks on whether we ought to do that in a stimulus package. It is not as stimulative as some parts of it. I think I heard some

figures from the other side that it might be 2 cents on the dollar—or \$1.02 of stimulus as opposed to other places where, as with food stamps, you might get a \$3 or \$4 return on the investment from a stimulus. But it needs to be there for the simple reason that in each of the last 2 years, we have waited a long period of time to do it, and it has created problems for the IRS to do their form work when you do the alternative minimum tax in November.

I pushed this amendment, an extension of the alternative minimum tax patch. I thank the conferees for retaining it in conference. Many in the Democratic leadership—most particularly the senior Senator from Illinois—argued that I should support the package based upon that amendment alone. I agree with my friend from Illinois that the package was improved with that amendment. I also point out that all these families in his State—and you can look at Illinois, where there is a fabulous number of middle-income taxpayers, 909,000 right now, before this bill is signed by the President—would be obligated to pay that alternative minimum tax. In my State of Iowa, it is a large number; not quite that big.

We need to point out that all the families from his State and families from my State will get a tax cut averaging \$2,300 due to the amendment. We on this side pushed for that.

I do not get what the senior Senator from Illinois was saying. I only heard him say it last night because I was on the floor at that particular time. I don't get why he doesn't accept the improvements based on merits alone and not whether it has anything to do with who supports this bill or who does not. Why he feels the need to continue to criticize me by name for improving the bill is beyond my comprehension.

Now, instead of repeatedly criticizing me by name, I hope the senior Senator from Illinois would listen to what I have to say and reflect on it. We do not need to be partisan, cutout cartoon characters. We can actually engage in some real debate. In that vein, many on my side could probably support the conference agreement before us, with more improvements such as the one the senior Senator from Illinois has criticized me for offering, the alternative minimum tax. President Obama could get the 80 votes he wanted and still have a stimulus bill.

But on this side we will supply those additional votes, maybe pushing the total to 80, only if we believe the bill as a whole would improve the economy. To that end, House and Senate Republicans offered amendments in committee and on the floor to improve this bill the following ways. I have about four examples.

No. 1: to tie the spending of this bill to the period in which the economy is sagging. That was Senator MCCAIN's trigger amendment. If Senator MCCAIN had prevailed, taxpayers would know their tax dollars would be protected once the economy recovered. It was a

good, fiscally responsible idea. It was rejected largely along party-line votes.

No. 2 example: to ensure that the huge amount of State aid money, almost \$87 billion for Medicaid alone, was used by the States to prevent tax increases or cuts in important services. We had amendments to do that. The amendments required States to maintain their efforts on keeping taxes low and not cutting services. That was rejected largely along party lines.

Another example was to build on the individual tax relief in the package. On this side, we offered amendments to expand the relief in amount and by the number of taxpayers. Those amendments also were largely rejected along party lines.

The last example: we tried to divert some of the over \$1 trillion in this bill—that is \$1 trillion when interest on this debt is included—to home mortgages and housing problems. We offered amendments to do that. Senator ISAKSON prevailed with his amendment to provide a robust tax credit for home purchases. How was that amendment received in the conference committee? The answer is it was dumped and new social spending, the priority of a lot of House Democrats, was added back.

These are just a few examples. I would like to remind my colleagues that we would cut back the cost of the bill. Ask Senator MCCAIN. I am sure he will explain, in detail, the large amounts of money that could be saved.

The true test is in the press reports. They note the conference report is not too far off from the basic plans laid out by the Democratic leadership. The bottom line is the basic outlines of the plan did not move all that much between what was originally passed in the House, originally passed in the Senate, and what comes out of conference. It goes back to my basic point—to be bipartisan you have to have a real offer to negotiate and a sincere objective to entertain each other's point of view. There is no better evidence of that kind of pattern than the record Senator BAUCUS and I have established in the committee, the Finance Committee, during the years I chaired the committee and during the years he has chaired the committee.

I yield the floor.

I suggest the absence of a quorum and ask the time be divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, this is 10 minutes for morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. SESSIONS. I ask to be notified after 5 minutes.

Mr. President, I truly believe the legislation before us is a historic piece of

legislation. It is a piece of legislation that changes the course the United States has steered throughout its history, by moving us rather significantly and precipitously toward a European model of an economy. The Government's share of GDP has historically been about 20 percent for the last 34 years, up and down, 17, 21, 22. One score—when you put all the stimulus money, all the bank money and all the bailout money and what we may expect to see in the future—one score indicated that it could reach 39 percent. In 1 year, we go from 21 or so percent of GDP to 39 percent of GDP. They say this is a temporary stimulus package. But it is not a temporary stimulus package. It has all kinds of permanent expenditures, creates new Government programs, and spends more money on things such as IDEA, special education—\$14 billion on that existing program. Does anybody think we are going to reduce that in the future by any significant degree?

This bill funds program after program that will be increased in size, and the Government spending will then account for a larger percentage of our economy.

As George Will wrote—he is frequently, I think, thoughtful and wise—recently:

If this is not a matter that ought to be politically discussed, what is?

So we want to be nonpartisan, bipartisan, and work together. But if you realize that we are undertaking an expenditure, the largest in the history of the Republic, the largest in the history of any nation in the world, in one fell swoop, and if you believe that is going to move us significantly in a way that alters the historic principle of this Nation that believes in limited Government, then you need to be here talking about it and opposing it and voting against it.

I think it is pretty clear. I know a lot of my colleagues on the other side of the aisle, a lot of new Senators who came in recently, they are uneasy about this legislation. But they have been led along, I am afraid, by the leadership and some of the others and listened to the Siren songs and are going along with this legislation.

I do not think, in years to come, they are going to be that proud of it. I just don't think so. I wish that some way, even in these last moments, we could stop this train, go back and look at a piece of legislation that might be better. The House proposed legislation. Senator THUNE offered it here. Some folks have taken a look at Christina Romer's work. She is the Obama administration's top economic adviser.

She put a model out on how to evaluate a stimulus-type legislation last year. They believe their legislation, following her model of what creates jobs, following her analysis, would create twice as many jobs at half the cost and not create so many permanent Government bureaucracies and programs that are going to absorb more and more of America's wealth.

I think this is a big deal, and I do not like the process. The bill got out in the middle of the night, and now we are supposed to vote today. There is hardly time to read it. It is \$1 billion per page, 700, 800 pages, maybe more in there, and almost \$1 billion per page. If you add up the minutes between now and the time we will be voting, it is almost \$1 billion a minute. One professor at Hillsdale College notes that this represents—\$789 billion is almost equal to all the currency in circulation in America today. It is a stunning piece of legislation.

I want to repeat something that I have spoken about before. In my view, there was a deliberate plan that was hatched to create a perception that something would be done in this legislation that would require any business that obtained money out of this program, any contractor, to use the Government E-Verify Program. All you have to do with this program is punch into the computer the Social Security number of the people who seek employment and have it checked by the Department of Homeland Security. And we are finding that a considerable number of potential new hires—not too many but a considerable number—are here illegally. Now, let me ask my colleagues, is it the desire of the Members of this body that the stimulus money to create jobs—that those jobs should be given to people illegally in the country? People who are here lawfully, green card holders or temporary workers, if they are lawfully here, they can have a job under the program. I am not objecting to that. But the Government has a computer system, and 2,000 businesses a week are signing up to use it voluntarily. Nobody has required them to do that. Those businesses are finding that some of the people who apply are not here legally, and they are not hiring them, as a good citizen company should do. They are not supposed to hire illegals—in fact, it is a criminal offense if they knowingly hire people who are in the country illegally. So why would we not do that? Why?

The PRESIDING OFFICER. The Senator has used 5 minutes of his time.

Mr. SESSIONS. I thank the Chair.

Why would we not include this simple requirement? Well, let me tell you, the American people want us to do it, overwhelmingly, and I think the leaders of this body know that. So a clever plan was hatched. I began to get the feel for it when I began to offer this amendment. Three or four times I offered the amendment. Many amendments were voted on on the floor during this debate. The leadership was most proud of that: Oh, we had a lot of votes. But some did not get voted on. This was one that did not. Why? It passed the House last year. One part of my amendment was passed on a floor vote of 407 to 2 to extend the E-Verify Program, which is set to expire in March. The other part was accepted in the Appropriations Committee, without objection, and that part would say

that if you get a contract under this jobs bill, you would use E-Verify. So the House passed it. It was in their bill. All but 11 Democrats voted for the overall bill, so they voted for the E-Verify provision. And I am sure that the Republicans and the 11 Democrats, had they been asked to vote on just this provision, would have voted for it too. So it was virtually unanimous in the House.

So I kept pushing it here, and if it had passed here, using the same language our House colleagues used, it would have—absent skullduggery, which sometimes happens—been in the final bill because it would have been in the House bill and the Senate bill and become law.

So the House Members are most proud. They voted for it. They voted with their constituents. They voted for common sense. They voted for American jobs. And they are proud of themselves.

The Senate, however, did not get to vote on it—sorry, JEFF, we just couldn't find time to get your vote. We had all the other votes, but we did not have time for yours.

No Senator is now on record as having voted against E-Verify. But just as I predicted, they went to conference and they got with Speaker PELOSI and Majority Leader REID, who control the conference—both of them pick the conferees; a majority of Democrats on both the House and Senate side, and they had the power to write the bill as they chose—and lo and behold, surprise, they took it out. They did not want it in from the beginning. They systematically maneuvered around to get a plan to take it out, and they think they can pass the bill without it, and perhaps they will. And who is to lose? Low-skilled, honest, decent American workers out looking for a job.

Let me tell you about E-Verify. Doris Meissner, who is the former head of the Immigration Service under President Clinton, in a report last week, February 2009, said this:

Mandatory—

That is what we are doing, requiring these companies to use E-Verify, not mandatory now—

employer verification must be at the center of legislation to combat illegal immigration . . . the E-Verify system provides a valuable tool for employers who are trying to comply with the law. E-Verify also provides an opportunity to determine the best electronic means—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I ask unanimous consent for 1 additional minute.

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

Mr. SESSIONS. She goes on to say that:

E-Verify also provides the best opportunity to determine the best electronic means to implement verification requirements. The administration—

She is talking about the Obama administration—

should support reauthorization of E-Verify and expand the program.

Alexander Aleinkoff, a Clinton administration official, called it a “myth” that there is “little or no competition between undocumented workers and American workers.”

And I would say, I am disappointed. I am not surprised, I could see how this was headed for the last week or so. I hoped it was not so. I raised openly my concern with the majority leader and the bill managers that this would happen, and I am now seeing it happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, today all over the country, millions of Americans went to work unsure whether they would bring home a paycheck or a pink slip. Today, millions of Americans got up, put on their suit, left the house, not go to work, but for another interview, another visit to the unemployment office, another spot in the long hiring line. Today, millions of Americans will have that late-night session at the kitchen table trying to figure out how they are going to make ends meet on their stressed family budget. And today, millions of Americans worried how they could afford it if a child or an elderly parent were to get sick. In my home State of Rhode Island, where the unemployment rate is the highest it has been in decades, the second highest in the country, I hear stories like this over and over again.

This past Sunday, I had one of our community dinners that we hold. This one was at the Tri-City Elks Lodge in Warwick. More than 200 people came from all over the State to talk to me about their struggles to afford health care in this economy. From them all, the message was the same: We are trying to get by, but times are tough and we feel the deck is stacked against us so we just can't make ends meet. What can you do to help?

Our economy, our country, is in crisis. Americans are urging us to take action now, before things get worse, before it is too late. So this week, the Senate took action. It was not easy, it is not perfect, and it will not be cheap. But it was the right thing to do. The bill we passed on Tuesday will create or save 12,000 jobs just in Rhode Island over the next 2 years. Many of those jobs will come from new investments in Rhode Island's infrastructure, including millions for road and bridge repair, to improve drinking water and sewer systems, and to help families weatherize their homes and cut their energy bills.

The recovery plan will provide a refundable tax credit, a downpayment on the middle-class tax cut President Obama promised this country. That credit will reach 470,000 Rhode Island workers and families, giving as much as \$800 worth of breathing room in a family's budget in this year when every little bit counts.

I am also proud that the recovery bill will provide a one-time \$250 payment to

those living on Social Security or SSDI. In the Ocean State, we know that for vulnerable seniors, that little bit of extra help from the Federal Government can make the difference between housing and homelessness, between health and sickness. Approximately 138,000 Rhode Islanders receive Social Security, so this bill will mean more than \$34 million into Rhode Island's economy for Rhode Island seniors and those who are disabled.

The recovery plan will send an additional \$100 a month in unemployment insurance benefits to 86,000 Rhode Island workers who have lost their jobs, and it will provide extended unemployment benefits to an additional 17,000 laid-off Rhode Island workers.

The bill we passed does not stop there. It increases Pell grants so people who cannot find work can go to college, improve their skills, and come back into the workforce better trained, and in better days. It increases funding for food stamps, for Head Start and other early childhood education programs, and for Medicaid—all to help struggling families just weather this storm.

It includes \$18 billion in Medicare and Medicaid incentives to build health information infrastructure to improve the quality and safety and efficiency of our health care system.

The bill we passed will put people back to work. It will jump-start our faltering economy, and it will support struggling families. It is not a perfect bill, but at this moment, in this crisis, it is necessary.

We tried to do this together with our Republican friends. President Obama reached out his hand in unprecedented ways. George Bush never once came to the Senate to talk to us, to Senate Democrats. President Obama traveled to Congress to meet with the House Republicans; he came over here to meet with the Senate Republicans; he did individual calls and meetings. Three Republican Senators, Senators SNOWE and COLLINS of Maine and the distinguished ranking member of our Judiciary Committee, Senator SPECTER, heard his call, put their country first, and helped us pass this bill. I do not agree with all of the compromises that they required, but without them, we might have had no bill at all.

But from the vast majority of Republicans in Congress, from every Republican Member of the House of Representatives, what did President Obama get for his pains? They slapped away his hand of friendship, and they gloated about it, saying, “The goose egg you laid on the President's desk, [the goose egg meaning zero Republican votes in the House of Representatives] was just beautiful.”

They claimed—hold your horses here—to take inspiration from the Taliban. They said their boycott of President Obama's bill was a political shot in the arm going forward.

And their party leader said this:

You and I know that in the history of mankind and womankind, government—federal, state or local—has never created one job.

I guess his history book ended at the chapter on Herbert Hoover. Mr. Steele, read on; read the next chapter about Franklin Delano Roosevelt and the Works Progress Administration and the Citizens Conservation Corps and how the Government got us out of the Great Depression.

Another measure of whether our Republican friends are being fair is to look at the arguments they have made. Do they make sense?

“We should do housing first.” We have heard that one. Well, fixing the housing market is, indeed, important. But actions speak louder than words, and while the Republicans' words call for action, their actions spell obstruction. They still resist the single most important and effective thing we can do to stem foreclosures, which is Senator DURBIN's bill to allow bankruptcy courts to modify mortgages on principal residences, the only loans that don't have this authority in all loans in our country.

And when we tried to address the housing crisis only a few months ago, they stopped all those bills, refused to allow us to move forward because they said expanding—remember this—oil drilling was more important and we had to do that first. It's the number one issue facing the American public.

Look where we are now and how important oil drilling is in our crisis. If we had done housing first, can you not see the signs here saying: Jobs first? I fear our friends would rather move the goalposts than move legislation.

“It is full of spending, and it is too big.” Yes, it is full of spending. The recession of consumer spending and business spending is what is draining the economy. The whole idea is to counterbalance the loss of that spending with Government spending. And you know what? It is probably not enough. Our economy has already lost more than 3.6 million jobs since the peak of the business cycle in December 2007, and 11.6 million Americans are currently looking for work. A report last month estimated that in the absence of this legislation, we could lose another 3 to 4 million jobs. This legislation will create or preserve 3 to 4 million jobs. 11.6 million Americans out of work. This accomplishes the first necessary step of stopping the bleeding. But more, I suspect, will be required to cure the patient. Realistically, the danger that this bill is too small is worse than the danger that it is too big.

“The bill doesn't all create jobs.” Well that is true. But let's look at two examples of provisions that don't create jobs—Pell grants and Medicaid. The Pell grant money lets people step out of the market for jobs at a time when it is highly stressed, train up, improve their skills, and move back in in better times. Isn't that smart? Doesn't that make sense for the country?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WHITEHOUSE. I ask unanimous consent to speak for 3 more minutes.

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

Mr. WHITEHOUSE. The health care spending will protect precarious State budgets and protect people's health care as they ride out the storm. Isn't that the decent thing to do as this storm hits American families?

Another argument: "Some of it isn't soon enough." Well health information technology, for instance, will take a while to ramp up, but it is necessary infrastructure to avert the \$35 trillion health care calamity now bearing down on us. It has to be done sooner or later. The recession will almost certainly be here 2 years from now, and if it does take a little while to do, isn't that all the more reason to start now?

And then there are the—what I call the "oh, please" arguments. The party that ran up nearly \$8 trillion in debt under George Bush—now that Barack Obama has been elected, and now in the one time of crisis when every respectable economist is saying this is the time for deficit spending—now suddenly gets religion about deficit spending? If this weren't so serious, it would practically be funny.

Finally this: If our opponents cared about jobs and putting people to work quickly with effective, valuable infrastructure, why such widespread opposition to the \$20 billion for school repair and construction? This money could have put contractors to work on school repairs, green renovation, weatherization, and conservation measures. It would have made schools cleaner and greener. It would have lowered local fuel budgets, and it would have reduced dependence on foreign oil. What does opposition to that tell you?

And what did they argue for? Here is a golden oldie: Reduced corporate tax rates. How many companies do you think are out there reporting big, taxable profits in this economy?

On even brief consideration, the Republican arguments against the bill don't hold water. It is instant replay of the same, tired, flawed ideology that put us in this mess in the first place. Barack Obama did not ask for this mess. He inherited this mess. Barack Obama would rather have come into a budget surplus, a growing economy, and a trajectory to a debt-free America, like George Bush and Dick Cheney did. But that is not what they left him. And now he's the guy who has to dig us out of their mess. In simple decency, you would think the least one could ask is that the party whose President made the mess not slap away Barack Obama's hand of friendship. "I am sorry, but I won't help you clean up my mess unless you do it my way."

After weeks to ventilate their arguments, our friends now have an opportunity to show that when all is said and done, they care more about moving the country forward than scoring political points. Now we have the chance to come together and pass this bill and send to it President Obama's desk so we can begin to restore confidence and hope to our country.

I hope—I hope—our Republican friends will join us. There is too much at stake to do nothing.

I thank the presiding officer, I thank distinguished Senator from Texas for her courtesy in yielding me additional time.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to speak against the bill coming from the House shortly. We have had a chance to look at this bill for the last few hours. There is much in it that is different from what passed the Senate. Some of it is different from what passed the House as well.

I wish to address a few points that have been made. It is somewhat misleading to talk about the Republican input in the way it is being described. First, the bill was written without any Republican input. It was written in the House of Representatives by Democrats. There were no amendments allowed. The committees were not allowed to exercise their jurisdiction on the bill there. It came to the Senate. I was on the Appropriations Committee which passed the spending part of the bill. Amendments were discouraged. The meeting lasted a couple hours. The same thing happened on the Finance Committee, which is the tax part of the bill. There were no amendments that were hammered out. There was not an amendment process where we gave and took. To say Republicans had a chance to have input is disingenuous.

I respect the President of the United States for coming and talking to Republicans. He talked to the Republican Senators and House Members. That is good. There is nothing bad about that because he is a smart and civilized man whom we all respect. We want the President to work with Congress as we go forward. But talking should include taking ideas and shaping them into something on which we could all say we had a part. If I could support half this bill, I would be inclined to look at it in a way that maybe I would be able to support. But let's look at what this bill is.

It has a total cost of \$787 billion. The spending portion is \$580 billion. With interest, the cost of the bill is going to be about a trillion dollars. I take the cost of a trillion dollars, and borrowing that money from the future, very seriously. We ought to spend some time before we spend \$1 trillion in a bill that is going to be off the budget and is not in any projected budget we have seen. It is going to add almost \$1 trillion to the deficit. Is it going to succeed? I hope it does. But let's talk about what is in the bill.

Eleven percent of the spending in this bill will occur this year. The purpose of a stimulus bill is to stimulate the economy quickly. We are talking about almost \$1 trillion and 11 percent is spent this year. A stimulus bill should inject money into the economy

that will cause jobs to be either produced or kept, that will produce spending so there will be something for people to make and retailers to sell. After we have that stimulus, which we hope would be in the private sector and therefore permanent, then we are going to have to deal with the deficit in years 3 through 10, so we don't have an upside down situation where we have so much debt that either our foreign investors will not buy our debt or, if they do, the risk is so high that they increase the interest rate, which then becomes an inflationary problem. This is not a stimulus package when 11 percent is spent in the first year.

Eighteen percent of this conference report is dedicated to tax relief. I believe tax relief has been proven again and again to spur the economy. President Kennedy gave tax relief, and it spurred the economy and increased revenue. President Reagan, tax relief, and it increased revenue. President Bush, in 2001 and 2003, when we were having a rough time in the economy, the tax cuts gave us the largest increase in revenue in the history of America.

People scoff at tax relief as part of a stimulus package. How can they scoff, when it has been proven again and again to work? In this conference report, 18 percent is tax relief. It is not even tax relief that will spur the economy. The tax relief is the Making Work Pay Credit which is going to be approximately \$7.65 per week in tax relief for a worker. That is going to be limited to \$400 a worker.

Speaking of what has been tested, last year, when we became concerned that the economy was beginning to lag, we passed a \$600 tax credit. Every economist I have read says it did nothing. It did not spur the economy. It did not help our financial situation at all. That was \$600 per person last year. This is going to be \$400 per person, and it is going to be strung out in such small amounts in a person's paycheck, they are not going to go out and spend money which is what you want in a stimulus package. The stimulus provides \$1.10 a day in tax relief to workers, while saddling every American family with \$9,400 in added debt.

The home buyer credit the Senate added, which tries to correct the fundamental problem that started this whole economic downturn—housing—is all but eliminated from the conference committee report. We have an \$8,000 credit for first-time home buyers. Now, I support this because it will be some credit for a first-time home buyer to go out and buy a home. But the Senate provision was \$15,000 for any home buyer. So we had the capability to give every home buyer that \$15,000 tax credit so we would move inventory and allow homebuilders to start building again, which would create jobs. That was changed in the conference report.

The conference drastically reduced the auto purchase deduction which would have spurred our struggling auto industry and provided relief to dealers

all across the country. I have a great sympathy for auto dealers. When we were taking up the automobile manufacturing bailout, I was very concerned about not only the manufacturers but also the dealers because the dealers could not help what was happening in the auto manufacturing industry. They had nothing to do with the manufacturing, but the dealers and the families who are supported by dealers were being hit again and again and again because their buyers could not get credit and they could not buy cars.

So we should have dealt in this bill with housing and credit. Those are the two things that caused this financial downturn, and so I hoped the first things we would deal with in this package would be housing and credit, and I hope eventually we will.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for an additional 10 minutes.

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

Mrs. HUTCHISON. Mr. President, 17 percent of the discretionary spending in this package is for infrastructure items. Now, infrastructure is what we should be spending money on because infrastructure is jobs. Infrastructure is American jobs. In this bill, we do not have enough in infrastructure spending.

Mr. President, we should keep in mind that the money in this bill isn't temporary. There are concerns that it will be permanent. It is likely that those funds will be extended well beyond the short window that we claim to be acting in. And in that case, according to The Heritage Foundation, the total cost of the bill comes to \$3.27 trillion over 10 years.

This is not the bill we should be passing right now. This bill did not even have the signature of one Republican on the conference committee. We do not expect to have dominated the conference committee or the Senate or the House production of a bill, but to have no Republican support cannot under any circumstances be declared bipartisan. Mr. President, 3 Republicans out of the Republican contingent is just not bipartisan.

Let me add, in a couple of minutes, what we are for. I am for stimulus. We all know we need stimulus.

I would like tax cuts that would spur spending, not tax cuts that would be dribbled out in such small amounts that no one would feel they could go out and buy something. Tax cuts that would spur spending would be in the form of a card, such as the converter box cards that were sent in the mail, that would be for specific purposes—maybe it would be home improvements, maybe it would be weatherization. Specific purposes would require spending. It would be a card that people would know they could spend, and it would make a difference in jump-starting the economy.

Tax cuts that would spur hiring. It was sort of said on the other side that we do not need corporate rate deductions because no one is making a profit. Well, let's do something that would allow corporations to make a profit because that is when they hire people, when they are making a profit.

How about a tax credit for hiring people? That might make a difference. How about spending on infrastructure? How about more than 17 percent of \$1 trillion going for infrastructure? That would be jobs today for people building bridges, building highways, building things that would clearly be job creation.

I had an amendment which never made it to the floor that said that military construction should be moved up from the Department of Defense 5-year plan to 3 years. Military construction is money we know we are going to spend. The Department of Defense has a 5-year plan. They know exactly what their priorities are. We normally take it 1 year at a time. Why not take the 5-year plan and bring it up and do it in 2 or 3 years? Because we know it would be American jobs. We know it is money we are going to spend anyway. It would be stimulative, and it would be the right kind of spending. Instead, the conference cut the military spending in this bill from what passed in the Senate. The conference cut our military spending for hospitals and for Veterans' Administration hospitals to increase the quality and access to health care for our veterans. What kind of priority is that? And they are increasing spending to save a mouse in San Francisco that might be endangered.

This is not a package we can be proud to give to the American people and say: It is worth tightening our belts to do this because it will make a difference. But we can be for something. We do not say we should have everything we propose. There are other good ideas on the other side. We acknowledge that. But this is not the right bill for the American people, and I urge my colleagues to please consider their positions and let us do this right: tax cuts to spur spending, tax cuts to spur the opportunity for corporations and businesses to hire people, spending on infrastructure, more in military construction. That would be a bill we could support.

Mr. President, I thank you and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President.

Mr. President, I, too, want to speak about the conference committee report. I did not think it was possible, but after waiting until late last night to finally receive the text of this trillion-dollar economic bailout legislation, the Speaker of the House and the majority leader took a bad bill and made it worse.

Fix housing first. The housing market is where the problems began, and it

is where they will end. Fix housing first. So what did the negotiators do between the House and the Senate do? Amazingly, Democratic leadership managed to remove one of the provisions that would really do some good and help address housing. Stripped from the conference report is Senator ISAKSON's home buyers tax credit extension amendment. Expanding that successful tax credit program—we know from the 1990s—would have addressed the source of our economic crisis—housing—and would help bring tentative homeowners back into the market. There are over 3.5 million homes on the market right now and no buyers. Instead of including this provision, the conferees replaced it with more wasteful Government spending. They have used our last bullet. They have maxed out the Federal credit card. Every drop has been taken out of the well, and they have spent this one-time money on expenses that will go on and on—and that is the real problem—on and on with money we do not have for things we do not need.

I have listened to the Democratic leadership speak on this legislation over the past day or so and have been surprised as they described it as bipartisan compromise legislation. I have been a Member of the Senate for 12 years, and in my experience, finding only three Members of the minority party to support legislation and only involving them at the end of the process is not bipartisan. It is not bipartisan in the slightest.

I am disappointed that we have reached this point. When we first began discussing this legislation, President Obama asked for change. He asked for a bipartisan economic stimulus measure, something that could garner as many as 80 votes. I wanted to see that as well. I wanted to see legislation that both parties could support because the economic crisis we are in is not a partisan problem. Unfortunately, the legislation we have before us is partisan, and it reads like a list of bundled liberal priorities that could not gain support individually. How do I know? It is a wish list that could not be passed for the last 20 years because they could not find the money.

Democratic leaders, even at the exclusion of other Democrats, wrote a bill, brought it to the floor, and then negotiated with Republicans they thought they could pick off. Several saw what was happening and dropped out. They picked three off by asking what it would take to get them to vote for the Democratic bill and making a few changes. It was not a bill made by both parties.

President Obama turned the drafting of this bill over to the Speaker of the House and other Democratic leaders who did not consult Republicans and even said: We won the election, we get to write the bill. Then the President went out on the campaign trail to stump for a plan crafted solely by Democratic leaders in the House and

Senate. He complained that he reached out to Republicans but they did not reach back. Reaching out cannot just be an afterthought.

The supporters are using the politics of fear. Fear mongering adds to the problem.

I was not part of the initial “gang of eight” Republican Senators who were handpicked to work with Senator BEN NELSON and the majority leader on a “compromise” “stimulus” bill. I would note, however, that five of the eight Republicans quickly saw how superficial the compromise was going and bowed out.

I nevertheless offered and supported ways to improve the bill that was put forward by some of my colleagues. I am not just talking about amendments you saw on the floor that would reduce the price. Those were simply efforts to salvage something out of the wreck. I suggested removing a number of things that did not make sense—policies backed by Republicans and policies backed by Democrats. I always recognize that both sides have to have things left out to be fair. I also backed moving the bill forward in several understandable pieces so we could bring the American public along.

I offered amendments that sought to improve several parts of the bill, including a change that would make sure the billions of taxpayer dollars spent to pay for health information technology would go toward items that will actually work in the real world. This was a real bipartisan effort which enjoyed broad support among both Republicans and Democrats. In fact, I did get an amendment adopted that was just technical changes, and that was difficult to do. I think it has been ripped out now too. But the bill will not work without those.

Unfortunately, it, along with my efforts to try to protect patients from Government bureaucrats rationing their access to health care, was largely ignored. As a result, I have strong concerns that this stimulus bill will likely backfire on patients and providers, resulting in more harm than any good we are likely to see from its ill-conceived and misguided efforts.

We are going to do health care reform this year. Partisan pieces do not have to be rushed through as “stimulus.” We do not have to legislate on a spending bill.

This massive bill contains short-term and long-term spending, and I advocated moving forward with the short-term spending immediately. I advocated for addressing the housing crisis and the jobs crisis right now. I suggested that after we dealt with those pieces of legislation, we should work together on the long-term items, not jam them in with no time for debate. Some of those items in this bill are important, but they should be dealt with in a separate measure going through the normal legislative process where we can have the time for real debate about our Nation’s priorities.

I am not happy about deficit spending in these bailouts. I realize something is wrong with our economy, and we need to take steps to fix it. I worked to create a bill that efficiently used taxpayer money to improve the housing market and put people back to work. The “compromise” we are forced to take or leave is so far off the mark and full of pork that it is obscene. I will not support spending money we do not have for projects we do not need. I will support legitimate efforts put forward by either party that could help our country out of this economic mess.

I have been very critical of this bill and other bailout bills passed last year, and time is showing I made the right decisions opposing those bailouts. I would support an economic stimulus package if only it lived up to the President’s own threshold of being targeted, timely, and temporary. I am leery of spending one-time money on programs that will have to continue. These will be continuing payments on our maxed-out credit card. But this bill does not fit with the President’s words, and Democratic leadership has made no real effort to make it conform.

This bill is both bad in content and in process. It includes wasteful spending, including \$2 billion for groups like ACORN and \$1.3 billion for Amtrak. Funding that was stripped from the Senate version for sexually transmitted disease prevention was included in the conference report.

As is typical in Washington, programs that were Members’ pet projects saw ridiculous increases in the conference. The Senate bill provided \$2 billion for the High-Speed Rail Corridor Program. The House bill included no funding for the program. How did we compromise that? How much did the conference provide? It provided \$8 billion. This is compromise according to Congress. Both the House and the Senate version of the bill included \$200 million for “Transportation Electrification”—both bills, House and Senate—\$200 million for transportation electrification. Logically, one would then expect that the conference would provide \$200 million, but logic flies out the window around here when you come inside the beltway. The conference provided \$400 million—double what either body suggested.

I know how to do more than talk about bipartisanship. I have built a career on it without compromising my principles. Take a closer look and we will see bipartisan isn’t about compromise; it is about establishing common ground and finding a third way. First you sit down together with principles each side can agree on. That is probably about 80 percent of any issue. Then you identify the 20 percent you were never able to agree on and either leave that out or preferably find a new way both sides can agree on—one that hasn’t already been down in the weeds and washed for years and years. After you have the principles, you work on the details, keeping what you can

agree on and throwing out what you can’t, until you have legislation that is for and from both sides, from the beginning. That didn’t happen here.

Talk is cheap, but the latest economic bill pushed through by a majority and three Republican Senators is not. And if this is the description of bipartisan support, then the House, with every Republican and 11 Democrats voting no, must be bipartisan opposition. This legislation is the single most expensive bill in the history of the United States and it is being sold to the American people as a “compromise.” Buyer beware.

Mr. President, I reserve the balance of the time, I yield the floor, and I suggest the absence of a quorum and ask that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I rise this afternoon to speak about the agreement that was reached a day or so ago by conferees on the American Recovery and Reinvestment Act and the inclusion of two priorities of mine in particular.

Before I give the substance of my remarks, let me commend the leadership of the Senate and the House as well as the Members on both sides of the so-called political divide in this Chamber and elsewhere who helped put this together. I know there were many who obviously did not want this bill to pass and who have spoken against it. Most, I believe, feel that inaction is unacceptable. We may have significant disagreements about what should have been included in this package—whether it is stimulative enough; whether the size of the package itself will provide the necessary jolt to our economy to have us moving in a better direction than the one we are obviously in. I happen to believe we are doing the right thing by doing this. I don’t take any great joy or pleasure in the fact we are doing it, any more than I did when we had the vote last fall on the emergency economic stabilization effort. That was no great moment of joy either.

Normally when we pass legislation, we are directly helping some group or helping the country in some way. These efforts obviously help, but they help us get out of a mess we are in, one that, in my view, could have been avoided. This was not a natural disaster that occurred in our country; this was a manmade disaster—inattention, misfeasance, malfeasance that allowed this country to watch the greatest economy in the history of mankind evaporate in the pockets of many overnight. Job losses—20,000 a day—with our fellow citizens finding themselves without an income. Nine thousand to

ten thousand homes a day are foreclosing in our country. Retirements are evaporating within minutes. People who have spent years accumulating, to be able to enjoy the latter years of their lives in some peace and comfort and security, knowing they can take care of themselves and their loved ones as they step out of the workforce and enjoy a well-deserved period of retirement, are now in jeopardy. People may have to stay at work, if they can find work, at an older age in our country.

So while I am pleased this bill is going through and pleased that my State will be the beneficiary of some help at this particular hour, I don't take any great pleasure in this moment at all; quite the contrary. It saddens me that it has come to this. So with that as a framework, I wish to share some thoughts about what is in this bill and why I think it can be of some help to get us moving in the right direction.

Most Americans I think are aware now that our economy has been in a recession for the last 14 months or so and has impacted every State differently. My State of Connecticut is no exception. While the effects of the recession took a bit longer to hit my State than others, economists believe Connecticut may take longer to recover for a variety of unique reasons, including the kinds of jobs we provide and the like. We have lost about 125,000 jobs in my State. Close to 20,000 homes have been foreclosed on. One of my cities alone, the city of Bridgeport, has had 1,100 foreclosures—one city, 1,100 foreclosures. That means our efforts to get our economy moving in this bill are going to be important to families all across the country, and certainly my State is no exception.

We are addressing many priorities with this economic recovery package, providing urgent help to communities who are struggling in the midst of this recession while making a downpayment on long-term needs as the new President, President Obama, has articulated in Indiana, in Florida, and in Illinois, where he has spoken in townhall meetings about this over the last several days, as he did in his first nationally televised press conference. At a time when layoffs are increasing the rolls of the uninsured, this bill provides \$24 billion in health care premium assistance to 7 million unemployed workers. I can't begin to tell my colleagues how important that is.

I have held two townhall meetings in my State in the last two weeks on health care. I had one at 8:30 on a Monday morning, which is a dreadful time to hold a townhall meeting, obviously. We anticipated maybe 75 people might show up at the small community college on the banks of the Connecticut River outside of Hartford. Well, 700 people showed up at 8:30 in the morning to talk about health care and to talk about what they are going through. The discussion was supposed to be about coverage. Specifically, we had

three themes: one on coverage, one on costs, and one on prevention. But the conversation was far beyond the issue of coverage. Seven hundred people showing up at 8:30 in the morning. These are people who either didn't have coverage—most had coverage, but couldn't afford the 42-percent increase in premiums they have seen in the last 6 years.

Then, last Saturday at Western Connecticut State University at 2:30 on a Saturday afternoon—not exactly, again, an optimum time for a townhall meeting—500 people showed up to express their views and to listen to some professionals in the field talk about what they thought ought to be included in a comprehensive universal health care program, one I hope that will be charting a course and moving forward very quickly. I know my great friend from Montana, the chairman of the Finance Committee, MAX BAUCUS, is already deeply involved. Senator TED KENNEDY has been a champion of this issue for decades. While he is struggling with his own health issues, he is on the phone every day, talking to everybody, and he wants his committee to be deeply involved in this effort as well.

But in the midst of it, until that gets done, more and more people—the 20,000 a day who lose their jobs—if they had health care are losing that as well. So the fact that we are providing \$26 billion to help out unemployed workers at a time such as this, I think most Americans—most; not all, but most Americans—would say that is the right thing for our country to do for hard-working people who, through no fault of their own, may find themselves on an unemployment line today, tomorrow, or next week, to know of the fear and fright that you may have a health care crisis with you or your family and all of a sudden don't have the capacity to deal with it.

These people didn't lose their jobs because of something they did wrong and should not be put in a position where their ability to take care of their families regarding their health care needs will be disregarded.

To ensure that people have safe, affordable shelter during these tough economic times, there is a \$4 billion downpayment on an estimated \$30 billion backlog for capital repair needs in public housing. A lot of people are falling behind out there. That will put people to work, and that is the major goal here.

As we see families struggling to make ends meet, I am proud and pleased that people in Connecticut will receive over a billion dollars in Medicaid assistance. Every State in the country and every Governor has asked for assistance in this area. We have a program called the HUSKY Program—our Medicaid Program. It is strongly supported across the political spectrum. This assistance will help out in that area.

I am glad we were able to include assistance for our fire first responders.

Fire departments in my State are reporting they are turning down awarded what they call SAFER grants—funds used to put additional people on these rigs. You ought to have at least four people in a rig when going out to deal with these fires and problems they have to face. Those numbers are dwindling. This bill provides assistance and support for first responders. I am pleased to say that is the case.

We included \$8.8 billion in stabilization funds to States to provide for public safety and other critical services. That was a change—a welcome one.

Across our State, from city to town, communities faced with budget deficits are crunching the numbers to maintain critical education, police, firefighter jobs, and services.

In East Hartford, CT, the town was forced to lay off 8 municipal employees and eliminate 11 positions that were vacant or will be vacant because of retirements—including firefighters and police officers.

The city of Stamford was counting on \$500,000 in State assistance that was eliminated in the State budget in the last several days for the city's \$16 million overhaul of their police and fire radio systems, and that interoperability will get help.

The communities of Farmington and Colchester are trying to replace decade-old fire engines.

These stabilization funds will help communities in my State, and others across the country, to prevent layoffs of first responders, firefighters and police officers, which are so critical to the well-being of our communities.

Our communities' safety must not get left behind during this economic downturn. While the comprehensive economic recovery package before us today will provide critical support for a broad range of additional needs, there are three issues I want to focus on today.

First, I wish to highlight an amendment I authored to restrict executive compensation and bonuses. I have to thank the majority leader, his staff, and others, for making its inclusion a priority. On executive compensation, let me say that when the American people wake up in the morning and see some institution just received billions of dollars and you have a headline that 700 employees received income in excess of a million dollars, people ask themselves: What are you thinking of?

The idea that we continue to pour billions of dollars into institutions that are still awarding their employees massive amounts of income is infuriating—and that hardly describes the reaction of the American people. This is about trying to save an economy in our country, with 20,000 people losing their jobs every day. I promise you that the overwhelming majority of these people are making nothing like a million dollars a year or \$500,000 a year. They are earning \$40,000, 50,000 to raise a family of four. When they see their tax dollars going out the door and

into institutions that are then, in some cases, not lending but are hoarding and doing other things, I cannot begin to describe the anger we hear. Then we turn around and say to that taxpayer that we need to have them step up and do more because the economy needs assistance. The American public really reacts to this.

If you have hope of convincing the public we are on the right track—I see my colleague from Alaska, and I know she has time constraints.

I am digressing from the text, but, again, I find it incredible that people are calling up and bellowing about this, how upset they are that we have asked for some constraints in this area. Do they have any idea what is going on? I am mesmerized that people are calling up and bellowing because somehow they are going to be asked to be restrained from providing these exorbitant incomes for some people.

This country is hurting. This is the deepest financial crisis we have had in many years in America, and they are worried about their pay. Our system of economy is at risk these days, and we will be judged by history as to whether we can respond intelligently to it. To be preoccupied over whether someone is going to get a bonus of—whatever it is, is misplaced energy and attention. It is stunning that the very people in the communities who are directly involved in this and the conception are the ones calling about that issue.

The stories we have seen in recent weeks about CEOs giving themselves bonuses and spa vacations on the taxpayer dime after they have been rescued by the taxpayer infuriate the public, and they ought to.

Families in Connecticut have lost everything as a result of this financial crisis. They don't have jobs, health care, their retirement, and they may have lost their homes. When they hear about the complaints coming out of these towers of financial success—about pay cuts—after all these people have gone through, they deserve better than having to put up with the behavior from some of the most fortunate among us, who have made many of the decisions that got us into this crisis.

I have said again and again that if your institution is receiving funds through TARP and at the same time paying out lucrative bonuses, we should look at every possible legal means to have that money come back and ban the practice outright for high-paid executives going forward.

As a result of the inclusion of this language in the legislation, it will prohibit bonuses to the 25 most highly paid employees of the large companies that receive TARP funding—and severely limit other performance-based bonuses as well. It will empower the Treasury Secretary to get back bonuses or compensation paid to an executive at these companies based on false earnings reports or anything else later found to be materially inaccurate or misrepresentative of what was occur-

ring. It will also give shareholders the right to vote on executive pay at these firms. And it will strictly prohibit golden parachutes to senior executives of companies that receive taxpayer help. Because of this bill, we now will provide far more safeguards than exist today—measuring whether executive compensation plans pose risk to the financial health of the company and preventing the manipulation of earnings reports.

The President told the world a few weeks ago that a new era of responsibility had begun—it is time our executives in those companies understood that message.

The second issue I wish to discuss is transit. The bill dedicates some \$8.4 billion to transit issues. Connecticut alone will receive \$137 million, which will meet many important needs, reducing congestion in our State. Route 95 through Connecticut and other arteries of transport are under tremendous congestion. Transit assistance and support is long overdue. This bill provides that needed assistance.

The American Public Transit Association has said that \$48 billion worth of transit projects are to be completed over the next 2 years; therefore, jobs will be created, putting people back to work. That is valuable not only in the short term but for the long-term economic growth in investments for transit. That is not only about being shovel-ready, it is also future ready. Ridership is already at record levels. Traffic congestion in metropolitan areas is getting worse, and our population is going to grow by another 50 percent by 2050.

I am pleased that the legislation includes \$100 million to establish and implement a program to provide assistance to transit agencies to become more energy efficient as well. This is a very important part of this bill. There are a number of other provisions that provide that kind of assistance.

Public transit saves over 4 billion gallons of gasoline annually and reduces carbon emissions by some 37 million metric tons a year—that is the equivalent to the electricity used by almost 5 million households. The need to repair our highways, roads and bridges is obvious, and I am pleased the bill includes \$302 million in highway funds for my State of Connecticut.

But the most effective way to reduce congestion is to provide transportation options that take cars off the road. Investing in transit creates jobs, it addresses climate change and reduces our dependence on foreign oil, and makes our economy competitive in the 21st century.

Third is an area where I think we fell short in this bill—the failure to include the amendment I offered with Senator MARTINEZ of Florida, which would require the administration to use \$50 billion of the TARP money to attack the root cause of the economic crisis: foreclosure. It would have gone a long way toward dealing with the safe harbor so

we can avoid the kind of litigation that may slow down some of these workouts. That was a mistake. We are trying to get to the root cause of the problem, the foreclosure issue. Senator MARTINEZ had a very good idea that was adopted unanimously, and it had no cost of any measurable amount. I don't understand why it was taken out, but it is gone. That will create problems in terms of addressing the foreclosure issue. Clearly, we wanted the \$50 billion used for foreclosure prevention.

In 2001, this body approved \$1.3 trillion in tax cuts at a time when unemployment was 4 percent and our economy was in fairly good shape. Today, with an unemployment rate of 7.6 percent and headed upward and as many as 8 million foreclosures potentially on the horizon, we are dedicating \$800 billion to jump-starting our economy. Meanwhile, nearly 10,000 families enter into foreclosure every day, as I mentioned earlier. In December alone, there were 2,000 foreclosures in Connecticut. Other States, such as California, Arizona, Nevada, and Florida, have many more than we do. Eight million homes are underwater, with mortgages that exceed the value of their homes.

Perhaps the most important step we could have taken in this bill is to require Treasury to spend some of the TARP money Congress previously released to modify home loans. By providing the Treasury with the authority and funds in this bill to design and implement a loan modification program in consultation with FDIC, HUD, and the Federal Reserve, we could have ensured we would help nearly 2 million families.

Some 16,000 families in my State of Connecticut would have avoided losing their home, moving them out of these unaffordable, exploding and often predatory mortgages that are strangling our economy and into mortgages they can afford.

While I am disappointed we didn't codify this requirement into law, I am pleased that the Treasury Secretary has pledged to dedicate at least \$50 billion to preventing foreclosures—and I believe that is in no small part due to the strong support this body expressed for this amendment last week.

Quite frankly, that is a step which should have been taken months ago in the previous administration. There was no interest in it despite the fact that expert after expert warned that unless you get to the bottom of the residential mortgage market, the economic crisis will persist. They are right. I hope we will see a change in direction and resources committed to the underlying problem of our economic issues.

While we will hold this administration's feet to the fire, I believe they recognize that unless we act now to stop foreclosures and put a tourniquet on the crisis, the hemorrhaging will get worse—the number of layoffs will increase, more businesses will shutter

their doors, and more Americans will suffer.

With this bill, we begin to get our economy moving again. This is not a moment of great joy, as I said. We should not have had to have been in this moment to talk about this, but we are here. While I know many have said they are going to vote against this, I think they bear a responsibility of having offered some alternative ideas because just saying no is not enough, in my view. That is the conclusion of almost every economist who has analyzed this issue over the last number of weeks and months.

Again, I commend the efforts of Senator REID, the majority leader, NANCY PELOSI, and the efforts made by SUSAN COLLINS and OLYMPIA SNOWE and ARLEN SPECTER, who have agreed to work with us and come up with this package. We would not be at this point without them. I appreciate their efforts.

Lastly, some of my colleagues are concerned that some of their amendments were dropped as well. Senator SESSIONS mentioned one, the E-Verify Program. E-Verify is currently authorized through March. When we take up the omnibus spending bill in 2 weeks, I am told it will include a provision to extend that until September 30, 2009. This is a program that, when fully funded, will be operational for hires funded by the stimulus bill for companies participating in the program.

I see my friend and colleague from Alaska, who I know wants to express her thoughts on this.

I thank those who put this together. We need to get back on our feet again. Obviously, unleashing the clogged-up credit market is a critical issue, but also providing that jolt this stimulus package will provide is also necessary if we are going to complete the effort to do what we can to improve the economic conditions in our country. For those reasons, I will be supportive of the bill.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I wish to acknowledge the remarks of my colleague from Connecticut and thank him for his efforts to focus on the housing issues that face this Nation right now. As he has mentioned, if we are not able to get to the root cause, which is the housing debacle and the failures we have seen, all our good efforts may not be successful.

I thank him for his efforts in that regard. I know we will continue working on this issue together with the administration. It is essential we focus on the housing piece.

Later this afternoon or this evening, we are going to be voting on the conference report to accompany the American Recovery and Reinvestment Act. I was one of those 37 Senators who voted against this bill earlier this week. I would like to take a few minutes this

afternoon to speak to some of the reasons why I was unable and why I will be unwilling to support the conference report when it comes before us later.

My principal concern in voting against the Senate measure at the time was the scope of the spending. It is not just the scope of what we have in front of us with this particular bill, this package of \$790 billion. There was an article in the Washington Post on Wednesday that had a chart that outlined all of what we have been spending in the past year.

The header is: "It Adds Up." "The Federal Government has committed at least \$7.8 trillion in loans, investments, in guarantees since the beginning of 2008." The funding coming from the Federal Reserve is at \$3.8 trillion; from the FDIC, \$1.22 trillion; from the Treasury, this includes the TARP moneys we authorized back in October, \$771 billion; the joint programs that include the guarantees of Bank of America and Citigroup, \$419 billion; and then in the "Other" category, it includes not only the programs Fannie and Freddie at \$200 billion, but then at the bottom we have the Senate bill for the current stimulus package at that time coming in at \$838 billion.

It is almost inconceivable what we are talking about in terms of the outlays we are putting forward.

The cost of this stimulus package before us, as everyone in America knows, is \$790 billion, but when we account for the interest, which we need to do—that is part of the bill—the cost increases to more than \$1 trillion; it is about \$1.2 trillion. So add this in to the outline of what I have laid out, and the cost to America is considerable.

Where do we get this money? From where do we get it? We don't just tell the Treasury to turn the printing presses on full bore: let's go, let's print the money. No, we have to borrow. We sell Treasury bills. We sell debt. Who buys it? People such as the Chinese and others from outside this country.

It is not just cranking up the presses and printing more money. We will be paying for this legislation. My children will be paying for it. We have a responsibility to make sure what we spend is spent wisely.

The focus of this stimulus, of course, is the job creation. Even if it actually creates the 4 million jobs the White House once promised, then those jobs, if you piece it all out—do the math—these jobs come at a cost of about \$300,000 apiece. What we are seeing now is probably not 4 million jobs. Even the most optimistic economists are now estimating what we are looking at would create or save less than 2.5 million jobs.

I noted the comments of the Senator from Connecticut about the need to fix housing first, and I strongly agree with that approach. But this afternoon, I wish to speak to another issue.

As the ranking member of the Committee on Energy and Natural Resources, I wish to spend some time on

another aspect of the bill. This is an area where millions of new jobs are promised, and that is in the area of energy. There is absolutely no doubt we must facilitate the development of renewable resources, increase our energy efficiency, and pursue the many innovative solutions to the challenges we face when it comes to how we consume, how we use, and how we create energy.

I am not satisfied with the energy provisions that are contained in this measure. I am not satisfied that they are timely, that they are targeted, and that they are temporary. By adopting this conference report, we are missing out on some significant opportunities that could revive our economy and improve our energy security at little or, hopefully, no cost to our taxpayers.

When it comes to criticisms, there is plenty of room to be critical. One of my first criticisms this afternoon is not necessarily the items that are included in the stimulus but perhaps some of the items that were left out. Simply put, this package makes no effort to increase domestic production of our traditional resources, such as oil and natural gas. What we have done is focused on the new technologies, to the total exclusion of those tried-and-true technologies. I think this creates this false dilemma. It says clean energy is the only viable option for energy development and job creation when, in fact, it might not be the most effective option at this time when we are trying to pursue jobs and get the country strong again.

Consider the benefits that could be brought about by greater production of oil and gas in this country. One recent study outlines that the full development of domestic oil and gas resources could generate up to \$1.7 trillion in revenues for the Federal Government and create as many as 161,000 new jobs by 2030.

The revenues from the production could be used to provide a tremendous downpayment on the long-term strength and security of our Nation. Instead, as a result of what we will be doing today, American taxpayers are ultimately going to be paying \$1.2 trillion because of the decisions we are making.

Setting aside my concerns about the priorities, it is very uncertain the funds that are provided by this bill can be spent in a rational and cost-effective way. Perhaps the best example of this is within the Department of Energy. It is set to receive roughly \$45 billion in the conference report we are looking at now. DOE's total budget for fiscal year 2008 was \$24 billion. Assuming the Department receives similar funding through fiscal year 2009 appropriations—and we are going to be debating that after this recess break—DOE will receive almost triple its historic level of funding in less than 3 months. What we have is an unprecedented level of spending within the Department.

CBO is concerned about how we spend this out as well. They determined the

Department would only be able to spend 24 percent of its funding before the 2-year deadline. The Energy Department, along with so many of the other departments we are dealing with, simply does not have the time to gear up and properly spend, with a level of accountability, so much money over such a short period.

The question then needs to be asked: Will this level of funding become the new baseline for the Department? If it does, we will have significantly expanded Federal spending at a time of unprecedented Federal deficits. If it does not become part of the baseline, then that crashing sound we will hear is going to be the gears that are grinding back down as funding returns to normal. I suggest such wild swings in funding are disruptive and one of the most ineffective ways to spend our taxpayers' dollars.

The stimulus, by giving Government agencies completely unprecedented amounts of money for sometimes non-existent programs, also sets up near perfect conditions for waste, fraud, and abuse. This is exactly what the American taxpayers do not want to see. For example, \$3.2 billion is provided for block grant programs for energy efficiency. The conference report provides \$400 million for a competitive grant system that does not currently exist and for which there is no administrative process.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Ms. MURKOWSKI. I ask unanimous consent for an additional 1 minute.

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

Ms. MURKOWSKI. Mr. President, making matters worse, it provides an additional \$3.1 billion to State energy programs but imposes conditions on receiving funds that are currently met by only a handful of States.

Another example I wish to leave you with is the smart grid. We agree this is very important. There is \$4.5 billion for the smart grid. This was authorized at \$100 million in the 2007 Energy bill. It has received zero funding to date. Is it possible to expect we can ramp up to \$4.5 billion in 2 years in a rational way? We don't even have the standards in place for the interoperability framework.

I don't think the American taxpayer is concerned so much about how much we spend, so long as we do it responsibly and with accountability.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MURKOWSKI. My concern is we have not done this with this stimulus package.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. WICKER. Mr. President, as Members can see from the debate we have had today and throughout the past couple weeks, almost everyone in this Senate and in the House of Representa-

tives agrees on the need for Congress to be working with our new President on a stimulus plan to jump-start the economy.

We have people in our home States who are hurting. There were 600,000 jobs lost last month across our country. These facts underscore the need for something to be done to strengthen our economy. So we are all in agreement on that basic premise.

There is a great deal of good will out there in the country for our new President. I commend President Obama for making the economy his main focus. I also commend him for publicly stating Democrats do not have a monopoly on good ideas. The President said: Republicans have good ideas also. And he wanted to include them in his stimulus plan.

That is not what happened when House Democrats met behind closed doors several days ago to write this bill. It is not what has happened throughout the process.

Republicans responded to the President's call. We came forward. We came to this floor. We talked to our constituents back home. We stood before every television camera that would film us. We talked with every journalist we could find. We have discussed our ideas with the American people.

We presented ideas that I believe could have turned this economy around. Our ideas focused, first, on getting the housing market out of the gutter. The housing problem is what got us where we currently are, and it should be where we begin in turning our economy around.

Also, we proposed real tax relief for America's working people and for those people who create over half the jobs in this country, our Nation's small businesses.

Additionally, our plan called for targeted infrastructure investments with clear economic development purposes, in addition to putting an emphasis on legitimate Government priorities, such as early investment in military equipment and facilities, items we know will be funded in the future but would create increased jobs quickly if we focused on them now.

Just as importantly, the Republican idea I supported would have stimulated our economy at half the cost of the plan we are considering today, and that is not just my opinion, that is the opinion of a lot of very well-considered Democrats in this town.

Three days ago, the Senate cast one of the most expensive votes in the history of the United States of America. That \$835 billion bill, which actually costs \$1.2 trillion-plus when we add the cost of interest, has been given, at best, a small haircut. The bill before us is being presented to the American people today at a cost of \$789 billion, still in the neighborhood of \$1.1 trillion to \$1.2 trillion, when one adds the cost of debt service.

In order to reach the current number, this so-called compromise cut much of

the tax relief geared toward job creation and stimulating the housing market in order to keep in place spending for slow, unending, and nonjob-creating government programs. As the Washington Post reported yesterday morning, this final product "claims many coauthors, including house liberals who saw a rare opportunity to secure new social spending." And take advantage of that opportunity they did indeed.

It now appears the majority leadership in the House and Senate have taken a bad bill and made it worse. Two popular items, one Republican and one Democratic, added to the Senate bill on the floor have been dropped from the final version and replaced with weaker alternatives that are less likely to work to stimulate home sales and automobile sales.

The first is the Isakson amendment, which was so widely agreed upon in this Chamber that it was approved by a voice vote. It went right to the housing problem. It would have provided a \$15,000 tax credit to all home buyers, a concept which has worked in the past. Yet the final conference report before us reverts back to the House-passed proposal, providing much less money—an \$8,000 credit—and limiting the provision to first-time home buyers. We need to encourage home buying by every American who is creditworthy, and this provision doesn't get the job done.

The Mikulski amendment, offered by our Democratic colleague from Maryland, also had wide bipartisan support. It passed this Chamber by a vote of 71 to 26. It has been dropped in favor of a weakened alternative. The plan now allows new car buyers to deduct from their Federal taxes the sales tax they paid on a new car. But the Mikulski provision that would have also allowed them to deduct interest on their car loans was stripped. The Mikulski amendment would have helped struggling U.S. automakers and auto dealers get buyers in the showrooms, it would have helped move cars off their lots, and helped protect the endangered automobile industry jobs. Like the Isakson amendment, it was unfortunately removed from this final package.

So while the conferees tinkered around the edges—making the bill worse in some ways—we stand here today debating a bill that will add over \$1 trillion to the national credit card. I have said it before in this debate, and I will say it one more time: A trillion dollars is a terrible thing to waste. But that is exactly what this bill does. This bill is full of bad decisions that will take Americans decades to pay for.

Much has been made during this debate—by me and by many of my colleagues—about how much \$1 trillion is, and I think we have established well that this is a staggering amount of money. Again, this is the most expensive piece of legislation ever passed in the history of our Republic.

Last September, Congress approved the \$700 billion Wall Street bailout.

That came on top of approximately \$200-plus billion earlier in the year in the form of rebate checks. I think the American people have the right to ask: of that \$200 billion and then the \$700 billion—and that is almost \$1 trillion right there, and certainly more than \$1 trillion when you add the debt service, as I have already pointed out—what did we get? What did the taxpayers, the American public, get for that unbelievable expenditure of taxpayer funds last year? A worsened economy is what we have gotten. We certainly didn't get the economic boost that was promised.

In an editorial yesterday in the Wall Street Journal, it was noted that the Congressional Budget Office estimates the 2009 deficit will reach 8.3 percent of the economy—a number that does not include the stimulus or the TARP bailout funds. We know that after this is enacted—and it does appear that the proponents of this conference report have the votes to move it to the President's desk—another very expensive financial package will be forthcoming from the administration in a matter of days. So what does this mean for people across America? Each household now owes more than \$100,000 to pay for the debt we already have, not including the additional debt that is coming.

Senators need to ask themselves, when is enough enough? When will we begin making hard choices?

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. WICKER. Mr. President, I ask unanimous consent to consume about 30 seconds more.

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

Mr. WICKER. We need to ask ourselves in the Senate: When is enough enough? When will we begin making hard choices between what will truly work to stimulate this economy and what we wish to have but which will not work to get the job done?

Americans expect us to get this right and to take the time necessary to make sure we get this right. This bill fails to hit that mark. I will vote no because we simply cannot afford again to make a mistake of this magnitude.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, President John F. Kennedy said:

There are risks and costs to a program of action. But they are far less than the long-range risks and costs of comfortable inaction.

President Kennedy's observation applied well to the economic policies of the late 1920s and 1930s. When we look back at the late 1920s and early 1930s, we wonder what our leaders must have been thinking. With the benefit of hindsight, we see that they should have acted more forcefully. We see they should have used the tools of government to increase the demand for goods and services in the economy. By failing to act to spur demand, our leaders pro-

longed the Great Depression. By seeking to balance the budget in the face of economic decline, our leaders only worsened that decline.

President Kennedy's adage about action applies as well again to the economic policies of our time. Yes, there are risks and costs to the bold program of action we recommend today. But those risks are far less than the long-range risks and costs of failing to act forcefully.

Since this recession began, 3.6 million Americans have already lost their jobs, and job loss is accelerating. In each of the last 3 months, more than half a million American workers lost their jobs. Economists warn that the worst is yet to come.

Last month, before the latest bad news, the Congressional Budget Office—a nonpartisan professional organization—said:

Under an assumption that current laws and policies regarding Federal spending and taxation remain the same, CBO forecasts . . . an unemployment rate that will exceed 9 percent early in the year 2010.

Those are the costs of inaction. The costs of inaction will be paid with millions—millions—more lost jobs. The costs of inaction will be paid by the heartache of millions of families plunged into economic hardship.

And so, with the leadership of our new President, we have sought to act forcefully. We have put together this \$787 billion package designed to help bring our economy back. We have assembled this package, designed to create and save jobs.

The day before yesterday, the Congressional Budget Office said it will work. The Congressional Budget Office—again, a nonpartisan professional organization—said:

The legislation would increase employment by . . . 1.2 million to 3.6 million by the fourth quarter of 2010.

That is an objective observation done by professional analysts. The administration agrees. The administration projects the legislation before us will create or save 3½ million jobs.

That is what this debate is about. It is about creating or saving millions of jobs. It is about acting forcefully to avoid yet more hardship. It is about avoiding the far greater risks and costs of comfortable inaction.

The history of the 1920s and 1930s teaches us what we must do. The history of the Great Depression teaches us the costs of delay. This recession is the economic test of our generation. Responding to it with forceful action is our duty. Let us not be found wanting.

So let us not find comfort in "no" votes and the blocking of action. Rather, let us rise to the challenge of our generation and let us finally send this jobs bill to the President's desk to become law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, this is a bittersweet day for a lot of us, I know

a lot of Americans. A lot of Americans have called in expressing their opinions, sent thousands of e-mails and letters. If my colleagues' offices are anything like mine, mine have been 80 to 90 percent against this bill.

Folks are saying: Slow down. Let's see what is in it. We know about unintended consequences. Let's not spend all this money unless we know what we are doing. Folks have expressed concern that we seem, as politicians for the last 2 years, to have been talking down the economy—holding press conferences in the very worst areas of our country and saying this is what is happening everywhere, and every day saying it is going to get worse, it is going to get worse. What businessman would expand his business, and what businesswoman would go out and invest her life savings to start a new business if what they were hearing from Washington every day is: It is terrible; it is going to get worse. I am afraid we have done our part in creating a bad economy.

Clearly, there is a difference in philosophy, and I have to respect what the President and the Democratic majority have said: They won the election, they get to do it their way now. But I think some of us believe—and if you look at history, there are a lot of facts behind us—that when the economy slows down and there is a need to get more money in the economy, the fastest and quickest way to do it is to stop taking so much out in taxes. Some say on the other side: Well, tax cuts are an old idea. But tax cuts are related to individual freedom, people making their own decisions about how money is invested; leaving profits in the hands of thousands of small businesses so they can use that money to hire people and grow their businesses. Because that is where all the jobs are created.

Government doesn't create jobs. It may hire someone, but they have to take that money to pay that person from the private sector, from businesses that are actually creating the wealth.

We have talked about so much data in this very short debate. People have talked about the Great Depression. It is pretty clear that we tried getting out of the Great Depression for about 10 years by spending and adding new government programs, and it didn't work. In the 1960s, though, the economy grew after President Kennedy cut taxes. Our economy sagged again during the big spending days of Lyndon Johnson. In the 1970s, we tried to get out of a recession, or grow our economy, with heavy spending and new government programs and huge deficits and ended up in recession again. The 1980s were the boom years, when Reagan and Margaret Thatcher and others around the world realized that freedom does work. Free markets do create prosperity.

We have seen countries, such as the Soviet Union, change from their old centralized government approach to some free market principles and grow

out of a lot of their problems. We have talked about Japan during this debate. They had a lost decade. They kept their taxes the highest in the world and they tried to spend their way out of a recession. It didn't work. They lost a lot of time, a lot of money, and a lot of opportunity.

There is a big difference in philosophy that we should debate. But why the rush? I think the consternation I hear from the American people more than anything else is, if this is the biggest spending bill in history, why are we trying to rush it through? Why does it have to be on the President's desk Monday morning? Why are we going to vote on a bill that not one of us have finished reading at this point? We just have had it today in any kind of searchable format on the Internet. Yet we are going to vote on it before we leave today. It seems we are afraid there might be some good news coming out of the economy in different sectors and the panic could subside long enough that maybe Congress doesn't feel we have to do something, even if we do not know what it is.

It seems we are rushing such an incredible spending bill. I talked to one of my sons last night and said: You might get \$400, spread out in \$17 increments. The bad news is you will probably end up owing \$10,000 or more because of this one bill. He didn't seem to think it was that good a deal.

I know the other side won and that makes it bittersweet, in a way, because I feel like a lot of us have been standing for what the American people are calling and telling us about. We know if we let the people who are earning it and hiring people keep the money, we would stimulate our economy.

There are other things we can do, other than tax cuts as well. As to energy, at a time when we know that by opening our own energy reserves, drilling for our own oil and natural gas, we could stop the flow of American dollars overseas and create lots of jobs here, this very week this new administration delayed the planning of opening our own reserves by another 6 months. What are we waiting for, gas prices to go up to \$3 or \$4? Why delay something that could help the economy?

If we only allowed States to take the money we are already spending for education and allow students to take that to any school of their choice, it would attract literally billions of dollars—probably hundreds of billions of dollars of private sector investment in education to create all kinds of new choices for students that might actually prepare them to compete in the global economy. But what we are doing is more Government spending with the old Government model, and it is not going to create new jobs.

Even in health care, there is something in this bill that will help subsidize people's health care with COBRA when they lose their jobs. But we will not allow that same subsidy to apply if the same person wants to apply a less

expensive policy of their own choosing that they can keep more than just a few months. We will support something that is Government, but we will not help people live free and make their own choices. Certainly, it is bitter-sweet.

But the news is not all bad today. I think the American people have resigned themselves to the fact that they are going to lose this battle, but they have gotten more informed and more engaged and outraged. I think they have seen if they call, if they e-mail, if they stand and express their opinions, they have a chance to turn around this move by our Government toward a more socialistic style of economy and culture to one that is more like the freedom Americans have always known and loved.

Freedom is not an ideology; it works. When we let people take advantage of opportunities and direct their own spending and start their own businesses, that creates jobs. We cannot do that artificially, by taking money from one person and giving it to another, which we are doing a trillion times in the bill we are talking about.

I think Americans are watching what is going on today. They are going to wonder why we voted on a bill that is not even on our desk, that we have not read yet, that they have not been able to search—as the President promised during his campaign, that he would not sign any bill unless it had been on the Internet for at least 5 days so the American people could know what we are doing here. We promised in these Chambers that we would not bring a bill to the floor unless it was on the Internet for people to see before we voted on it. We are breaking all those promises with this bill today.

The American people may have lost this one, but they have raised their voices and they have seen what is going on a little bit better than they have seen it before. I think they are going to win the final battle against this big Government approach to every problem that comes up, against this idea that every time there is a problem out across America, that we throw up our hands and say we have to do something, even if it is wrong, even if we had not read it, even if it is \$1 trillion; we have to do something so the people back home will think we are doing something. Wasting this kind of money and putting this kind of debt burden on the next generation is inexcusable and intolerable and the American people are starting to figure it out.

They may lose this vote today, but the American people will win that final battle for freedom when they continue the fight they have started this week.

I yield the floor.  
The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. NELSON of Florida. Mr. President, it is good to see you in the chair. You are a great addition to the Senate, being a distinguished new Senator from Delaware. What a pleasure.

Although we are in an emergency condition, I almost wish this vote this afternoon were taking place a week from now, after the Presidents Day recess, so Senators who have voiced opposition—and I take them at their word and I certainly respect their right to disagree, and I respect them. Almost all the Senators in this Chamber know how much this Senator enjoys them personally. But I almost wish this vote were being taken a week and a half from now, after the recess, after Senators have gone home to their States and looked into the eyes of their people and understood the pain and the anguish that is going on across America and how much people are depending on us, the Government, to stop the downward spiral of our economy; and to try to get it righted and going back up the other way.

In the meantime, as that attempt is being made—and it is going to take some time. We hear every economist in the world say it is going to be at least a year, if not 2 or 3 years. In the meantime, our people are hurting. We hear, every day, these stories.

This Senator is going to scores of townhall meetings all across Florida next week. I know what I am going to hear. It is what I have been hearing every weekend when I go home. It is these horror stories, these impossible economic stories of people who have worked hard and played by the rules and done everything right and they lose their job, they lose their home, they get upside-down in an economic condition and they do not have any hope. It is almost as if I wish this final passage vote were not coming so Senators who have expressed an opinion about voting against this legislation could listen to them. Fortunately, there will be a vast majority of at least 60 in this Chamber, with not all the Senators present today because I don't think the health of Senator KENNEDY is going to allow him to return to the Chamber—so at least 60 of the Senators are going to be voting for it.

But there will be a substantial number, at least 37 in this Senate, who will vote against it. If they could hear the stories, they would understand why there is \$120 billion in this bill in investments in infrastructure and science; and \$14 billion for health and \$106 billion for education and training and energy—\$30 billion in energy infrastructure; and helping with direct economic help to those hit hardest by the economy, of \$24 billion; and helping law enforcement, \$7.8 billion.

My State is one of the States that has been the hardest hit. We are second only to California in the total number of foreclosures of homes. You wonder, why did the President go to Fort Myers earlier in the week? The Fort Myers area is the highest foreclosure rate area in the entire country, and for people who are getting laid off there, there is no economic opportunity for them to find another job. Out of this stimulus bill, just this bill, with the spending

and the tax cuts, some \$10 billion is going to go to my State. It is going to be for roadbuilding, it is going to be for health care, it is going to be for classrooms and teachers, it is going to be for food stamps, it is going to be for unemployment compensation, it is going to be for Medicaid. Look at the human face. Our people are hurting and they need help.

Of that amount that is going to Florida, \$4.3 billion is going to help people who have lost their jobs to keep their health insurance. Can you imagine the trauma of a breadwinner who loses the job—and that is traumatic enough—not to be able to afford health insurance for his family, especially if there is a traumatic injury in that family? That amount of \$4.3 billion going to Florida is going to provide health care for the poor. This is what I am talking about. This is compassionate assistance in an economic downward spiral that only the Government can provide.

Specifically, in Florida, this bill is going to create or save 206,000 jobs. Nationwide it is going to be somewhere between 3 million and 4 million jobs it is going to create or save. Over 1 million jobs have already been lost since the first of last year. But there are several million more that are going to be lost in this country if we do not do anything. So this stimulus bill is designed to create 3 million to 4 million jobs that will, in fact, take up that slack of what otherwise would have been lost and has been lost.

This bill is going to provide \$800 for a family. That is going to provide almost 7 million workers and their families, just in the State of Florida—7 million are going to be eligible for the making work pay tax cut of up to \$800. Just in Florida, this bill is going to make 195,000 families eligible for a new tax credit to make college affordable. That is almost 200,000 in Florida alone able to have the tax credit for college.

For those out of work who are getting unemployment insurance benefits, there is going to be an additional \$100 in my State, to 761,000 people—761,000 workers in Florida who have lost their jobs in this recession are going to get a little bit more help in unemployment compensation.

In addition, what this bill is going to do for my State of Florida is, it is going to give funding sufficient to modernize 485 schools so our children are going to have labs and classrooms and libraries that they need to get ready to compete globally in the 21st century.

Then, in addition, this legislation is going to help transform our economy in our State, in Florida alone, by doubling the renewable energy generating capacity over the next 3 years. It is going to create enough renewable energy in Florida to power 6 million homes.

We are going to be able to computerize every American's health record in 5 years, and look what that is going to save Floridians. We are going to be able to enact significant—

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent for 30 additional seconds. I will complete my thought.

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

Mr. NELSON of Florida. We are going to provide the most significant expansion in tax cuts for low- and moderate-income households ever. That is going to occur right in the State of Florida. We are going to increase the investment in roads and bridges and mass transit. We need all of this in Florida. This is stimulus. This is providing jobs. This is helping people in need. This is the right thing to do for Florida.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, the bill we are considering now was made available to us at 11 p.m. last night, long after the Senate was out of session. This is it. Now, I daresay that I doubt any of my colleagues have read this bill. I have not, I confess. Yet we are going to be voting on it in about 3 hours. We have relied on our staff to tell us what is in this bill, and we found some very interesting things.

There are changes from when the bill passed the Senate. My colleagues need to know what some of these changes are. I would note, by the way, that the middle-of-the-night, behind-closed-doors way this legislation was created is a far cry from what the President requested of us and promised on his Web site. He talks about ending the practice of writing legislation behind closed doors. He says: By making these practices public, the American people will be able to hold their leaders accountable for wasteful spending, and lawmakers won't be able to slip favors for lobbyists into bills at the last minute.

Well, would that it were. So, unfortunately, it looks as though a lot of favors were inserted for a lot of folks. I don't know whether it was because lobbyists requested it, but there are sure a lot of things that relate to specific Members and specific States. And, as I said, many of these items were not even included in the Senate-passed bill. Let me mention a couple because they are matters that have been in the media a great deal.

I think we have all heard discussed the fact that when Republicans raised the fact that ACORN could receive money from the neighborhood stabilization fund, this was a provision that the other side, the Democrats, said: Well, we will take that out. And, indeed, they removed the words "neighborhood stabilization fund" as a subheading. Then they just lumped that funding under the community development fund.

Bottom line is, they took out three words. The money can still be spent, including for ACORN; same thing for the billion dollars for a new prevention and wellness fund. This was in earlier

committee reports that indicated it could be spent for things such as STD testing and prevention and smoking cessation. There was a lot of commentary about that in the media, and folks made fun of it. So the assumption was that has come out. No, it turns out there is still very clearly flexibility to use the funds for these kinds of things.

Let me mention two or three others: \$50 million for the National Endowment of the Arts, \$500 million for Social Security Administration disability backlog, \$60 million for Student Aid Administration, \$50 million for the Compassion Capital Fund. There is \$450 million for Amtrak security grants, which was not in either the House bill or the Senate bill. They simply put it in this legislation.

All of these items were new from when the Senate passed the bill. There is also \$53.6 billion for a fund labeled "Fiscal Stabilization Fund." In looking to figure out what the Fiscal Stabilization Fund is, we find it is really nothing more than a discretionary slush fund for States to use.

Now, the Senate has cut the fund from \$79 billion. They cut that down to \$39 billion. Some of our Members were proud that was accomplished. All of the Democrats voted for that. But it turns out in the conference—of course not the public conference; that was merely for show. But when the Members went behind closed doors, they tucked all of the money back in—added about \$14 billion, I should say, back into the slush fund. But what is \$14 billion when we are talking about \$1 trillion?

There is an article today in the Washington Post that includes a story titled, "Despite Pledges, the Package Has Some Pork." It begins:

The compromise stimulus bill adopted by the House and Senate negotiators this week is not free of spending that benefits specific communities, industries or groups, despite vows by President Obama that the legislation would be kept clear of pet projects, according to lawmakers, legislative aides and anti-tax groups.

Included in the pork called out by the Washington Post is \$8 billion, \$8 billion for high-speed rail projects, for a MagLev rail line between Los Angeles and Las Vegas, and other things. I mean, I had mentioned this before, the money for Filipino veterans, I think a very worthy cause except they are from the Philippines, and it does not create jobs in America.

There is money for the Nation's small shipyards. I wonder why the big shipyards were not adequately represented? And I mentioned before the \$1 billion for a powerplant in Mattoon, IL. These are what we call earmarks. These are especially for a specific Member's congressional district or State. They may be good spending, some of them may even create jobs, but they violate what the President talked about when he talked about special projects put in these bills.

The bottom line is, this legislation continues to spend money in a wasteful

way that our constituents strongly oppose.

Now, the Coburn amendment was adopted to reflect our constituents' concerns. We voted for that amendment, 73 to 24. We are in favor of ending wasteful Washington spending, we said. Specifically, the amendment prohibited funds from being used for a casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, stadium, community park, museum, theater, art center, and highway beautification project. And that is where we thought it ended. But not so. In this group of negotiators who met behind closed doors for at least a couple of nights, it turns out that a lot of these things have crept back into the bill.

So now section 1604 of the conference report includes part of the funding limitation from the Coburn amendment but drops its applications to museums, stadiums, art centers, theaters, parks, or highway beautification projects. So a lot of the good that we thought we had accomplished, it turns out, does not carry at the end of the day.

The end result of this is, the CBO scores the long-term consequences of the spending in this bill not to be \$300 billion, as has been discussed, or even \$1 trillion when you add in the interest. But, as you know, the Congressional Budget Office, nonpartisan, scores for 10 years what is the cost the real cost, over a 10-year period.

They say the cost will jump to \$3.27 trillion. So when we are talking about the \$800 billion stimulus bill, let's understand it is really a \$3.27 trillion bill.

Now, there are a couple of other interesting things about this. It is not temporary. There are 31 new programs totaling \$97 billion, in fact, 31 percent of all of the appropriations. It expands 73 programs by \$92 billion. These should be part of the regular appropriations process.

It is interesting that while the Congressional Budget Office confirmed the bill might provide a short-term boost to the gross domestic product in the next few years, the added debt burden and crowding out of private investment will actually become a net drag on economic growth and wages by 2014. That means a lower standard of living for all of us.

This is fascinating to me. The Congressional Budget Office forecasts that the time period where economic growth is boosted, 2009 and 2010, is the same timeframe when 98 percent of the tax cuts are disbursed. But between 2011 and 2019, when only 2 percent of the tax cuts are left, you have over half of the spending in the bill, and yet the bill actually reduces economic growth. Let me repeat that. This is from the Congressional Budget Office. Their forecast is that economic growth will be boosted in the years 2009 and 2010. I talked about it like a sugar high for kids. That is when 98 percent of the tax cuts are disbursed.

We like to say tax cuts can do a lot of good here. Our Democratic friends

say: All you want to do is talk about tax cuts. We think tax cuts would really help. So the period where 98 percent of the tax cuts are disbursed, but less than half of the spending is where you have the economic growth.

Then in 2011 to 2019, when there is only 2 percent of the tax cuts and over half of the spending, you actually have reduced economic growth. That is why Republicans have been emphasizing tax cuts. It is interesting the actual incremental tax cuts represent only 20 percent of the overall size of the bill, and we do not know all of the exact totals in the bill. But an analysis of the earlier passed House version would result in 22 million families getting a check back from the IRS that is bigger than what they paid in both payroll and income taxes combined.

So when we say, well, this goes to folks who do not pay income taxes, our friends on the other side said: Yes, but they pay payroll taxes. Yes. Combine the two. The check they get back, in 22 million cases, is still more than the combination combined.

There are so many other concerns that we have expressed with this package. We talked about the fact that small businesses create 80 percent of the jobs in the country. So you would think this bill would contain all kinds of things to help small businesses create more jobs.

Well, we looked in vain. It turns out that about one-half of 1 percent of this package is dedicated to helping small businesses produce jobs, one-half of one percent. In fact, only \$7 billion total is provided for all business incentives combined, and one of the key features relating to net operating losses that passed the Senate was taken out of the conference report.

There are other provisions that will expand the cost dearly. If you look closely in this package you will find a \$17 billion tax, in effect, on Government spending because we included a requirement that the Davis-Bacon prevailing wage rules must apply to most of the spending in the bill. That adds a cost of \$17 billion because of the requirements of Davis-Bacon. There are provisions that expand welfare dependents. It reduces or eliminates current work requirements for welfare and will obviously or ultimately lead to less work and more poverty.

There is even a provision relating to unemployment benefits that allow people to leave a job to care for a family member and then collect employment insurance compensation. Now, States, interestingly, have to amend their State laws in order to take advantage of this provision.

We really missed an opportunity to create private sector jobs through trade. Yet that is the area where the—

The PRESIDING OFFICER. The Senator has used his time.

Mr. KYL. I ask unanimous consent for 30 additional seconds.

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

Mr. KYL. The United States has actually only had a positive growth in our gross domestic product by virtue of our exports. This is another area, sadly, that has been missing from this legislation. At the end of the day, this is not the right way to spend \$1 trillion, gambling on our future and certainly not providing that we will stimulate economic growth.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I believe I am scheduled for 5 minutes.

The PRESIDING OFFICER. There is no order, but the Senator is recognized.

Mr. CARDIN. If the Chair would advise me when 5 minutes has been used, I would appreciate it.

The PRESIDING OFFICER. The Chair will so note.

Mr. CARDIN. It is interesting my friend from Arizona mentioned small business, because this morning on my way into the Capitol—I go home every night to Baltimore—I had a meeting with small business leaders in Prince George's County. We noticed this a couple days ago. The room was overflowing. These small business owners want us to take action to help them. Minority businesses, women-owned businesses, veterans' businesses—they want to see bold action because they are hurting. Their businesses are hurting. They are having a difficult time getting credit. They are using their credit cards for credit because they can't get SBA loans and credit from banks.

In this legislation, there is help for small business procurement from the Federal Government. There are provisions in this legislation that will make it easier for them to get 7(a) loans and 504 loans by eliminating the cost so it would be less expensive for small businesses.

The bottom line is that the American people are looking for us to take bold action, to give our new President the tools he needs to get our economy back on track.

In Maryland we have lost jobs, as has the rest of the country. Nationwide we have lost over 600,000 jobs last month, over a million jobs in the last 2 months. Foreclosures are at record numbers. Businesses are closing their doors. Consumer confidence is at an all-time low. We need to take action.

The American Recovery and Reinvestment Act will create jobs. In my State, it is estimated to be 66,000. It will provide tax relief for 2.2 million Marylanders of \$800. It will provide for the American opportunity tax credit for 253,000 Marylanders which will help them pay for college education. It will increase unemployment insurance for 242,000 Marylanders who are on unemployment by \$100 a month. It will help modernize 138 schools in my State.

Nationwide we will double the renewable energy capacity of America. We will computerize medical records which will make it safer for patients and less expensive. We will build roads and

bridges, the most expansive public infrastructure efforts literally since President Eisenhower.

I am pleased that the final bill includes the Mikulski amendment that will help auto sales by allowing taxpayers to deduct the cost of the sales tax. I am appreciative that the committee included an amendment I offered with Senator ENSIGN to expand the homeowners credit for first-time home buyers, introduced last year to make it a true credit of \$7,500 and to extend that through November of this year. That will help home sales. It was the housing market that triggered the current recession. That is an important issue. It will restore consumer confidence in home buyers. I am pleased to see that was included.

I am pleased to see the amendment I offered for small business, for surety bonds to make it easier for small businesses to get surety bonds, increasing the limit from 2 million to 5 million for construction companies to get help from SBA to get the surety bonds so they can get part of this procurement.

This underlying bill provides for significant opportunities to create jobs now in which small businesses will participate and be the driving engine for creation of new jobs in our country. That is how it should be. We need to take action in order to expand job opportunity now and make the type of investments so America can compete in the future. There is accountability. There is transparency in this legislation.

I have confidence that we will pull out of this recession. America will continue its economic strength. But let us give the tools to President Obama that he needs so we can answer that person who talked to me this morning, the small business owner who has to use personal credit cards in order to get a loan to keep the business open, because he can't get a loan from the bank even though he is creditworthy. We need to provide the type of economic stimulus to our economy to create the type of jobs now to fill the void to make sure America can compete in the future.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mr. ROBERTS. Mr. President, if the Chair could let me know when I have about a minute remaining, I would appreciate it.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. ROBERTS. Mr. President, our economy needs a stimulus; there is no question about it. Senator CARDIN certainly illustrated that in his remarks. Americans are worried, very worried about job security and how they will support their families and stay in their homes if they lose their jobs. The Senator mentioned businesses in Maryland. I know businesses in Kansas are the same way. All over the country, our Nation's businesses are struggling. Not a day seems to pass without an-

other major U.S. employer announcing stunning layoffs. However, this conference report—this didn't get here until 12 last night. You talk about transparency. I defy any Senator to say he has been through every page of this in terms of transparency.

This conference report is a missed opportunity. We had an opportunity to provide pro-growth policies that put money directly into the pockets of families and businesses. When they have more money in their pocket, they can spend it as they see fit rather than handing the money over to the Government to redistribute elsewhere. Instead the conference report further reduces the tax relief that will go to workers from \$500 to \$400 per individual, from \$1,000 to \$800 per couple. Estimates are that this tax relief will add about \$13 more per week in the worker's paycheck this year. Next year it will add only about \$8 a week. How will \$8 a week stimulate the economy? It won't even buy a family of four dinner at McDonald's off the dollar menu. They will probably have to split the hamburger.

We also had an opportunity to fix housing first—that is the Gordian knot of what faces us in terms of an economic stimulus—to address the core problem in our economy. Unfortunately, our colleagues across the aisle rejected meaningful housing relief during Senate debate. Now the conference report dramatically cuts the tax relief to encourage qualified home buyers to purchase a home, one of the very few things in the stimulus that would have done us some good.

Most Americans are clearly opposed to the spending in this bill. A bill negotiated in a back-room deal without the transparency we were promised by the new administration. A bill that increases spending at the expense of putting money directly in the pockets of families and businesses.

This bill remains a honey pot for too many special interests. It reinforces a growing and dangerous mindset that the Government—not private enterprise, personal responsibility and hard work—is the creator of wealth and prosperity. It reinforces for individuals, businesses, and State and local governments that the Federal Government is the source for funding for—the honey pot—for whatever they need.

I have here the "Berenstein Bears," a little book I read to first, second, and third graders. It should have been required reading prior to the stimulus. "The Trouble With Money, With the Berenstein Bears." Open the book and it reads: When little bears spend every nickel and penny, the trouble with money is they never have any. And then after learning their lesson, the cub asked Momma bear: What about the money we earned?

You earned it and it is yours, said Momma.

No more, not with this conference report. It borrows money for programs that, in many cases, should be funded

by local or State investments and that won't create jobs now, such as \$300 million for new cars for Federal employees. The problem with \$300 million for new cars is that somebody is going to drive them. Rather than focusing on practical and comprehensive approaches to fixing housing first, this bill diverts Federal funds to controversial and politically skewed groups that will do nothing to address interest rates, availability of credit, or declining home values that are at the root of the housing and mortgage crisis.

Two infrastructure provisions have miraculously grown during this conference. First, the Senate bill provided the highest level of funding for Amtrak at \$850 million. The House had \$800 million. The conference report includes \$1.3 billion for the rail company. Does this mean Amtrak will stop in Dodge City, KS at some time other than 4 a.m. which they do today?

Second, the high speed rail earmark that is not an earmark, that received \$2 billion in the Senate bill and zero in the House, has somehow grown by 400 percent overnight. I know some of my colleagues will come up and say this is not an earmark to the tune of \$8 billion in taxpayer money. But press reports have already questioned this definition since it appears the rail link between Los Angeles and Las Vegas will be the major beneficiary. I guess they hit the jackpot.

I want to be clear as well that the health care provisions in this bill are not stimulative. Instead they represent major policy changes that should have gone through the regular order.

The most egregious example of this stealth maneuvering is \$1.1 billion for the establishment of a new Federal board to conduct comparative effectiveness research. The majority is aiming, bluntly put, for research that justifies restricting access for Medicare patients to medical treatments that the Government deems to be not cost effective. That is an extremely dangerous path to be on. One need look no further than Canada and the United Kingdom for examples of comparative effectiveness research being used to deny access for treatments for breast cancer, Alzheimer's disease, rheumatoid arthritis, and much more.

I also want to highlight the inequitable increases to Federal Medicaid funding for States. I have heard arguments from my friends from States that reap large windfalls under the regular Medicaid formula as well as under the special bonus formula in this bill. But you cannot tell me with a straight face that the State of New York deserves \$12.2 billion more than the State of Kansas.

Under this bill, the State of Kansas is estimated to receive an additional \$450 million, while the State of New York will receive an additional \$12.65 billion. That is nearly 28 times more than what my State will receive. When CBO estimates that total enrollment-driven State Medicaid increases are only expected to be \$10.8 billion, well anything

more than that is an earmark in my book.

So I want everyone to understand the State of New York is getting an earmark that is 28 times what the State of Kansas is getting, 23 times what the State of Iowa is getting, and 41 times what the State of Nebraska is getting. That is not fair.

Americans do not want us to place greater debt on future generations by supporting a bill that doesn't provide the right incentives to stimulate the economy and create private sector jobs. The American public does not want the Government determining what is and what is not a beneficial health care treatment.

This is not our finest hour as a Congress. We had a real opportunity to stimulate our economy, create jobs, and put money back in families' wallets through common sense tax relief.

There is an old story that says you can't kill a frog by dropping him in boiling water. He reacts so quickly to the sudden heat that he jumps out before he is hurt. But if you put him in cold water and warm it up gradually, he never decides to jump until it is too late. He is cooked. Men are just as foolish.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. ROBERTS. I thank the Chair.

If you take away their freedom overnight, you have a violent revolution on your hands. But steal it from them gradually under the guise of security or stimulus or recovery, and you can paralyze an entire generation. I think we failed on that front. We are not stimulating the economy. We are creating a nanny state based upon a new form of American socialism. The lure of that is especially dangerous, as many people I would have never suspected will be coming to Washington, coming to the honey pot, not doing things for themselves at home but coming to Washington expecting some kind of a stimulus or money or grant. That is not right. It tears at the fabric of what America is all about.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I do not have much time, so I cannot take the liberty I would normally take to build on the metaphor offered by my dear friend from Kansas about this frog in the hot water. But I will say briefly that I see this legislation, this conference report, as essentially being a prod to the American economy, which is kind of like a lethargic frog right now, not moving very far, and when this bill passes and is signed by President Obama, that American frog is going to go jumping positively all over the landscape.

Now, having gotten that out of my system, may I say that you have to judge this bill not just on its face or as a matter of theory but in reality, in

the context of the world we live in now. The fact is, without belaboring it, because we are living it, we are going through in this country the most severe economic emergency since the depression of the 1930s, and it is happening in a way that is unprecedented. It is not like the 1930s. So we are working very hard to figure out a way to get us out of it.

What is the reality? Hundreds of thousands of jobs lost every month, people laid off, hundreds of people every month; the market going down; the value of people's homes dropping more than \$4 trillion in the last year; the stock market dropping somewhere around \$8 trillion; confidence sapped in our economy; no credit from the banks.

So this is not a perfect piece of legislation. I do not believe I have ever seen one in my 20 years in the Senate. But this is a very strong piece of legislation. I will say, bottom line, I am confident that passage of the American Recovery and Reinvestment Act, which is before us from the conference committee, will be the turnaround of the American economy. It will stop the slide of our economy. It will protect and create millions of jobs. It is that strong and that urgent.

I said from the beginning that I thought this so-called stimulus package should be as big and clean and quick as possible. Big because the problem is so big that the economists I have talked to—left, right, center—say: Don't do what Japan did when it, through a similar crisis, kind of gave a little, it did not work, and gave a little more. Give it a big investment. I think this bill does that.

Clean. Yes, there was some stuff in it at the beginning that, in my opinion, was not as directly related to job creation or economic recovery as it could have been, should have been. That is why I worked with the bipartisan group of centrists, and I think we ended up cutting out \$110 billion, a lot of programs. The bill is as clean as possible, as it could be.

Quick. That is most important. You cannot legislate in the middle of an emergency in a way that is as lethargic as that frog I described in the beginning. The American people need help. This bill will provide them help.

I want to make two quick points. There is a lot of spending in this bill, and some people are rightfully worried about whether we can spend this much money this quickly and do it without waste or fraud. I want to say on behalf of Senator COLLINS, who is the ranking member of the Homeland Security and Governmental Affairs Committee, and myself, we have responsibility for the oversight of Government spending generally. We take that seriously. We intend to oversee aggressively the carrying out of this economic stimulus package. We are going to begin with a hearing in our committee on March 5 to examine how the Federal Government will account for the billions of dollars that will be spent over the next

2 years, with a focus on ensuring that measures are taken to prevent cost overruns, that strict oversight of contractor performance is in place, that grant conditions are met, and that fraud is promptly prosecuted.

Speed in distributing money, as I said, is critically important, but we cannot repeat the kinds of mistakes that occurred in support of Iraqi reconstruction projects or in the aftermath of Hurricane Katrina where money rushed out the door with little accountability and too many billions of taxpayer dollars were wasted.

This bill, on its face, gets off to a good start in that direction. It includes \$200 million in additional funding for our inspectors general to hire experienced auditors and investigators to police the spending under this program. It creates a Recovery Accountability and Transparency Board, headed by a Presidential appointee and composed of at least 10 inspectors general from the departments and agencies that have jurisdiction over the recovery package.

The bill adds protections for whistleblowers who work for State or local governments or private contractors, who generally have no protection against retaliation, if they disclose waste or fraud in the spending of these stimulus funds. A special Web site called recovery.gov will provide transparency by posting information about spending, including grants, contracts, and all oversight activities, so that any American will be able to report on waste, fraud, or abuse when they see it. But our committee is going to police this, working with this board, and stick with it to do our best to make sure every taxpayer dollar is spent efficiently.

Final point: I cosponsored, with Senator ISAKSON, a proposal to create a home buyer tax credit of \$15,000 to help stimulate the home-buying sector of our economy, raise home values, along with the \$50 billion the Secretary of the Treasury has to use to prevent foreclosures and modify delinquent mortgages. Unfortunately, the conference committee determined that our proposal was too expensive to fund. It ended up coming in at over \$35 billion. But there was a good compromise to create an \$8,000 first-time home buyer tax credit, with no recapture—in other words, you do not have to pay it back—and it can be used until the end of this year, December 1, 2009. As I said, it is raised to \$8,000. This is no small incentive. In fact, the estimates are that this credit will cost us \$6.6 billion. But what that means is, I think hundreds of thousands of people who want to buy a home will get this special incentive—an \$8,000 tax credit—to buy that home. That will raise the values of homes generally and get this economy of ours moving again.

Bottom line, we are in an emergency. This bill is as big and unprecedented as the emergency. As I said before, I believe we will look back at the passage of this bill and say: This is where the

American economy began to turn around and work its way out of the great recession of 2008 and 2009.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Texas is recognized.

Mr. CORNYN. Thank you, Mr. President.

Mr. President, the administration and many of my colleagues have argued that we cannot rely upon the same strategies that got us into this mess to get us out of it, and I wholeheartedly agree. I am voting against this stimulus bill because I believe it replicates a failed strategy.

Some of my colleagues have claimed that a “nay” vote on the bill means we are for doing nothing. I want to correct that misimpression. That is just not true. We all understand the economy is in crisis. This week, the president of the Federal Reserve Bank in Dallas said that my State—which had been doing well relative to the rest of the country in job growth and from an economic standpoint—is now officially in recession, which confirmed what small businesses have been telling me for weeks. None of us disputes we are in a crisis. Some of us disagree about what we ought to do in order to get out of this crisis.

I believe a stimulus bill would have been a good idea if it had been focused on the right priorities. That, I believe, was President Obama’s original vision. The administration said it wanted a bill that was timely, targeted, and temporary when it came to the spending that is contained in it. I daresay that if this bill had reflected President Obama’s priorities, it might well then have received the 80 votes he said he wished it could receive, if it had truly been the product of bipartisan collaboration and cooperation. But it was not.

The fact is, we never saw the bill the President said he wanted. We saw instead that Speaker PELOSI and Democrats in the House essentially wrote the bill themselves and really redefined the word “stimulus” to mean nearly anything they wanted in a bill which they knew they could pass because they knew this was an emergency, there was not adequate time to scrutinize the spending and projects, so they knew this was a moving vehicle, and they took every opportunity to load it up with a lot that is certainly not targeted, timely, or temporary and thus breached with the vision President Obama had said he envisioned for the bill.

That is the reason why this bill will receive very little support on this side of the aisle. In fact, out of 535 Members of Congress, I would be surprised if there are more than 3 on this side of the aisle who will support this bill because it was essentially written by the leadership in the House and the leadership in the Senate and without Republican contributions. Indeed, every amendment that was offered, with only rare exception, was rejected upon

party-line votes—both in the Finance Committee, on which I serve, and here on the floor. That is not bipartisan. If, in fact, this bill had been produced by a bipartisan process, I have every conviction it could well receive an overwhelming vote on both sides of the aisle in this body. But this was a failed opportunity, I believe.

Many of the programs in this bill are, in fact, wasteful and unnecessary. These are earmarks in all but name only: golf carts, art projects, company cars, and new buildings for Federal employees. And these are only some of the spending plans that we know are contained in this 1,100-page bill which, as the Senator from Kansas pointed out, we did not get a copy of until roughly midnight last night—without enough time for Senators to actually read every line, to discuss it and deliberate on it and to make sure we understand what is in it and that we are not simply wasting taxpayer money. The fact is, we will not have even had 24 hours to look at the conference report before being required to vote on it later today, a report negotiated in secret, behind closed doors, and which seemed to be briefed to reporters and leaked to the press before many Members of Congress actually got a chance to look at it, but we are told: Don’t worry. Trust us.

The people in my State of Texas were promised many benefits under this bill, at least \$10 billion of direct spending and aid to our State, according to the Democratic policy committee—\$10 billion. Well, that is one reason some of my constituents are saying: Senator CORNYN, we want some of that even if we understand your point that in order to get it, my State’s share of the cost of this bill will roughly include \$90 billion, including interest. Mr. President, \$10 billion for \$90 billion in debt? That does not strike me as a great bargain. Now, I am not an accountant, and I am not sure the Democratic policy committee’s numbers are accurate. I just cannot vouch for them. But accumulating \$90 billion in debt to receive about \$10 billion in benefits does not strike me as a good deal. And I suspect the deal is not much better for any of our other States.

The math does not work on a national scale either. Even if this bill does “create or preserve” up to 4 million jobs, that means we are paying about \$300,000 per job—\$300,000—which is more than five times the median household income in the country.

Now, if we are going to do this, why don’t we just give the money directly to the people through lower taxes, letting them keep more of what they earn? They would create and preserve far more jobs than the Government is going to be able to do and we would not be in the process of picking political winners and losers in the process.

But now the tax relief in this bill is even weaker tea than it was before, averaging only about \$8 a week, according to some accounts—hardly

stimulative. The simple truth is, Government is inefficient at creating jobs, and this morning the Wall Street Journal explained some of the reasons why.

Many Federal agencies, such as the Department of Energy, simply do not have the capacity to spend all of this money as quickly as Congress is appropriating it through this bill. I expect the same is true for many State and local governments. But the fact is, we in Congress have simply not taken the time to find out. Instead, we are determined to turn up the water pressure across all levels of government without thinking about which pipes will burst and whether they can handle the load.

Nobody knows what will happen once this bill is actually implemented. I appreciate the distinguished Senator from Connecticut saying he and the ranking member on the Homeland Security and Governmental Affairs Committee are going to do extensive oversight. But I would suggest, the time to do our due diligence is before passing the legislation, before spending the money, not after it is already spent, when Government does not have the capacity to deal with it.

And then there is this: The Congressional Budget Office estimates that this so-called stimulus bill will actually reduce growth of gross domestic product over the next 10 years. Because as the CBO says, it will actually—because of such enormous direct Government spending, it will crowd out private investment in the economy and actually hurt the economy, rather than help it as its proponents have promised. That means many millions of our children will have fewer opportunities as they enter the workforce, even as they inherit more and more public debt than any generation in history.

The tragedy of this \$1 trillion bill is it ignores hard-learned lessons. We cannot spend our way to prosperity. During the Bush administration over the last 8 years, we spent a lot of money. We strengthened our homeland defenses, we delivered a prescription drug benefit under Medicare, and we increased Federal support for education. Yet all that additional spending—for the war on terror, for homeland defense, prescription drugs, and education—did not protect us from a recession.

In last year’s stimulus package, we sent out rebate checks. Remember that was about a year ago where we sent out cash to taxpayers ostensibly as a rebate which, in fact, represented a redistribution of money from people who did pay income taxes to people who don’t. You know what. It had virtually zero effect in terms of stimulus. Now we are going to do it all over again, this time under the guise of refundable tax credits, again sending money to people who don’t pay income taxes from people who do pay income taxes in a vast redistribution of wealth and replicating the failed example of the stimulus package we passed a year ago.

Now, I understand these are unprecedented economic times. I understand

even the smartest people in the world have a hard time knowing what we should do, but shouldn't we at least prevent repeating mistakes we know don't work? I don't think it takes a rocket scientist or a master of the universe to know that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. Mr. President, I ask unanimous consent for 1 more minute.

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

Mr. CORNYN. Mr. President, it is not as though my colleagues are just complaining about the bill on the floor. We offered a constructive alternative to fix housing first that got us into this mess and which, I believe, if we had listened to some constructive suggestions on this side, would help lead us out of it. We also know that letting people keep more of what they earn exerts a much greater multiplier effect in terms of the economy than does direct Government spending. Finally, the idea that we can spend money we don't have on things we can't afford simply defies logic.

I am sorry this is a missed opportunity, both for bipartisanship and an opportunity to actually solve a real problem confronting the American people. I believe there are better ideas available, and those ideas remain available if we simply have the will to embrace them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I am honored to be here to speak in favor of the economic recovery plan.

Yesterday we celebrated Abraham Lincoln's 200th birthday. As I sat there and listened to the historians talk about Abraham Lincoln's life, there was one thing that stood out to me and that is the importance of timing. They talked about when he was there in those very dark days of the Civil War, that he had to make a decision. He had to make a decision about whether he was going to sign the Emancipation Proclamation, freeing the slaves. He thought about it for awhile. He knew if he did it at one time, it would be too early, and if he waited too long, it would be bad. Finally, he signed it. The Historian said yesterday it is very possible that if he had done it 6 months earlier, we would have lost a number of States that wouldn't have been with us; and if he had done it 6 months later, we would have lost the momentum that propelled us forward to win the Civil War. It reminded me again that timing is everything and that timing matters.

This is a time to take action with our economic crisis. This is the time. With each passing day, we get more bad news: another round of layoffs, dropping consumer confidence, increasing debt. Last month, we learned the United States had lost 598,000 jobs in just 1 month—the month of January. As the President pointed out, that is

basically equivalent to the total number of jobs in the State of Maine. That happened in 1 month in the United States of America.

In my home State of Minnesota, the unemployment rate rose to 6.9 percent last month. That is the highest it has been in 20 years. The national unemployment rate is now at 7.6 percent. It is across the board. Great companies in my State such as Target and Best Buy and Ameriprise are trying everything to do the right thing, but they still are having to lay off employees.

Behind all these numbers and statistics are real families. They are not just a number, such as 598,000; they are real families, people whom I have spoken to across our State; moms and dads who put their kids to sleep and then sit at the kitchen table with their heads in their hands thinking: How are we going to make it? A woman wrote me saying she got a little inheritance from her father. She was going to use it for her daughter's wedding and now she had to spend it on her own retirement because it got blown in the stock market.

As we prepare to vote on this bill, it is important to remember how we got there. Our economic crisis is a result of bad decisions on Wall Street, a result of greed, as well as the result of a failed economic policy for 8 years. There is a diner that used to be down the street from me in Minnesota. It was a motorcycle diner called Betty's Bikes and Buns. There would always be a bunch of motorcycles parked in front. There was a sign in the window that said: "Betty's Bikes and Buns: Where lies become legends."

Look at the past 8 years. We were told by the past administration they would create jobs. Just last month—the last month of the past administration—we lost 8,000 jobs. They told us they would restore fiscal responsibility. Well, we went from the largest budget surplus left by the Clinton administration to a record-high budget deficit left by the Bush administration. They told us they would reduce that deficit. They didn't do it. "Where lies become legends."

The people of this country in this last election said they had enough of lies, they had enough of legends, and they wanted to see change. They wanted to put a President in who was going to tell them the truth and not sugar-coat it, not make a bunch of promises and not keep them. If we are going to get out of this crisis, we are not going to be able to rely on the ideas that got us here, as some on the other side have argued. We need a new direction and that is what this bill offers. It is not a perfect bill, but it is the first step to jolting this economy back in the right direction.

The American Recovery and Reinvestment Act will jump-start our economy in the near term by creating jobs, but it is also going to give the people of this country something to show for their money. The legislation provides economic assistance aimed directly at

Main Street. It provides economic relief to working families, small businesses, and seniors. It gives critical support to States and communities so they can ensure a safety net for families hurt by the economic downturn, and it will save or create 3.5 million jobs.

In my State of Minnesota, the projections are that this bill will create 66,000 jobs. A recent analysis concluded that the economic recovery bill could create as many as 91,000 jobs in Minnesota by 2010. Additionally, it will provide a tax cut to 95 percent of working families and offer additional unemployment benefits to so many of the people in our State who have lost their jobs.

This legislation will put Americans back to work building bridges, building roads, building schools. That is what this legislation is about. The legislation invests \$116 billion in infrastructure, in science, roads, bridges, highways, and transit systems. The Federal Highway Administration estimates that for every \$1 billion of highway spending, it creates nearly 35,000 jobs. We know a little bit about the need to invest in infrastructure in my State. We had a bridge that fell down right in the middle of the Mississippi River, 6 blocks from my house. As I said that day, a bridge shouldn't fall down in the middle of America. Not a six-lane highway, not a bridge 6 blocks from my house, not a bridge that my daughter travels as she rides with me and my husband every day when we go to work or go visit our friends. It shouldn't have happened.

The Federal Highway Administration estimates that more than 25 percent of the Nation's 600,000 bridges are either structurally deficient or functionally obsolete. That is the good thing about this bill. It gives us immediate short-term jobs, as well as giving us something to show for it, so that years later, when this economy is running again, we will have the bridges that will take the goods to market, the good highways, and the good rail.

This plan will also create jobs by investing \$43 billion in homegrown renewable energy, creating new energy jobs across the country. As I have traveled across my State, I have seen the possibilities. I have seen the little solar panel factories. I have seen the wind turbine farms. When we had the information technology revolution—the IT revolution—it created jobs. A lot of those jobs were for people who had graduate degrees and Ph.D.s and they had to be in certain parts of the country. That is what is great about this energy technology revolution—the ET revolution. We have had experts testify before our environmental committee, and they have told us the ET revolution will create not just those Ph.D. jobs and those graduate student jobs, they will create jobs for working people, building those wind turbines, working on those solar panels, putting in those lines for that electricity grid.

It is jobs across the demographic spectrum of this country. It is green-helmet jobs, not just Ph.D. jobs.

Finally, I wish to highlight the \$7 billion this plan contains for broadband for Internet and for telecommunications infrastructure. When President Roosevelt, back in 1935, looked at this country, he knew there was a problem. Only 12 percent of American farms had electricity. There we were in the middle of the Depression and only 12 percent of American farms had electricity. Now, what did he do? Did he put his head in the sand and say: Well, times are bad, we are not going to do anything? No. He said: Let's invest in some jobs, and let's invest in making things better for people so we can get this economy moving again. You know what. Fifteen years later because of rural electrification, we had about 75 percent of the farms with electricity. We went from 12 percent to 75 percent in 15 years. That is what Government action will do when it is done right.

Focusing now on the present day, in so many counties in my State we have Internet service, but it is either too slow or too expensive. This country has gone from fourth in the industrialized world for Internet service subscriber-ship to 15th in just 8 years. How are we going to compete with countries such as Japan and India if we are going downhill, if we are nosediving when it comes to Internet service? This bill puts over \$7 billion in infrastructure for Internet. In these tough economic times, broadband Internet deployment creates jobs, not only direct creation of jobs in the technology sector but also the creation of even more indirect employment opportunities by increasing access to the Internet. I want these jobs to go to Thief River Falls, MN, or to Lanesboro, MN, instead of over to India and to Japan. I want them to be in our country.

This recovery plan offers an economic one-two punch, including tax cuts that will promote more consumer and business spending by providing relief to middle-class families, small businesses, and seniors. Second, Federal spending that will create jobs and strengthen the economy with investments in transportation, renewable energy, and high-speed Internet.

The American people are tired of the lies and legends of the last 8 years.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent for 30 more seconds.

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

Ms. KLOBUCHAR. Mr. President, they want action. They want the truth. We literally can't afford to wait any longer to pass something.

As President Obama recently said, the time for talk is over. The time for action is now. If we don't act, a bad situation will become dramatically worse. This is our time. This is our opportunity. Let's get this passed today.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, the moment of truth is almost here, the time when we will all have to cast our votes. I submit this is a sad day for our country, for the American taxpayer, and it is a sad day for future generations, who will be left paying for this trillion dollar spending bill.

The American people are hurting and they are demanding action. Unfortunately, Congress has failed the American people and lost an incredible opportunity to empower small business owners, fix our housing crisis, and turn our economy around. So many things could have been done with this legislation that could have meaningfully led to job creation and economic stimulus.

In the few short hours that the final bill has been available, it is clear that the Democratic leadership has turned a deaf ear to the American taxpayer.

The final spending bill still includes spending on wasteful Government projects that have outraged taxpayers across the country. The final bill includes: tax benefits for golf carts, electric motorcycles, and ATVs; \$300 million for Federal employee company cars; \$1 billion for ACORN-eligible block grants; \$50 million for arts endowment; \$165 million for fish hatcheries; \$1 billion for the census.

Instead of mouse habitats, electric golf carts, and fish barriers, Congress should have focused on serious proposals to address the housing crisis and create jobs through small business tax relief.

There were a number of opportunities. I view this as the question of what could have been. A number of amendments that were offered last week would have addressed this crisis with respect to housing and job creation and getting the economy back on a path to a recovery. Senators McCAIN and MARTINEZ and other Republican Senators offered an alternative proposal that would have cut wasteful Government spending and focused on targeted investments and tax relief.

This proposal was a well thought out and fiscally responsible proposal. It included a commonsense provision that would have cut off new spending after two consecutive quarters of economic growth greater than 2 percent of inflation-adjusted GDP.

The alternative plan would have invested about \$45 billion in transportation infrastructure, \$17 billion in defense facilities and resetting our combat forces. This targeted spending would have rehabilitated our military facilities and equipment while creating jobs over the next 9 months—important tax relief that would have put money back into the hands of average middle-income families in this country and incentives for small businesses to create jobs, hire employees, and purchase equipment.

What is unbelievable and, in my view, a major flaw in the Democratic

stimulus bill is this simple fact: The bill we will be voting on spends \$6 billion on Federal buildings and only \$3 billion on small business tax relief. Small businesses create most of the jobs in our economy—three-quarters to 80 percent of the jobs in this country. We ought to be figuring how can we get that economic engine going again so small businesses are making those investments. As I said before, this bill contains \$6 billion for Federal buildings and only \$3 billion for small business tax relief—a small, minuscule amount. One-third of 1 percent of the final stimulus bill is going to small business tax relief.

In terms of the way the bill breaks down, 27 percent of the entire almost trillion dollar bill is in tax relief in some form, or tax provisions. Many would argue that it was meaningful tax relief. There are a lot of better ways to deliver tax relief. The rest is in the area of spending. Forty-seven percent of that spending doesn't occur in 2009 or 2010. Only 11.3 percent will be spent in 2009, which means one thing—there is a lot of spending in the bill that cannot be characterized as stimulus. In other words, it is spending that will go on and on for years to come. What is remarkable about it—the late President Ronald Reagan once said that the closest thing to immortality on this planet is a Government program.

There is a letter out from the CBO in response to a question posed by a House Member regarding some spending in the bill: What would happen to the 20 most popular Government programs that are funded in this bill if, in fact, at the end of the 2 years the funding doesn't terminate? In other words, a lot of this spending will go on and on over time. What CBO found was the total cost of the bill, if those programs are expended—bear in mind that these are popular items on which it will be difficult to turn off the spigot. If the spending continues past that 2-year window, the cost of this explodes to \$3.27 trillion. The interest alone is \$744 billion. So it will be \$3.27 trillion for much of the spending in this bill if it continues beyond the 2-year window.

As I said, according to CBO, only 47 percent of the spending part of the bill gets spent in 2009 and 2010. There are so many better ways this could have been done. We offered amendments last week. I mentioned the McCain amendment. I offered an alternative focused on tax relief for middle-income families and small businesses, which, according to the methodology developed by the President's own economist, Christina Romer, would have created twice as many jobs at half the cost—6.2 million jobs—and the cost of this amendment voted down last week was about \$440 billion or, in rough terms, half of what we are looking at in the bill we are voting on today.

The last amendment I offered last week, toward the end of the debate, would have taken the total amount. I don't agree that we ought to spend this

amount of money. I think it is stealing from future generations. If we are going to do it, the question is, should Washington spend it or should the American people? I took the total amount and divided it by every tax filer in the country—182 million people who file a tax return in this country—and we could have given a rebate of \$5,403 to a single filer and to a couple filing jointly, \$10,486—if we take the total amount of the bill and divide it among the taxpayers in this country. I would be willing to bet that the American people would much rather have that check than have money going to Washington, DC, to spend on these new programs, many of which will create obligations and liabilities for generations to come.

I think we have missed a golden opportunity here. I think we have created a whole new realm of spending that will go on for some time into the future. It is not fair to our children and grandchildren. The Federal Government needs to learn to live within its means. I can tell you as somebody who comes from the prairies, when the prairie pioneers settled South Dakota and places such as that, they understood a basic principle or ethic, which was that they were going to have to sacrifice so their children and grandchildren and future generations could have a better life.

What we have done with this bill is turn that very ethic entirely on its head. What we are asking future generations to do is sacrifice by handing them a trillion dollar debt so that we here and now can have a better life, and we cannot live up to the obligations we have to pay our bills on time.

It is a sad day; it is unfortunate. This could have been much different. There could have been more input from our side. It is a bill heavy on spending, not only temporary but spending that will continue to go on for some time into the future and create obligations down the road. If this is correct and the CBO response in this letter is accurate, if these programs continue to be funded and don't terminate at the end of the 2-year period, there will be \$3.27 trillion in liabilities that we are creating today by voting for this legislation. It is not fair to our children and grandchildren and to the future generations who will bear the cost of the fact that we cannot live within our means and cannot come up with a way to fund an economic recovery plan that creates jobs and helps stimulate the economy and gets this recovery underway in a fashion that is fiscally responsible.

I regret that I will be voting no on this bill. I urge my colleagues in the Senate to do the same.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, this is the largest spending bill ever to be voted on. It will probably be passed by this body. It has been done in the most rushed fashion that we have ever

done a spending bill. It is the least bipartisan ever. Not a single Republican in the House voted for this bill; nine Democrats voted against it.

Unfortunately, in conference, the bad parts of the bill got bigger and the good parts got smaller. We are left with a spending bill of gigantic proportions and a stimulus package that is small, by any measure.

I will point out a few historical numbers. We have had stimulus packages in the past, and we have needed them. We need one now. We have never, in the history of the Republic, had a stimulus package over the size of 1½ percent of GDP. That is the biggest we have ever done in the history of the Republic. This stimulus spending bill is 5.5 percent of the GDP of the entire country. It is huge—more than three times larger than any we have ever done.

To give perspective, we did a stimulus package in 2008 in the amount of \$152 billion. This is \$800 billion. In 2001, it was \$38 billion. That seems small by today's standards. This one is 5½ percent of GDP. If you look at the actual tax cuts, there are things in the tax cuts I think are good. There are other things in spending I think are good, but they should not be in a stimulus bill. They should go through the regular order in a spending package.

We will have the omnibus spending bill after the break. That will be hundreds of billions of dollars, and people can measure that. But the tax cut piece of this bill that is probably going to be stimulative—and I would support as being stimulative—is a total of \$76 billion, which is 9.6 percent of the bill. Many of the tax cuts in the bill are actually spending through the Tax Code or an AMT fix that will not be stimulative, which most people regarded as that will be fixed and they are not going to alter economic activity based on that. You are left with \$76 billion in tax cuts that would be stimulative. As I said, there are things in there I like. I congratulate the majority on some of those tax cuts that are in it—the issue on first-time home buyers. We have done that in Washington, DC. It was helpful in stimulating the housing market here. I think it will stimulate the market across the country. Wind energy is in here that will help our Plains States—the Senator from South Dakota, myself, and many others. This will help in wind energy, a key growth area for us. I am supportive of that. I think that is important. We got a piece in here about deductibility of State taxes on purchases of new automobiles in 2009. That will have a stimulative effect. I think it will be small. There is bonus depreciation for a big industry in my State, aircraft, that will have a stimulative effect. It will be positive. All of those I support and I applaud the majority side for that.

The sum total of those altogether is less than 10 percent of the whole package. Instead, we are left with this gargantuan spending bill that is 5½ percent of the economy, which we cannot

afford. It will not be stimulative. It will be a highly speculative Government bubble that we are creating.

At the end of the day, the last and biggest number in this whole bill is a number of \$12 trillion. That is in the bill and that is what we are growing, what we are setting the debt limit of the country at in this bill. We are raising it to \$12 trillion. That is in the bill. The reason we are raising that debt limit to \$12 trillion—you guessed it—it is headed that way. We are getting closer with this bill.

We have come to a very big speculative bubble on housing and consumer credit and a number of other things as well. This speculative bubble led to a lot of housing being built, cars being purchased, and all was fine. But then the bubble burst. Now we are trying to substitute that with a Government speculative bubble. We are going to spend all this Government money and in a speculative, highly leveraged nature, because 100 percent of this is borrowed. That is somehow going to stimulate the economy. It is going to leave that big, massive hole in it.

I am deeply concerned about what this is going to do both in the present and in the near-term future. I hope we can do better. There is a great possibility that we can do better. I think we should.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

#### AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—CONFERENCE REPORT

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany H.R. 1, the American Recovery and Reinvestment Act, with the time until 5:30 for debate, with the time divided as follows: the majority controlling 30 minutes and the remaining time under the control of the Republican leader or his designee; that a budget point of order be in order and if raised against the conference report, then a motion to waive the applicable point of order be considered made; that at 5:30 p.m. the Senate then vote on the motion to waive the point of order; further, that the vote on the waiver of the point of order count as a vote on adoption of the conference report, with a 60-vote threshold; that no further points of order be in order during the pendency of the conference report; and that upon adoption of the conference report, the motion to reconsider be laid on the table, with no further intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I wish to publicly express my appreciation for the thoughtful time certainty on this by the Republicans. As they know, we

have a couple issues on our side, one is a death and one is the health of one of our Members. They have been very thoughtful and understanding of our situation. For that I will always be grateful.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I would like to propound a unanimous consent request for speakers on our side.

I ask unanimous consent that the following Republican speakers be recognized for up to 7 minutes each: CHAMBLISS, GRAHAM, ENSIGN, ALEXANDER, SHELBY, HATCH, MCCAIN, SESSIONS, and that Senator COBURN be recognized for up to 30 minutes.

Mr. ENSIGN. Reserving the right to object, is it in that order—

Mr. MCCONNELL. No.

Mr. ENSIGN: Or is it just total time? The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the conference report.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings at pages H1307 through H1516 of the RECORD of February 12, 2009.)

The PRESIDING OFFICER. Who yields time on the conference report?

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I ask that I be recognized for 7 minutes and be informed when I have used 6 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAHAM. Mr. President, this debate is coming to an end, and it never really started. We are bringing a conclusion to a process that will spend \$1.1 trillion over the next 10 years, and there has never been a thoughtful discussion between the parties to figure out how we can get there from here.

The Republican alternative was \$440 billion, I believe. It had tax cuts. It had spending on unemployment benefits extension, food stamp extension. It had a \$35 billion, \$45 billion amount of spending for infrastructure, shovel-ready jobs. It was an alternative that also had a trigger that said that once the economy got back on its feet and we had two quarters of positive GDP growth, any unspent funds would be frozen, and we would look at trying to get back to a balanced budget situation. In other words, it had a slowdown

provision. There is nothing in this bill that is going to slow down spending.

The compromise that has been reached—\$440 billion was the Republican alternative—we are going to settle on a bill of about \$787 billion-plus that received no Republican votes in the House. I think they lost seven or eight Democrats in the House. Apparently, they are going to pick up three Republicans in the Senate.

I would argue that if the shoe were on the other foot, if Republicans were in charge and we lost more Republicans than we picked up Democrats, that would be a lead story. So the idea that this is bipartisan does not meet any realistic test of bipartisanship, and that is a loss. Mr. President, \$1.1 trillion unfocused over 10 years, in terms of job creation, is a huge loss to the next generation of Americans who are going to pay this bill.

We had a chance to start over early on in this administration. The attitude that started this process in the House, “We won, we write the bill,” never changed. It came to the Senate. We spent 1 hour 40 minutes marking up this bill. We have had a handful of Republican amendments accepted. I am not saying our version is the right way completely. I am saying the difference between \$440 billion and \$787 billion and \$819 billion, the House version, is not \$787 billion.

There has never been a real effort to try to find common ground. The percentage of this bill that is tax cuts is 27 percent of \$787 billion; 27 percent of the amount is for tax relief. A \$400 rebate check is a great part of the tax provision. Last year, we gave people \$500 tax rebates. That did not stimulate the economy. The \$400 will not.

What stimulates the economy is cutting taxes for consumers as well as business. As Senator THUNE from South Dakota said about 75 percent of the jobs in America are created by small business. If your goal is to stimulate the economy and create new jobs, one test of this bill would be how much did you do for small business.

Less than \$3 billion in the entire package is directed to small business. I would argue that if 75 percent of the jobs come from the small business sector and only \$3 billion of the money is allocated for small business relief, we missed this thing by a country mile.

This bill started out of the House as a “We won, we write the bill” spending package that never had a focus on job creation. There are so many things in this bill unrelated to creating a job in the next 18 months that it is, in my opinion, a failure as a stimulus package.

Of the \$580 billion of this bill that is appropriated—about 53 percent of it is appropriated—only 11 percent of that money hits the economy in the first year. Fifty-three percent of the appropriated funds are not spent until after 2 years from now.

So the goal I had working with our Democratic colleagues and the White

House was to try to create as many jobs as possible by stimulating the economy through a combination of tax cuts and spending that would create jobs in the near term and, yes, help people who have lost a job. We have failed miserably in that endeavor, in my opinion. We have run up the cost of this bill, and every dollar that is wasted in the stimulus package that does not create a job is one less dollar to jump-start housing and banking.

To my colleagues, you all know this one fact. We will never get out of this economic mess until we deal with the banking problem and the housing problem. We have wasted a lot of money in this bill that could have gone to banking and housing. There will be a request in the future, mark my words. The TARP funds left to deal with banking and housing of \$315 billion are not nearly enough to deal with the toxic assets that cripple the ability to lend, not nearly enough, in my opinion, to deal with the foreclosures that are coming in waves in this country.

The stimulus package is important, but it was, in my opinion, the least-effective measure to jump-start the economy. We put all the money in the thing that works the least, and we designed it in a fashion where it will work hardly at all. This is a blown opportunity to come together in a bipartisan fashion to deal with banking and housing. We put all our resources upfront in a stimulus package that has very little to do with creating jobs and a lot to do with growing Government.

The PRESIDING OFFICER. The Senator has used 6 minutes.

Mr. GRAHAM. Mr. President, we have created more Government, new Government than we created jobs. We lost the spirit of bipartisanship we were yearning for. It is going to be hard for us to come back to the American people after this monstrosity of a bill is understood in the next couple weeks and ask for more money in housing and banking.

I am disappointed in the process. I am disappointed in the final substance of the bill. We spent \$1 trillion in about 2 weeks, with very little discussion.

Finally, America wants this Congress and this new administration to be smart and work together. We are not being smart, and we sure as heck haven't worked together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I claim the 7 minutes that is part of the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ENSIGN. Mr. President, the scope of this legislation is enormous and endangers our country's future economic health.

Currently, the U.S. debt burden is huge, but it is going to rise to 54 percent of the economy in just the next 2 years. That is before we take into account this omnibus spending bill that

is still to come before the Congress, another round of TARP, and approximately \$1 trillion that we have in the bill before us today. When we add the Children's Health Insurance Program that was passed, TARP, a supplemental, the omnibus bill, we will add an additional \$2 trillion to our national debt. That means higher taxes for our children, our grandchildren, and actually just in a few years for almost all Americans.

We have been borrowing against future generations. Keep in mind that we have a \$60 trillion debt out there in Social Security, Medicare, Medicaid, and other entitlement programs. That money has to be paid someday.

We have to ask ourselves: What will the credit markets around the world think? What will they think about the idea of the United States being actually solvent? The previous administration, as we heard from the other side, spent money like crazy. I am not going to defend them. I was one of the people fighting against a lot of that spending.

The spending that is before us today is unprecedented. Unfortunately, in the so-called stimulus bill, only about 25 percent of the bill is in true tax relief. A lot of it is disguised as tax relief, but it is just spending. Not all tax relief is equal when it comes to stimulating the economy. Unfortunately, some of the tax relief in this bill that was actually good was stripped out of the bill.

Today, as a percentage of GDP, Government spending last year was around 21 percent. This year, it is going to be close to 30 percent. The historical average over the last 40 years is around 20.6 percent. If we continue to add and add, in not too many years, it is heading toward 40 percent. This amounts to the Europeanization of the United States. Why is this? The government takes up a large percentage of the budgets of Europe's economies. These are more socialist-type economies, and that is the percentage of their gross domestic product they spend on government.

Let's consider the cost of this bill. If we count everything that is going to expire in the stimulus and say it is not going to expire over the next 10 years, the true cost of this bill is somewhere around \$3 trillion. We have to ask ourselves: When was the last time a Federal program was cut or was discontinued? That does not happen around here. Once we put something in place, it seems to be in place forever.

The assumptions in the bill that the spending put in place is actually going to go away in 2 years seems a little ridiculous to me. That is why we actually should be honest about the true cost of this bill.

According to CBO, all the stimulus spending will do little to help our long-term economic growth. It will help some in the short term but not in the long term. We have to think about not just short term. Too many companies in America were thinking short term. We have to think long term as well for our, once again, children and grandchildren.

We did not even receive this 1,100-page bill until 11 p.m. last night. Thanks to all my staff, and the Republican Policy Committee staff. They spent most of the night and today going through this bill. There is no way everybody is going to know everything that is in this bill because of the difficulty of trying to go through an 1,100-page bill in less than 24 hours.

We need to look at history. Japan, in the 1990s, gave us valuable lessons about not what to do. They spent \$6.3 trillion. Unfortunately, they spent it building a lot of bridges to nowhere, roads to nowhere.

We heard we need a lot of infrastructure spending in this country. If this bill had only answered that call. This bill has very little to do with infrastructure. Only a small percentage of this bill actually deals with infrastructure. That is unfortunate. Japan also failed to address the underlying problems in their banking system. Japan created zombie banks. These are banks that should have failed but were not allowed to. Japan also suffered from a bad course of monetary policy. While the parallels may not be exactly the same between Japan and the U.S., we may be headed in the same direction. That is why a lot of us are afraid that this stimulus bill before us today is actually not going to cure our economic woes.

The housing industry is what brought this whole economy down. We understand that. The American people in my State of Nevada know it was the housing crisis that brought the economy down. So if we don't fix housing, how are we going to fix the economy? The underlying problem with the patient here is the housing problem.

I had an amendment that actually would have gone a long way toward fixing housing. My amendment had three components. The first was that Americans would have been able to get a much lower interest rate—somewhere between 4 to 4.5 percent. About 40 million American households would have qualified for it. It would have given the average American household about \$450 per month more for their budget. This was permanent, though, it wasn't just a one-time check. This was a 30-year fixed interest rate. That actually would have helped stimulate the economy.

The second part of the amendment was that we took a provision from Senator ISAKSON.

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. ENSIGN. The second part of the amendment would have given a \$15,000 tax credit to buy homes. That would have helped to stimulate the housing market. Unfortunately, in this bill, that was dramatically cut down. And the third part was to help those houses underwater.

This spending bill that is before us could have been made so much better if

we had sat down in a bipartisan fashion—not as Republicans, not as Democrats, but as Americans. I hope we learn from the way this bill was done that it is not the way we need to fix some of the major problems the country will face in the future. I hope we can actually sit down in a bipartisan fashion.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, may I be informed when 6 minutes of my 7 minutes has expired?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. ALEXANDER. I thank the Chair.

Mr. President, here is what we know of the so-called stimulus bill.

This bill will give American workers \$8 a week in their paychecks in exchange for passing along a \$1 trillion debt to our grandchildren. The entire New Deal, in today's dollars, cost only half of what this bill costs.

We know that if we were to spend \$1 million a day, every day since Jesus Christ was born, we would still spend less money than the cost of this bill.

We know that if you were to add the cost of this bill to the national debt that we already have, it would cost each American household more than \$100,000 to pay off our country's debt.

We know that in the bill there is \$50 million that could be used to save red-bellied harvest mice in the San Francisco area, something that Speaker PELOSI has supported.

We know that in the bill there is \$8 billion for a levitating train from Disneyland to Las Vegas that the majority leader is very interested in.

We also know that people are hurting. That we need to do something to help the economy. And that something includes a real stimulus bill. But we know this is not the right approach.

Mostly, this is spending, not stimulus. Most of the spending in the bill does not come soon enough to help create jobs quickly. Most of the tax cuts in the bill—such as the \$8 per week for working families—are welcome but not stimulative.

We know this is a lot of money. An example of how much money is that it took us until about 1980, from the beginning of our Republic, to accumulate a debt that equals the amount of this bill. Or to look at it another way: The entire annual Federal budget in the early 1980s was about the amount we are spending in this bill.

We know this is not temporary. Even though stimulus bills, as defined by Speaker PELOSI, are to be timely, temporary, and targeted, this is not. We know that because of the mandatory spending it adds to the long-term budget. We know that because the Senate rejected Senator MCCAIN's amendment which said that after two consecutive quarters of economic growth above 2 percent, the new spending would stop. So this bill is not temporary.

We know we are bailing out States with much more money than they

need. In my State of Tennessee, it had a \$900 million dollar shortfall. That is a lot of money for our State. But our legislature and Governor are handling that, with some pain. Yet we are giving Tennessee almost \$4 billion, as if we had the money to spend.

We know we are not seriously thinking about how much spending is too much spending in Washington, and how much debt is too much debt. We know that we establish policies in this bill—huge policies in education, energy, and health—in 2 weeks, without careful consideration that deserve enormous consideration.

I used to be Secretary of the U.S. Department of Education. Its budget today is about \$68 billion. We are adding \$40 billion a year to that Department for the next 2 years. Does that mean we are completely satisfied with what is happening in kindergarten through the 12th grade? If we are to add \$40 billion a year, should we not be asking what can we do differently to reward outstanding teachers, to add charter schools, to offer parents more choices for afterschool programs for their children? Surely, we can have a debate about education, or energy, or health care if we are going to spend that much new money.

We know there has been a lack of bipartisanship. The refrain seems to be: We won the election; we'll write the bill. That was not the tone of the election. That was not what we looked forward to on the Republican side of the aisle.

We know what we should have done instead. We know we shouldn't have spent the whole piggy bank on a spending bill that doesn't include much stimulus. We know that we should have reserved as many of those scarce dollars as we could to focus on fixing housing first and making sure that we don't underestimate the difficulty we have in getting toxic assets out of the financial institutions in this country so they can start lending again and on Main Street we can start doing business again. We know those are the things we should have done instead.

This bill doesn't pass muster with truth in labeling. It claims not to have earmarks, although that levitating train from Las Vegas to Disneyland looks a lot like an earmark.

We know that the two provisions in the bill that seemed to do the most to help were cut by the conference report in substantial ways. I am speaking of Senator ISAKSON's \$15,000 tax credit for home buyers who would buy homes in the next year, which was gutted. And Senator MIKULSKI's and Senator BROWNBACK's effort to give encouragement to automobile and truck buyers all over America to revive the automobile industry.

We know that if we are to add \$87 billion over 2 years to Medicaid for the States that we may be making the program so rich that we will never be able to decide what to do about it when we have our national health care debate.

We are preempting that discussion without very much debate.

I know what bipartisanship is. I have participated in it. When I was Governor of Tennessee, I worked with a Democratic legislature. We became the first State to pay teachers more for teaching well. I said what I thought we ought to do and the Democratic speaker said what he thought we ought to do. We sat down together.

The PRESIDING OFFICER. The Senator has spoken for 6 minutes.

Mr. ALEXANDER. I thank the Chair. We took some of Speaker McWherter's ideas and some of my ideas. We came to a conclusion and we together announced the result.

President Bush and the Congress did the same thing with No Child Left Behind when President Bush working with Senator KENNEDY and Representative MILLER. Senator BINGAMAN and Senator Domenici gave us a good example with the energy bill. Seventy of us cosponsored the America Competes Act. And the Gang of 14 helped keep the Senate functioning and produced good Supreme Court nominees.

I am disappointed that we have not risen to the occasion. This bill should have been easy to do in a bipartisan way. I hope that this is not a symbol of what is to come with more difficult pieces of legislation, like health care, climate change, and entitlements.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, during the last 18 months, our economy has been crippled by an unprecedented financial crisis. What began simply as rising defaults on subprime mortgages has rapidly evolved into the greatest economic storm since the Great Depression.

Shackled by mounting losses on mortgage-backed securities and falling home prices, our banking system has retracted from normal lending. Starved of financing, our economy is rapidly deteriorating, while millions of Americans face unemployment.

Unfortunately, we have watched two succeeding administrations—the Bush administration and now, I fear, the Obama administration—propose plans to revitalize our economy that have failed to live up to expectations.

We are now told that the solution to the current crisis lies in this stimulus bill before the Senate. Proponents claim that this bill will jump-start the economy and reinvigorate private commercial activity. I disagree.

This bill has been poorly conceived and hastily crafted. First, the immediate impact of this bill is far too small. According to the Congressional Budget Office, only 12 percent of the discretionary spending in this bill takes place in the year 2009. Secondly, this bill is not targeted to maximize its impact. It simply funds, I believe, a wish list of government programs rather than focusing on creating jobs and

bolstering the incomes of all Americans.

Finally, I fear that the supporters of this bill have been resting far too heavily on their Keynesian ideological crutch rather than devising good policy here.

We are told that Professor Keynes said that government spending was the key to restoring long-term economic growth. We need to remember that Professor Keynes' views evolved a great deal over time. He was continually changing his opinions when confronted with new facts and circumstances. His famed "general theory" of employment, interest, and money was borne of his concern that the old policy prescriptions were not working.

Because his thinking was always changing, Keynes was often criticized for being inconsistent. He famously replied:

When the facts change, I change my mind. What do you do?

I believe we need a solution that fits the facts and circumstances of our times, just as Keynes sought to provide a solution to address those of the United Kingdom at one time.

Our solution, I believe, needs to focus on restoring our banking system. Unless our banking system is nurtured back to health, our economy will remain crippled, and much of what is in this stimulus bill, I believe, will have been wasted.

It is worth remembering that the first thing Franklin Roosevelt did upon becoming President of the United States was address the Nation's banking crisis, long before he embarked on the New Deal spending programs. Another example I believe we should keep in mind is the experience of Japan during their so-called lost decade. You will recall that during the 1990s, the Japanese experienced a banking crisis as well. Rather than deal with their zombie banks, Japanese policymakers enacted numerous stimulus bills. And despite those spending sprees, the Japanese economy continued to stagnate as they increased Japan's debt-to-GDP ratio from 60 percent to a staggering 180 percent today.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of economists, including several Nobel Prize winners.

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

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

Burton Abrams, Univ. of Delaware; Douglas Adie, Ohio University; Ryan Amacher, Univ. of Texas at Arlington; J.J. Arias, Georgia College & State University; Howard Baetjer, Jr., Towson University; Stacie Beck, Univ. of Delaware; Don Bellante, Univ. of South Florida; James Bennett, George Mason University; Bruce Benson, Florida State University; Sanjai Bhagat, Univ. of Colorado at Boulder; Mark Bills, Univ. of Rochester; Alberto Bisin, New York University; Walter Block, Loyola University New Orleans; Cecil Bohanon, Ball State University; Michele Boldrin, Washington University in St. Louis; Donald Booth, Chapman

University; Michael Bordo, Rutgers University; Samuel Bostaph, Univ. of Dallas; Scott Bradford, Brigham Young University; Genevieve Briand, Eastern Washington University.

George Brower, Moravian College; James Buchanan, Nobel laureate; Richard Burdekin, Claremont McKenna College; Henry Butler, Northwestern University; William Butos, Trinity College; Peter Calcagno, College of Charleston; Bryan Caplan, George Mason University; Art Carden, Rhodes College; James Cardon, Brigham Young University; Dustin Chambers, Salisbury University; Emily Chamlee-Wright, Beloit College; V.V. Chari, Univ. of Minnesota; Barry Chiswick, Univ. of Illinois at Chicago; Lawrence Cima, John Carroll University; J.R. Clark, Univ. of Tennessee at Chattanooga; Gian Luca Clementi, New York University; R. Morris Coats, Nicholls State University; John Cochran, Metropolitan State College; John Cochrane, Univ. of Chicago; John Cogan, Hoover Institution, Stanford University.

John Coleman, Duke University; Boyd Collier, Tarleton State University; Robert Collinge, Univ. of Texas at San Antonio; Lee Coppock, Univ. of Virginia; Mario Crucini, Vanderbilt University; Christopher Culp, Univ. of Chicago; Kirby Cundiff, Northeastern State University; Antony Davies, Duquesne University; John Dawson, Appalachian State University; Clarence Deitsch, Ball State University; Arthur Diamond, Jr., Univ. of Nebraska at Omaha; John Dobra, Univ. of Nevada, Reno; James Dorn, Towson University; Christopher Douglas, Univ. of Michigan, Flint; Floyd Duncan, Virginia Military Institute; Francis Egan, Trinity College; John Egger, Towson University; Kenneth Elzinga, Univ. of Virginia; Paul Evans, Ohio State University; Eugene Fama, Univ. of Chicago.

W. Ken Farr, Georgia College & State University; Hartmut Fischer, Univ. of San Francisco; Fred Foldvary, Santa Clara University; Murray Frank, Univ. of Minnesota; Peter Frank, Wingate University; Timothy Fuerst, Bowling Green State University; B. Delworth Gardner, Brigham Young University; John Garen, Univ. of Kentucky; Rick Geddes, Cornell University; Aaron Gellman, Northwestern University; William Gerdes, Clarke College; Michael Gibbs, Univ. of Chicago; Stephan Gohmann, Univ. of Louisville; Rodolfo Gonzalez, San Jose State University; Richard Gordon, Penn State University; Peter Gordon, Univ. of Southern California; Ernie Goss, Creighton University; Paul Gregory, Univ. of Houston; Earl Grinols, Baylor University; Daniel Gropper, Auburn University.

R.W. Hafer, Southern Illinois University, Edwardsville; Arthur Hall, Univ. of Kansas; Steve Hanke, Johns Hopkins; Stephen Happel, Arizona State University; Frank Hefner, College of Charleston; Ronald Heiner, George Mason University; David Henderson, Hoover Institution, Stanford University; Robert Herren, North Dakota State University; Gailen Hite, Columbia University; Steven Horwitz, St. Lawrence University; John Howe, Univ. of Missouri, Columbia; Jeffrey Hummel, San Jose State University; Bruce Hutchinson, Univ. of Tennessee at Chattanooga; Brian Jacobsen, Wisconsin Lutheran College; Jason Johnston, Univ. of Pennsylvania; Boyan Jovanovic, New York University; Jonathan Karpoff, Univ. of Washington; Barry Keating, Univ. of Notre Dame; Naveen Khanna, Michigan State University; Nicholas Kiefer, Cornell University.

Daniel Klein, George Mason University; Paul Koch, Univ. of Kansas; Narayana Kocherlakota, Univ. of Minnesota; Marek Kolar, Delta College; Roger Koppl, Fairleigh Dickinson University; Kishore Kulkarni,

Metropolitan State College of Denver; Deepak Lal, UCLA; George Langelett, South Dakota State University; James Larriviere, Spring Hill College; Robert Lawson, Auburn University; John Levidis, Loyola University New Orleans; David Levine, Washington University in St. Louis; Peter Lewin, Univ. of Texas at Dallas; Dean Lillard, Cornell University; Zheng Liu, Emory University; Alan Lockard, Binghamton University; Edward Lopez, San Jose State University; John Lunn, Hope College; Glenn MacDonald, Washington University in St. Louis; Michael Marlow, California Polytechnic State University.

Deryl Martin, Tennessee Tech University; Dale Matcheck, Northwood University; Deirdre McCloskey, Univ. of Illinois, Chicago; John McDermott, Univ. of South Carolina; Joseph McGarrity, Univ. of Central Arkansas; Roger Meiners, Univ. of Texas at Arlington; Allan Meltzer, Carnegie Mellon University; John Merrifield, Univ. of Texas at San Antonio; James Miller III, George Mason University; Jeffrey Miron, Harvard University; Thomas Moeller, Texas Christian University; John Moorhouse, Wake Forest University; Andrea Moro, Vanderbilt University; Andrew Morriss, Univ. of Illinois at Urbana-Champaign; Michael Munger, Duke University; Kevin Murphy, Univ. of Southern California; Richard Muth, Emory University; Charles Nelson, Univ. of Washington; Seth Norton, Wheaton College; Lee Ohanian, Univ. of California, Los Angeles.

Lydia Ortega, San Jose State University; Evan Osborne, Wright State University; Randall Parker, East Carolina University; Donald Parsons, George Washington University; Sam Peltzman, Univ. of Chicago; Mark Perry, Univ. of Michigan, Flint; Christopher Phelan, Univ. of Minnesota; Gordon Phillips, Univ. of Maryland; Michael Pippenger, Univ. of Alaska, Fairbanks; Tomasz Piskorski, Columbia University; Brennan Platt, Brigham Young University; Joseph Pomykala, Towson University; William Poole, Univ. of Delaware; Barry Poulson, Univ. of Colorado at Boulder; Benjamin Powell, Suffolk University; Edward Prescott, Nobel laureate; Gary Quinlivan, Saint Vincent College; Reza Ramazani, Saint Michael's College; Adriano Rampini, Duke University; Eric Rasmusen, Indiana University.

Mario Rizzo, New York University; Richard Roll, Univ. of California, Los Angeles; Robert Rossana, Wayne State University; James Roumasset, Univ. of Hawaii at Manoa; John Rowe, Univ. of South Florida; Charles Rowley, George Mason University; Juan Rubio-Ramirez, Duke University; Roy Ruffin, Univ. of Houston; Kevin Salyer, Univ. of California, Davis; Pavel Savor, Univ. of Pennsylvania; Ronald Schmidt, Univ. of Rochester; Carlos Seiglie, Rutgers University; William Shughart II, Univ. of Mississippi; Charles Skipton, Univ. of Tampa; James Smith, Western Carolina University; Vernon Smith, Nobel laureate; Lawrence Southwick, Jr., Univ. at Buffalo; Dean Stansel, Florida Gulf Coast University; Houston Stokes, Univ. of Illinois at Chicago; Brian Strow, Western Kentucky University; Shirley Svorny, California State University, Northridge.

John Tatom, Indiana State University; Wade Thomas, State University of New York at Oneonta; Henry Thompson, Auburn University; Alex Tokarev, The King's College; Edward Tower, Duke University; Leo Troy, Rutgers University; David Tuerck, Suffolk University; Charlotte Twight, Boise State University; Kamal Upadhyaya, Univ. of New Haven; Charles Upton, Kent State University; T. Norman Van Cott, Ball State University; Richard Vedder, Ohio University; Richard Wagner, George Mason University; Douglas M. Walker, College of Charleston; Doug-

las O. Walker, Regent University; Christopher Westley, Jacksonville State University; Lawrence White, Univ. of Missouri at St. Louis; Walter Williams, George Mason University; Doug Willis, Univ. of Washington Tacoma; Dennis Wilson, Western Kentucky University; Gary Wolfram, Hillsdale College; Huizhong Zhou, Western Michigan University.

Mr. SHELBY. Mr. President, all these economists agree that government spending is not the way to improve economic performance.

Over the past year, I have repeatedly called for an extensive examination of the origins of this economic crisis and of the potential solutions. So far, the majority has refused. In the absence of any analysis or detailed information, they have chosen time and again to solve the crisis by throwing money at it. I believe this is laying the groundwork for a much greater economic catastrophe.

It took until 1982 for our publicly held debt to cross the \$1 trillion mark. In the 27 short years since, we have amassed a debt 10 times that amount. Now we are about to vote on a measure that will, in a single year, add to the national debt what it took nearly 200 years to accumulate.

I fear this is a day we will come to regret, not only because I believe the stimulus bill will not work but because it will mark the day when our generation decided we were not capable of enduring the consequences of our own actions, and therefore future generations must shoulder the burden we could not find the courage to bear ourselves.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I rise this afternoon to talk about the economic recovery package, a package that will create jobs, put money in the pockets of the middle class, and strengthen our investment—three extremely worthy and necessary goals. It is a package that will turn our economy around—and Lord knows we need it.

Let me say, I have heard much talk from the other side claiming they are against this package because it increases the budget deficit and the national debt too much. For instance, I heard my good friend from Arizona this morning talking about generational theft. There is one surprising thing: When we talked about \$1 trillion for the war in Iraq, all told, we never heard about generational theft. When President Bush talked about \$2 trillion of tax cuts, mainly for the wealthy, did we ever hear the words “generational theft”? Did we ever hear we should not do tax cuts for the wealthy or fund the war in Iraq because it was generational

theft? Because it would increase the deficit? No, we didn't. I am not commenting on whether those two actions were worthy, but we certainly did not hear any qualms from the other side.

The GOP was a borrow-and-spend party for each of the 8 years President Bush was in office. They doubled the national debt in 8 years and by some estimates added \$30 trillion to future liabilities over 8 years. Our friends on the other side of the aisle simply have no credibility when it comes to the issues of deficits and debt because, until 3 months ago, they didn't give a hoot about it. Only now, when there are Government programs for education and health care and transportation, do we hear about Government debt. But we never hear about it when it comes to funding wars overseas, like Iraq, or when it comes to tax cuts for the wealthy—that is perfectly OK. Where were our colleagues on the other side of the aisle for the last 8 years as the debt skyrocketed, as generational theft occurred? Where was my good friend from Arizona, who talked about this earlier today when I was on the floor?

Mr. COBURN. Will the Senator yield?

Mr. SCHUMER. I will only yield, since I have only 5 minutes, on the Senator's time.

Mr. COBURN. I will be happy to yield myself the time. The Senator paints with an awfully broad brush. I have been in this Senate for 4 years. He knows very well that I voted against most appropriations bills. I talked about the debt in almost every speech I have given. So I hope we would talk about individuals rather than a group because it is not necessarily representative of all on my side.

Mr. SCHUMER. Reclaiming my time, I think my colleague from Oklahoma makes a fair point. There have been occasional Members, such as the Senator from Oklahoma, the Senator from Ohio, the Senator from Maine, Ms. SNOWE, who have talked repeatedly about increasing the debt. But by and large, the speakers we have heard this morning and this afternoon and the votes we have seen from the other side of the aisle, both under George Bush and now—we didn't hear much talk about generational debt.

Mr. SANDERS. Will my colleague yield?

Mr. SCHUMER. I am happy to yield on my colleague's time since I only have 3 minute left.

Mr. SANDERS. Sure. Does my friend recall that for many years under President Bush, the Republican leadership told us how imperative it was to repeal the estate tax, which would cost this Nation \$1 trillion over a 10-year period? Mr. President, \$1 trillion—and who were the beneficiaries of that tax break? The top three-tenths of 1 percent.

We are spending \$800 billion, including tax breaks for the middle class, rebuilding this country. What does my friend think about \$1 trillion for the

top three-tenths of 1 percent as opposed to putting money into the middle-class and working families?

Mr. SCHUMER. I thank my friend from Vermont, and, reclaiming my time, he is exactly right. Let's look at it this way: Does anyone really believe that if a Republican President had helped construct a stimulus package with \$800 billion of tax cuts, that we would hear talk about generational debt and that we would hear talk about not voting for the bill because it increased the national debt? Obviously not.

Despite the claims to the contrary, the issue that most—not all—Republicans have with this package is not that it is too big. Oh, no; that is a Trojan horse. The issue is plain and simple that they did not like investments—they do not like the Government to spend money on education and schools, they don't like the Federal Government to spend money on helping people with their health care, they don't like the Government to spend money on transportation, helping rebuild our roads and bridges, or spending money on changing our energy policy so we are not dependent on foreign oil. Oh, no. It is OK to spend money on the military—something I usually support—it is OK to spend money on tax cuts for the very wealthy but not to help the middle class with health care and education and transportation.

That is why we took the majority. That is why we will stay in the majority, because the average middle-class person knows. They do not want a profligate government. They do not want a government that wastes money—absolutely not. But I think they want a government that is there for them and makes their lives a little better. They know that all the hue and cry of generational theft and increasing the national debt is only coming because this stimulus package helps the middle class with smart Government programs on education and health care and transportation. It is that simple.

My colleagues, this package is very much needed. Without it, we could end up in a Great Depression, as the deflationary spiral goes down. To talk just "no," as so many on the other side do, is reminiscent of Herbert Hoover. Back in 1930, there was a recession about the level of this one, and Herbert Hoover said, "Do nothing." The recession became a depression.

God forbid that happens now. President Obama is struggling mightily to prevent it from happening. He should have broad support from both sides of the aisle because, simply, this package is a mixture of spending and tax cuts—I think it is 56-44; because this package has accepted major amendments from the Republican side, the largest of all from the Senator from Iowa—a reduction in the alternative minimum tax, something I have long supported. So this is a balanced package.

The horror the other side shows when the Government will get itself involved

to help the middle class results in only getting three Republican votes. What more do my colleagues want us to do? Do they want a package just of tax cuts only, no help for health care, no help for education, no help for transportation? Do they want a package that is aimed and skewed at the wealthiest among us who are those who least need the help? We have let them offer amendments. We have accepted a good number of those amendments. Yet we have three votes.

We want to be bipartisan, and we understand that each side mistrusts the other. But I say to my friends, we have reached out, we have accepted suggestions, we have put many tax cuts in this proposal that might not get a majority support on our side alone in an effort to reach out even though we think there are better ways to stimulate the economy.

When we meet you halfway, don't give us the back of your hand and say it is not bipartisan. Don't say: It has to be all our way or 90 percent our way before we will vote with you. Don't let the hard-right base of this Republican Party keep a stranglehold on you and prevent us from marching forward together, because the country needs better. The country needs more. The country does need bipartisanship, but more important even than bipartisanship, as very important as that is, it needs help. It needs help to get this economy out of the mess, to create and preserve 3 to 4 million jobs, to put money in the pockets of the middle class, and to rebuild an infrastructure that is aging and will hurt our economy long after, God willing, this recession is over.

To my colleagues, please, on the next bill—it is too late for this one—rethink the attitude. We are trying. You have had amendments and amendments. A good number have been accepted. Republican input, albeit from three, has been large in this package. Join us. We want you to. We are not going to insist on a bill that is 100 percent spending just as you should not insist on a bill that is 100 percent tax cuts. We are not going to insist on a bill that only invests in the things we care about. We will meet you part of the way. But don't give us the back of your hand because we have made real efforts and we know the arguments about debt and generational theft ring hollow because you didn't make those arguments once in the last 8 years when the deficit ballooned—a few did—when the deficit ballooned because of spending on the Iraq war and spending on tax cuts, largely for the highest income people in America.

I hope we pass this package. It is not perfect. I would draw it differently. My colleague from Vermont would draw it differently than I would. But it is a lot better than sitting here arguing and doing nothing. The country is in tough shape. We have had the most difficult economic time since the Great Depression. It requires concerted and smart action that President Obama has outlined. Please join us and help us move

this country away from the difficult times we are now in.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, as I understand it, I have 7 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Mr. President, I enjoyed listening to my colleague from New York, as I always do. I was very interested in Senator SCHUMER saying that they have met us halfway. The first two bills out of this administration have been the C.H.I.P. bill—that was completely put together by Democrats without any input at all from Republicans and especially from people like me who wrote the original CHIP bill. The second bill was a stimulus package that was put together with no real impetus and no real help from the Republicans or any of us from this side. If you watched the process, it was basically we were told: Take it or leave it. When it finally passed by a narrow vote on this floor, by really 1, it immediately went into a conference where basically Republican ideas were not really considered. We were left out of negotiating this bill.

I cannot help but paraphrase one of the leaders of the White House who said: We Democrats love crises. Why? Because then we can pass legislation we would never otherwise get through the Congress of the United States or through the elected representatives of the people in the two bodies in the Congress.

I am outraged by the amount of government expansion that is contained in this bill. The Majority Democrats have seized this opportunity to put all kinds of programs in here that are not stimulus, some of which may be very valid in the regular appropriations process, but many of which are not stimulus, and are eating funds that should be going to help pull us out of these difficult times. The legislation clearly states that the funds appropriated in this bill should be for emergency uses, yet there is plenty in this legislation that is not imminent.

I have to say that when my friend from New York, Senator SCHUMER, talks about tax relief they put in this bill, it is not true tax relief. When you start calling it a “Make Work Pay” tax credit, where they give refundable tax credits to people who do not pay income taxes, that is not a tax cut. It is not even tax relief. It is a cost to everybody else who works and pays income taxes, and it is not going to produce any jobs.

Now, I am not against helping those who do not pay income taxes. I am not against helping people who are out of work. But, let's call it what it is—spending. And let us not put this in a stimulus bill, which is supposed to be effective immediately. Those provisions will not be effective for 2 or 3 years from now.

I have been in the Congress 33 years this year. There has not been one day

in my 33 years in the Senate where the fiscal conservatives point of view has been in the majority, not one day. We have won some battles because of great Presidential leadership or just plain gutsy leadership by the conservative Republicans, fiscal conservative Republicans. But, the Congress has been run by the more liberal left Democrats and a few Republicans who will side with them on these issues. This has created too much spending.

One of the Senators on the floor yesterday said, how can we take advice from people who ran us into bankruptcy over the last 8 years?

Well, Congress has exceeded the President's budget 20 times in the past 28 years. And it has always been because of the liberal left along with a few liberal Republicans to make a majority in the Senate.

Since President Reagan, Congress has exceeded the President's budget every year except the years when President Clinton was in the White House. Now, why did we match President Clinton's budget when he was in the White House? It was the first time you had a Republican Congress, and a President who agreed to a lower budget.

Today, the government spending as a percentage of gross domestic product is moving towards 40 percent. That is government spending as a percentage of GDP that is more in line with Europe. 40 to 50 percent spending of GDP is where Europe is. We are going through the “Europeanization” of the United States of America.

We have always had to give in to the left, because they have always been too many liberal people and a few Republicans who support liberal spending. This has led to threats to our principles of freedom, self-reliance, and market-driven prosperity.

An example is how our government is taking over the financial sector. Why are managers and shareholders of failed financial institutions not first in line to bear the consequences of their mistaken actions? Why are we not following the principles of a free market society?

The economy has been stronger than the Democrats have been portraying it during those Republican years and during the Bush years, in particular. Democrats keep blaming the current economic decline on the failed economic policies of the past 8 years. But the economy grew each year over the past 8 years. We have only seen a decline in GDP over the past 6 months under which both Houses being controlled by Democrats. Do not miss the point. Over all of these years, we have had a liberal control of spending in the Congress, and you cannot blame President George W. Bush for that. He could have vetoed more, I have got to admit that, but the spending came from the left.

We are headed toward Government spending being 40 to 50 percent of our gross domestic product. And since the

bailouts started last year, we have only added nearly \$2 trillion to our national debt. That did not happen when Republicans were in control of the Congress. The financial rescue package with \$700 billion and more for AIG and other banks, we are beginning to wonder when the spending will end.

I was amazed that in the last election, the Democrats, who had voted for the financial rescue legislation, went out and chewed up a few Republicans who also voted for that legislation. Even though most of the Democrats voted for it, they chewed Republicans up for voting for it and defeated them at the polls—talk about hypocrisy.

We have seen very little success for our money, but even worse, we have used it to save management and shareholders of big banks, even as homeowners were forced into default and Main Street businesses faced bankruptcy. Now we have a stimulus package of \$787 billion.

While there is bipartisan concern over the economy, this is a partisan plan. This stimulus bill will explode the size of Government. Why? Because the more you explode it, the more you get people dependent upon the almighty Federal Government. The liberals who have been running us into bankruptcy over all of these years will put us even more into debt.

I think conservatives need to be more alert. If these provisions are made permanent, and there will be a massive attempt to make these permanent, the expansion of Government is going to be enormous. I do not know what you call it other than socialism.

Do not get me wrong. I am for a stimulus bill that would work, that would help homeowners, that would strengthen research and development, that would cut corporate and small business tax rates so that they can employ more people, that would move farther and farther toward creating jobs. That would be effective.

However, this bill does not do that. I hope our colleagues will vote against it. We have to stand up on something, and this is a bill we should stand up on.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I wish to be recognized for a unanimous consent request. I understood under the current unanimous consent we are going back and forth. I would ask that Senator SANDERS be recognized up to 5 minutes, then Senator COBURN be recognized for up to 30 minutes, and then I be recognized for up to 7 minutes, and if a Democrat comes in and wants to speak between Senator COBURN and myself that they be allowed to do so.

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

The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, my sense of history is a little bit different than my good friend from Utah. I was under the recollection that George W.

Bush was President for the last 8 years. My recollection was that the Republicans controlled the House and the Senate for 6 of those 8 years. My recollection is that during the last 8 years, 6 million Americans slipped out of the middle class and went into poverty. My recollection is that median family income for middle-class working families declined by over \$2,000. My recollection is that, yes, the wealthiest people in the country did very well under President Bush but that ordinary people struggled to keep their heads above water.

The bill we are addressing this evening is not perfect. I would have written it differently. I suspect everyone here would have written it differently. But what it does do is that in the midst of the greatest economic crisis this country has faced since the Great Depression, what we do is begin to address the unmet needs of the American people and we begin marching forward to create the millions of jobs this country desperately needs.

Most importantly, we begin the process of moving America in a very different direction so that, in fact, this country does not fall into a great depression from which it would take us years and years and tremendous human suffering to dig our way out.

What this legislation does is says that after years of neglect, let us create millions of good-paying jobs by rebuilding our crumbling infrastructure. In the State of Vermont, our bridges need work, our roads need work, our water systems need work. That is true all over this country.

Let us put people to work rebuilding our crumbling infrastructure. That is what this legislation does. For decades now, people have been saying what a terrible shame it is, how silly it is that we import every single year hundreds of billions of dollars of oil from foreign countries. How silly it is. Well, finally we are beginning to address that absurdity. We are saying now and we are investing in energy efficiency, we are investing in wind, solar, geothermal, biomass, sustainable energy.

Let's end the talk of moving us into a new energy direction. Let's invest in those areas so that America, in fact, can become energy independent. My Republican friends over the years have said what we need to do is give tax breaks to the wealthiest people in this country. In fact, right now, today, despite the fact that we have the most unequal distribution of wealth and income of any country, the Republican leadership today says, let's repeal the estate tax.

Do you know that if we did as the Republicans wanted and repealed the estate tax completely, we would provide \$1 trillion in tax breaks to the wealthiest three-tenths of 1 percent, millionaires and billionaires all? Not one person in the middle class would gain one nickel from that effort. It is one trillion dollars for the three-tenths of 1 percent.

Then they come to the floor of the Senate and they say, what a terrible thing, you are investing \$800 billion rebuilding America, creating 3.5 million jobs, giving millions of middle-class and working-class Americans tax breaks. What a bad idea that is. You should do not that. We should not invest \$800 billion rebuilding America. We should give \$1 trillion to the top three-tenths of 1 percent. That is the contrast in terms of how they want to go and how many of us want to go.

What this bill does is not only begin the process of rebuilding our infrastructure, not only begin the process of moving us away from fossil fuel and foreign oil, what we also understand is that middle-class families cannot afford to send their kids to college. So we are putting a significant sum of money in and expanding the Pell grant program.

This bill understands that in these hard economic times, when millions of our fellow Americans have lost their jobs, hunger in America is a real problem. So we are putting money in for food stamps. We are putting money into energy, homeless shelters so that those among us, those least able among us, are protected.

Working-class and middle-class families cannot afford childcare. We are putting billions into helping them get the childcare they need, the Head Start they need, and creating jobs in that area as well.

This is an 800-page bill. It is not perfect. Everyone knows that. But this bill begins the process—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANDERS. Of moving the country in the right direction. It should be supported.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent that the Senator from Nebraska be recognized next.

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

Mr. NELSON of Nebraska. Mr. President, I thank my friend from Oklahoma for the courtesy of extending 5 minutes of his time on the front end of his time, so I will not be going between Senator COBURN and Senator CHAMBLISS.

Our Nation's economy is in trouble. Over the course of America's history our economy has been in trouble before but rarely this much. Job losses in my State of Nebraska and across the Nation are climbing, and the recession that began some 13 months ago is accelerating.

Of the 3.6 million who have lost their jobs, nearly half received a pink slip in the last 3 months. Everyone in Congress knows we need to act, and to act soon, to try to stop our economy's downward slide, and to ease the increasing hardship felt by millions of American families, business owners, workers, students, and seniors.

The time is now to begin turning this recession toward recovery. Congress

cannot wait another 3 or 6 months to see if economic conditions worsen. By then it could be too late and we could be in a depression which it could take years to overcome. Now is the time to provide the tools the American people will use, with creativity and drive, to rebuild the economy and return us to prosperity.

The \$789 billion economic recovery plan before us providing jobs creation and tax cuts for millions of Americans has the best chance to do that, I believe. It is timely. This plan is a vast improvement over the first proposal considered several weeks ago.

In the Senate, we faced a reality that any economic recovery plan would require at least 60 votes to overrule a filibuster attempt and win passage. So I and a number of colleagues came together to work across the political aisle with a shared goal: Scrub as much pork, nonstimulative spending, and fat as possible from the bill to focus it sharply on saving and creating millions of jobs. The group I dubbed the "jobs squad" included my friend Senator SUSAN COLLINS of Maine and five other Republicans and some 15 Senators in my own party. I thank each of them for their contributions to making the bill better and for helping Congress respond to a national economy in crisis.

This legislation before us is also targeted. There has been a lot of criticism of the final bill before us, and I agree it is not perfect. One criticism I have heard is that it will leave just \$13 to \$15 in people's pockets per week. To many hard-working Americans, that is somewhere between \$700 and \$800 a year, money they can use to pay electric or gas bills, buy food or medicine, provide clothes for their children, take a bit of the stress out of their lives.

Let's look back a moment to recent history. In 2003, under the previous administration, Congress approved a major tax cut bill that included \$20 billion in economic stimulus for States. Senator COLLINS and I coauthored the provision to help States cope with the loss of State revenues tied to the tax cuts. The \$20 billion in State aid was a one-time boost designed to end when it would likely no longer be needed. Eighteen months after the tax cut bill passed, the aid to the States ceased. We have safeguards in the current economic recovery bill that will shut off spending in a similar timeframe. And 78 percent of the spending in this bill will be completed by the fall of 2010, overcoming the old wives' tale that this money will only be spent at the end of the legislation.

This legislation clearly is temporary. As I said, it is not perfect, but it has the support of such major organizations as the National Association of Manufacturers, the U.S. Chamber of Commerce, and, in my State, the Omaha Chamber of Commerce, and others. Members of these groups will be able to use money from this legislation quickly to hire new workers, tackle infrastructure needs nationwide, expand

their businesses, and begin to get our economy moving again. The bill will have a major impact on States across the Nation as well. For example, my State of Nebraska stands to receive a total of \$1 billion from the recovery plan. Nebraska's K-12 school districts will receive about \$236 million to prevent cutbacks, teacher layoffs, to modernize schools, and for other purposes. For State flexibility money, Nebraska will receive about \$52 million to help rebuild vital educational and other State infrastructure. It can also be used to help State government provide services and avoid layoffs of critical employees such as State troopers and public safety officers. Nebraska is estimated to receive another \$310 million in additional Medicaid assistance, preserving needed health coverage for low-income Nebraskans who will feel the economic downturn more than many others.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. NELSON of Nebraska. I thank the Senator from Oklahoma for the time. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have been sitting here for about an hour. I have to think the American people are pretty sick of what they have been hearing. We heard the Senator from New York talk about how bad the Republicans were. We heard the Senator from Utah talk in Hobson fashion. It doesn't come anywhere close to solving the problem. I think we ought to have a discussion about how we got here. How do we find ourselves in the mess we are in? I think we can look at history.

There was a great historian named Alexander Tytler. He looked at the ancient Greeks and looked at what happened to them as they fell. He said this about republics. He said: All republics fail. They fail as soon as the people figure out they can vote themselves money from the public treasury.

There is no question we are in hard times. There is no question we need to do a stimulus package. There is no question the Federal Government has the power to make a big difference in a lot of people's lives who are hurting right now. I don't think it would be fair to say that there is anybody in this Chamber who doesn't want to try to accomplish that. The difference is, how do you do it? In doing so, what kind of problems do you create?

The way we got here is abandoning this little booklet. If you read article I, section 8 of the Constitution and then read what the Founders had to say about article I, section 8, it is called the enumerated powers. They were very clear in the role of the Federal Government. We are in trouble today, this Nation is in trouble today—not something we can't get out of, we can; not something that the American spirit won't overcome—because we let the

politicians abandon the very clear rules and wisdom that was given to us by a unique, almost ordained group of individuals over 200 years ago who saw a vision and said: How do we keep this?

When we abandon this book, as we have and as we did, and we get into trouble, it is important to recognize what we did wrong, if we are going to try to fix it.

The other thing I am tired of hearing about—and I think the American people are too—this isn't a Bush, Clinton, or Obama thing. This is a Congress thing. No President can spend money without us allowing it to happen. I almost laughed when I heard the claims on the Senate floor from both sides about the trouble we are in and how we got there and deficits and the Senator from Vermont and his claim of a trillion dollars.

I think the CBO cost on that was \$60 billion on estate taxes. But the idea that we would put a blame on anybody other than ourselves, the truth of that is, go look at the votes on appropriations bills for the last 8 years. It is nearly 100 percent on one side and almost 95 percent on this side of people voting to spend money we didn't have for things we didn't need.

It is important the American people, as they see us trying to work through a process, No. 1, reject any partisanship they will hear. When somebody starts being partisan, turn the TV off because what it means is, they don't have anything substantive to talk about if they are pointing their finger at somebody else.

The second question we ought to ask is, is what we are doing going to fix the problem? Here is the problem. The problem goes back to this. We set up two agencies, Fannie Mae and Freddie Mac, to socialize the risk for homeownership, a total violation of what is in this book. It is a total violation. Then we said: Maybe we can help people a little more, so let's go to subprime mortgages and let's bonus the people who work at the GSEs, Fannie Mae and Freddie Mac. The more subprime mortgages they take, the more money they make.

If I remember, one former leader of Fannie Mae made \$140 million because we bought mortgages he knew people weren't going to be able to pay for, but the incentive was there, in a quasi government-owned agency, to do something that is outside of the enumerated powers of the Constitution.

So as we abandon principles, the best way for us to solve the problems in front of us is to go back and look at the principles.

The other concern is, do we have the potential to make things worse? Nobody has talked about that today. Does what we are doing have a potential downside? You can't talk to one economist who doesn't say yes. As a matter of fact, by CBO's own score, 10 years from now this will either have zero effect or anywhere from a minus 2 to a plus three-tenths effect on the econ-

omy. The reason for that is we are going to borrow so much money, as we do in this bill, we are going to crowd out private investment. The Government is going to have all the money, and people will not be able to borrow money to invest in new ideas which create opportunity, which create jobs, which create increased standards of living.

So going back, how did we get here and what is the real problem for us to create a stimulus bill right now, before we have a way to solve the housing and mortgage crisis—because the bank problem wouldn't be there if the mortgage and housing crisis wasn't there, for us to fix those first before we do this and for us to have a plan to do that—as a physician, one of the things I notice is, if somebody comes into the emergency room with chest pain, it is one of three or four things. Either they have an esophageal spasm or their esophagus is irritated or they have terrible reflux where the fluid from the stomach acid is burning the esophagus or they are having angina, heart pain, due to lack of blood supply. If you treat the symptoms, you can make that angina go away, but they still have a vascular abnormality around the heart that could kill them.

My worry with this bill is that we are treating symptoms. We are not treating the disease. We are arguing, partisan arguing: Was this a bipartisan bill, wasn't it a bipartisan bill; you did this over the last 8 years, you did this. We need the country thinking forward, not backward. The guide for that has to be the Constitution, which every Member of this body is sworn to uphold but violates daily. We are in this trouble because the Congress put us in this trouble. The blame lies solely here.

Let me talk about the bill for a minute. This is the bill. I won't pick it up and wave it around for fear I would be called into account of using theatrics. But do the American people realize nobody who is going to vote on this bill has read it? There is \$727 million worth of spending on every page of this bill. That is what it averages out. So not counting interest, we have a less than \$800 billion bill that had 30 amendments in the Senate before it went to conference. We hear they are accepted. Some of them were accepted. We voted on one unanimously, and it got thrown out in conference, just a simple little thing like maybe we ought to make sure that contracting is competitively bid. Now the language reads we ought to try to do that, but we will not make sure that happens.

I brought along with me, thanks to somebody down in the Senate gift shop, this little green item. It is called a thimble. In Oklahoma, we have a statement for that kind of thinking. It is called "there is not any more common-sense than what can fit in a thimble." So when we take out something that is agreed to unanimously in the Senate to mandate competitive bidding so even if

we are wasting money, we waste it efficiently, you have to wonder what is going on.

Let me tell you what is going on. This is a massive bill. Supposedly, it doesn't have any earmarks, which is laughable, if you have been around here any period of time.

The conference did clean it up so you can't truly find out where the earmarking is. You could find it out a little bit before it went to conference. Now you can't pinpoint it all. But we are going to move from earmarking to a concept called "phone marking." It is a new concept. It is more powerful than earmarking. Phone marking is this: This bill gets signed, \$500 billion of it is going to be disbursed through the agencies. Guess what is the first thing that is going to happen after President Obama signs this bill. Members of Congress and Senators are going to be on the phone saying: I want this money spent here and here and here, and if you don't, in your appropriations next year, you are going to suffer.

That is exactly what will happen with the money in this bill. Everybody who works inside Washington knows exactly that will be what happens.

We have heard talk about the earmarks. I won't try to repeat some of the things that are in this bill. But I will talk about one. We have a private company that was developed. It has spent several million dollars developing a railroad from California to Las Vegas.

Do you know what this bill does? It wipes them out. They invested private capital to develop a railway. In excess of \$10 million has already been invested in that, and with the wisp of one earmark, we are going to bankrupt people who invested their life savings to try to do something good because the Government is now going to do it through an earmark and going to try to accomplish something that has only been done in one country and not effectively. It costs \$100 million a mile to build a maglev train, and we are not going to see any of that money spent for 4 or 5 years because the technology is not here.

That aside, there also was an amendment that truly would have done something to fix the real problem: housing—the Isakson amendment, with a \$15,000 tax credit, if you are buying a primary residence, whether it is a foreclosed home or a new one. It would have done something magnificent in terms of lessening the crisis in housing.

What did we do? Out. It had an overwhelming vote in the Senate, but it is out. How do you explain that? What is going on here? What is going on here is the initiation of what Alexander Tytler talked about: the failure of a republic. And it is about short-term politically, expedient thinking to the benefit of politicians, instead of what is the best right thing we can do for our country.

The very claim that Senator McCAIN did not offer a substantive bill that would have significantly increased the

number of jobs created, at a significantly lower cost, as scored by CBO and as scored by outside economists, is a spurious claim.

Another thing that got added into the bill is the most dangerous precedent for health care in this country we have ever seen. We are now, with this bill, embracing Great Britain's health care system. What we are saying is that we are going to allow the Government in the future to decide what care you will get. It is called comparative effectiveness, and it is going to be based on cost, not clinical outcomes. We are going to abandon the knowledge of physicians, the experience they have with their patients, the 8 to 12 years of additional training they have and the lives that have been dedicated to improving the health of their patients. We are going to abandon that to a bureaucracy where the Government says: We know best.

We are going to do that because we cannot afford Medicare in the future, and we are going to say, just like England says, if you only get 1 more year of life, then the most we can spend on you is \$49,000. If you are 75 years of age and you are a Medicare patient and you fall and break your hip, we are sorry, we are not going to do it because it is not cost-effective.

The first leg of you losing a doctor-patient relationship and the freedom to have health care decisions made by you and your caregiver is buried within this bill and will kill health care in America as far as its quality. You will get access—you will get to wait just like Canada and England do—but you will kill the quality and will kill medical innovation in this country. This country leads the world. Mr. President, 7 out of every 10 major breakthroughs in medicine occur in this country. And the reason? It does not mean we have a good system now. It needs to be improved.

Here is the theory as I have observed it in the 10 years I have been in Congress: Never do what is best when you can do what is safe. That is how it operates in Washington and throughout the Federal agencies. They are risk averse, just like the politicians are risk averse to challenging priorities in this bill, that we ought to have priorities to spend the money for what would get the most jobs, the most economic benefit.

I had an amendment that was adopted. It had 73 or 74 votes. It got watered down and divided in conference because a lot of special interest groups said: Oh, no. You can't do that. So what did we do? They are not a priority as far as what we should be doing right now. As a matter of fact, 80 percent of—most of the groups that were complaining about it get their funds from private sources. The best way to get them funded back up is getting private sources moving again in terms of the economy. But what did we do? We chose the politically expedient path. Again, it was not often thought of—po-

litical expediency—by the people who created this country who risked their lives and their fortunes to make sure we have the freedom we have today. But yet we are abandoning that.

It comes back to: What is our heritage as a nation? What is the heritage we as a nation have been brought forward with? I will tell you what I think it is. I think the heritage we have is that one generation was willing to make hard choices and hard sacrifices so the generation that followed would have greater opportunity—greater opportunity—a higher standard of living, more freedom, more liberty.

What have we done? We are going in reverse. What we have been doing for the last 10 to 15 years in this country, what we have been saying is we will take it now. Kids, you lump it. As an example of that, if you look at 2008, the Federal Government spent \$25,000 per household of your money. A good portion of it—a third of it—was borrowed. But we spent \$25,000 as a Federal government per household. With this bill, we are going to spend \$38,000 per family—just with this one bill. And we are hurrying it up. We have to get it done right now because there are CODELs, trips, and junkets waiting for Members to go on, including the Speaker of the House.

So we have a bill that nobody has read, that has some real questions about whether it is going to be stimulative, that has taken out good financial controls such as competitive bidding, taken out listing priorities, and we are going to vote on it tonight, with nobody ever having read it. That is about as bad as the partisan bickering we have heard.

Does it serve us well to hurry and do something when we do not know what we are doing? Now, there are some staff members who know some of what is in here. But there is not one person who knows the full extent. Mark my words, within a month, we will be back in here passing a bill to do all the corrections to this bill that we do not have right and correct at this time. That is how sloppy we do our work. So it is not only sloppy in terms of our effort, it is sloppy in terms of our theory.

I would also add we are going to move from \$2,000 per family in interest costs to \$4,817 per family this next year. Now, in my State, the average family income is below what the Federal Government is going to spend with this bill. In my State, average family income is under \$36,000. Yet we are going to spend \$38,000 this next year per family in this country, and we are going to justify we had to do it to get us out of trouble. And we are going to do it because we did not fix the real problem, we are treating the symptoms. We are all going to feel good, and we are all going to take the invite of the Senator from New York to come on over and join us.

The fact is, my oath as a Senator should disallow me from ever voting for this bill. Anybody who votes for

this bill will be violating their oath to this Constitution. America demands something be done. They are right. We need to do something. Should we do it sloppily? Should we do it without focus? Should we do it without temperance? And should we do it in a timely manner to make sure we are not treating the symptoms as reflux or esophageal spasm, but we actually go in and take the clot or the plaque out of the artery that surrounds the heart? Isn't that what we should be doing? Shouldn't we be fixing the real problem?

While we are at it, we ought to be fixing us because we are the cocommitters of the real problem. Shouldn't we all be thinking long-term rather than short-term political benefit? Shouldn't we be realizing what is expected of us?

I would hope Americans tonight, if they have children, will go and look into the eyes of their children. There is something you see in children in this country that is very different than when you look in the eyes of some starving African child or some Third World country child. What you see, when you look into those beautiful brown, blue, green or hazel eyes, is hope.

I think about my four grandkids and the one who is on the way. When I look in their eyes, I see hope. Then contrast that with the pictures you have seen of the despair and look of no hope of the kids around the world who have not had the opportunity of this country. What we are doing is we are stealing some of that hope tonight from our children.

If you do not have a young child but you have one who has grown up, think back to that picture you have on the wall and look into those eyes and say: Do you want to steal that hope? Because that is what we are doing. We are limiting their liberty economically. We are limiting their freedom to be the best and brightest and have the greatest potential that any society has ever offered their youngest citizens. That is what we are doing with this bill.

I will close with this and reserve the remainder of my time. There was a President we had who made a statement that was fairly popular, but it has great application right now. He said: Freedom is a precious thing. It is a precious thing. It is never guaranteed. It is not ours by inheritance. It has to be fought for and maintained and won by every generation.

As we embrace this bill, we are selling out the heritage of our country. We are denying the hope and joy in those young eyes and we are limiting the freedom our children will enjoy. We can do better. We must do better for this country. Our country needs statesmen who will sacrifice themselves for the best interests of the country rather than the best interests of their party or the best interests of their political career.

Freedom is precious. We are going to take a bit of it away tonight. It is

going to go away, and you will see a little decrease in the glimmer of those children as they contemplate and we contemplate their future.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I think I have 7 minutes under the consent. Will you let me know when I have a minute remaining, please.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. CHAMBLISS. Mr. President, I rise to speak in opposition to this bill, and I do so somewhat reluctantly because I do not think there is an individual who is a Member of this Senate who does not agree that something needs to be done.

We are in a financial crisis in this country today. We are in not just a financial industry crisis but every household has their own financial crisis they are looking at. We have folks out of work. We have folks who are looking at their homes being foreclosed, some of whom are even still working. We have real issues that need to be dealt with. The question becomes: How do we solve this problem? How do we, as policymakers, act in a responsible way to address this crisis?

There are three real issues that need to be addressed, in my opinion. First of all, the issue that got us into the crisis mode we are in is the housing industry. The housing industry crisis started years and years ago. I could go all the way back to the Carter administration and talk about bills that were passed by this body that started the ball rolling. It steamrolled in subsequent administrations and came to a head last summer and last fall, when we saw foreclosures reach an alltime high, and they have gotten higher ever since. We saw the financial sector of our economy collapse. But that does not do us any good to talk about that.

We have to deal with the cards we have in our hand today, and we have to look forward. But let us make no mistake about it, if we do not fix the housing crisis this country is in, all the hundreds of billions of dollars and trillions of dollars we have obligated and are about to obligate are not going to be spent in the correct manner because we have to fix the housing market. We have too many households in America that are upside down. Upside down means the home they have now is worth less than what they owe on it. Those particular households all across America are struggling right now with the decision of whether they are going to continue to make their house payment or whether they are going to just let the foreclosure proceed so they don't have to make a payment on a house that is worth significantly less than what it was when they bought it.

There was a provision we debated on the floor of this body last week called the Isakson amendment. My colleague

from Georgia introduced that amendment which would have allowed a \$15,000 tax credit to anyone who buys a home in the next 12 months. That \$15,000 tax credit would have gone a long way towards incentivizing individuals to buy homes and take these houses that have been foreclosed on out of the inventory of the financial institutions across this country and allowed our developers to get back to work. It would have taken those developers now in their own partially developed—or in some instances totally developed—subdivisions and given them the opportunity to get back into the marketplace with credit being freed up and continue to develop those subdivisions and build houses and put carpenters back to work and plumbers back to work and folks who lay carpet back to work. That is the kind of stimulus that needs to be done to get the housing industry back on track.

Unfortunately, during the conference that took place over the last several days, starting, I think, at midnight the other night, from what I hear, and concluding maybe at midnight the next night, that provision was taken out.

So with this bill, as we see it on the Senate floor today, the Isakson amendment has been so watered down that it is meaningless. It is not going to be an incentive on the part of anyone to buy a home.

Now, we don't have one single provision in this bill that is going to be voted on, on the floor of the Senate tonight, that is going to really stimulate and invigorate the housing sector of our economy.

Secondly, there was another amendment I thought was a pretty good amendment. I didn't know about it until we got the bill on the Senate floor, but it was a Democratic amendment by Senator MIKULSKI from Maryland. Her amendment basically said: Look, you are not going to stimulate the automobile industry by writing checks to Detroit. The way you stimulate the automobile industry is to put people in the showrooms around America. I am trying to buy a car right now, and I was particularly interested in what she had to say because what her amendment did was to allow an individual who bought a car and financed that car to deduct the interest paid on that loan at the end of the year off of their income taxes. Pretty good idea. For somebody who is in the market for an automobile, that may have been the final thing that put them over the top. Unfortunately, that particular amendment, too, has been so watered down that it is meaningless. It is not going to do one thing to incentivize or stimulate an individual to go out and buy a car today.

The next issue that needed to be addressed is job security and job creation. Are there provisions in this bill that seek to create jobs? You bet there are. Out of \$789 billion, I would hope some of those billions of dollars would do that. Certainly, with respect to part of

that money that is going to infrastructure projects, to build roads, to build highways, to do waterworks projects, there are going to be jobs created by that, and I have an appreciation for that fact. However, the fact is, it falls way short when it comes to looking at the percentage of spending that is allocated in this bill to infrastructure projects. It is minuscule—minuscule—compared to the total amount of \$789 billion that has been allocated, and when you add the interest, the \$1.2 trillion that we are going to obligate tonight if this bill does, in fact, pass.

There is a way we could have addressed job stabilization and job creation. In the McCain amendment that was on the Senate floor, there was a provision in that amendment that said we can incentivize the small business community—which is the heart and soul of the job creation sector of our economy—we can incentivize that small business community to grow their business.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAMBLISS. Do I not have a minute left?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAMBLISS. I am sorry, I thought you were going to let me know when I had 1 minute left.

I ask unanimous consent for 1 additional minute.

Mr. DURBIN. Mr. President, reserving the right to object, I ask unanimous consent for 1 additional minute to Senator INOUE of Hawaii.

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

Mr. CHAMBLISS. Mr. President, the fact is, that amendment should have passed. It didn't pass. That would have gone a long way toward stabilizing and creating jobs in this market.

The third part of this is that we need to be compassionate. We need to extend unemployment benefits. That is an appropriate part of spending but, again, minuscule compared to what is being spent here.

This total amount of \$789 billion which translates into \$1.2 trillion has to be paid back. The Lord has blessed my wife and I with four grandchildren, two of whom we have had for about 10 and 12 years, and two of whom were just born about 60 hours ago. It is those grandchildren of mine and the children and grandchildren of everybody in this Senate and all across America who bear the responsibility of paying this money back. When we spend money, we are obligated to spend it judiciously and responsibly. This expenditure of \$1.2 trillion is not going to stimulate this economy, and this bill ought to be defeated.

Mr. President, I yield the floor.

#### SOCIOECONOMIC PROCUREMENT PROGRAMS

Ms. MURKOWSKI. It is my understanding that the language in section 1610 that reads "is otherwise authorized by statute to be entered into without regard to the above referenced

statutes" is intended to ensure that existing Federal procurement laws applicable to programs that allow for set-asides and direct-award procurements for service-disabled veteran-owned businesses, minority-owned businesses, tribal enterprises, women-owned businesses, HUB Zone qualified businesses and other entities covered through SBA programs, as well as, for example, the Javits-Wagner-O'Day Act Program, remain fully applicable to contracts initiated under this Act, is that correct?

Mr. INOUE. The Senator is correct. Nothing in this act overturns or changes the existing procurement laws for the SBA or similar programs or the Javits-Wagner-O'Day Act. Since approximately 80 percent of the jobs in the United States are created by small businesses and since one of the main purposes of the American Recovery and Reinvestment Act of 2009 is to get people back to work as soon as possible, the intent of this stimulus package is that small businesses, including those participating in SBA programs, will be able to participate in spending programs contained in the bill so long as the contracts are awarded following existing Federal law for competitive and direct award procurements.

Ms. MURKOWSKI. I thank the Senator for this clarification.

#### SMALL FREIGHT RAILROAD PROJECTS

Mr. SPECTER. Mr. President, I seek recognition to clarify a provision in the American Recovery and Reinvestment Act. It is my view that our national transportation policy should promote a balance between the highway and rail freight shipment modes. In promoting this concept of modal balance, I have particular interest in the well-being of the 500 short lines and regional railroads of America. I am advised that these railroads operate 50,000 miles of line, nearly 20 percent of the entire system. They connect communities and entire rural regions of the country to the mainline rail network. These carriers provide essential economic and environmental benefits primarily in rural regions of the country, including those in my State.

Pennsylvania has 54 small railroads that operate over 3,000 miles of line. It is estimated that if these railroads are abandoned, Pennsylvania highway users would sustain additional pavement damage of \$87 million annually. This alone, in addition to the documented environmental and congestion relief benefits of freight rail, is a notable public benefit to highway users. In 2007, Congress enacted Public Law 110-140, the Energy Act of 2007, and chapter 223 created a new program of capital grants to class II and III railroads to preserve this essential service. I believe that this provides an authorization and public interest justification for funding small rail projects with stimulus appropriations.

There are two programs within the American Recovery and Reinvestment Act that are of particular applicability.

They are both adopted from the Senate version of the bill. First, the Senate bill included a \$5.5 billion discretionary program that could be used for highway, transit, as well as freight and passenger rail projects. The conference report funds this at \$1.5 billion. There is a threshold that the projects must be between \$20 million and \$500 million. I am informed that this is too high a threshold for most short line rail projects. Fortunately, the conference report stipulates that the Secretary may waive the requirement for smaller cities and regions. It is my understanding that these investments may include short-line railroad projects that meet public benefit tests such as those stipulated in the Energy Act of 2007 and provide a benefit to highway users. Second, the conference report includes \$27.5 billion for highways and surface transportation infrastructure. The conference report explicitly states that grants may be for passenger and freight rail transportation projects. The flexibility criteria states that a project must be eligible under Section 133 of title 23 601(a)(8) which reads in part "for a public freight rail facility or a private facility providing public benefit for highway users." My understanding is that short line rail projects that "provide a benefit to highway users" are eligible for this funding.

I would ask the distinguished chair of the Transportation, Housing and Urban Development and Related Agencies Appropriations Subcommittee if I am correct in my understanding that the Secretary may waive the \$20 million minimum requirement under the discretionary grant program and that short line and other freight rail projects that provide a benefit to highway users are eligible under the \$27.5 billion highway infrastructure investment.

Mrs. MURRAY. Mr. President, yes, the Senator from Pennsylvania's understanding is correct. The conference report does give the Secretary of Transportation authority to waive the minimum grant size under the discretionary grant program for the purpose of funding significant projects in smaller cities, regions or States. Additionally, funds provided for investment in highway infrastructure maybe be used for passenger and freight rail transportation and port infrastructure projects.

Mr. SPECTER. I thank the Chairman.

#### ECONOMICALLY DISTRESSED COMMUNITIES

Mr. WARNER. Mr. President, I rise to engage my colleague, the chair of the Environment and Public Works Committee, in a colloquy. The Reinvestment Act we are passing today provides a unique opportunity for some of our most economically distressed communities to connect to our Nation's transportation network. We have "shovel ready" projects that are in need of funds. As the chair knows,

these Federal funds have enormous potential to help complete work on projects and help bring jobs and economic development to our communities. I ask my colleague, in helping to draft this legislation, is it her intention to ensure that projects already under development in distressed communities receive full consideration under the law?

Mrs. BOXER. Projects in economically distressed communities are a high priority in this legislation and those projects should be addressed on an expeditious basis under applicable Federal requirements.

Mr. DURBIN. Mr. President, our Nation is in a serious recession. The American recovery and reinvestment conference report that we now have before us will help create or maintain 3.5 million jobs.

The question before my colleagues is this: Will we act together to reinvigorate our economy, turn the tide on this recession, and create those 3.5 million jobs, or will we say no?

When we cast our vote today, we are not choosing between the bill we personally would have written and the bill before us. The choice before us today is between the bill we have before us and doing nothing. And we simply cannot afford to do nothing.

The recession is the most pressing threat to our national security.

I have spoken often on the floor over the past several weeks about the alarming job losses that continue to escalate each day. That alone should be enough to convince my fellow Senators we must act.

Yesterday, we heard a new argument for action. President Obama's top intelligence advisor, Director of National Intelligence Dennis Blair, told us yesterday that the deteriorating global economy is now the greatest threat to America's national security—a security threat more grave even than terrorism.

He said:

Roughly a quarter of the countries in the world have already experienced low-level instability such as government changes because of the current slowdown.

Director Blair said that the most immediate fallout from the worldwide economic decline for the United States will be “allies and friends not being able to fully meet their defense and humanitarian obligations.”

We have a bill before us that is ready to be sent to the President's desk. What could any of us be waiting for? The global economy will only recover if the largest economy in the world—ours—begins to recover. That is what this bill is designed to do.

The bill provides a long list of critical investments. The powerful investments in America contained in this package are too numerous to list, but here are a few highlights:

On infrastructure, the conference report includes a critical \$3 billion investment for our intercity passenger rail system. This funding will take us a

long way toward the goal of transforming our national transportation system, including rail service for many people in my home State of Illinois who want to ride the trains today but simply can't find a seat on our overcrowded trains.

The conference report invests \$4.7 billion in extending broadband access to underserved areas, so that all American families and businesses can benefit from the technology of the 21st century. These investments will create good-paying jobs here in America. And all Americans will benefit from stronger transportation and telecommunication systems in this country.

In the area of tax cuts, 95 percent of all working families in America will receive a tax cut of up to \$800. Mr. President, 26 million families will be shielded from paying additional alternative minimum tax payments for 2009. Small businesses will benefit from new tax provisions related to expensing, net operating loss carrybacks, and capital gains. These tax cuts will help American families keep food on the table and will help many small businesses stay in business and weather the storm of this economic downturn.

On education, Pell Grants will be increased by up to \$500 per student so that more students can stay in school even as the finances of their families deteriorate. Illinois students will receive over \$650 million from this national investment in their future.

A new American Opportunity Tax Credit will provide eligible students with up to \$2,500 to help with tuition and expenses. Over 150,000 students in Illinois will benefit.

Some argue that we shouldn't be investing in education because it isn't “stimulative.” I disagree. What is the impact on the economy if students all over the country have to drop out of school because their families can no longer afford the cost of higher education? How does that help turn around our economy and sustain our economic strength over time? An investment in those students pays off now, and it pays off again later, as they emerge from school better prepared to participate in a renewed economy.

On health care, out-of-work Americans trying desperately to maintain the health care coverage they received from their former employer will receive help from the Government with their COBRA payments. The Government will pay 65 percent of COBRA premiums for up to 9 months while these individuals look for work.

States will receive more Medicaid funds to help low-income children and their families keep their Medicaid coverage. My home State of Illinois, for example, will receive \$2.9 billion over 2 years.

It is critical that families receive this modest but vital help as they try to stay afloat and desperately look for new jobs. Providing insurance against the costs of health emergencies is a fundamental way to help struggling

families, and it produces an immediate, stimulative effect as the fund flows.

Voting no is the real generational theft. Now, some of my colleagues on the other side of the aisle have claimed that this bill amounts to “generational theft.” My answer is this: We are stealing from our children's future if we fail to act today. If we don't act, we are stealing from millions of children the one thing that is more important than anything else: hope.

We are trying to save or create 3.5 million jobs with this bill. Those jobs aren't just numbers on a page; they represent real lives—real fathers and mothers who either can or cannot make ends meet for their little ones.

Are we not stealing hope from our children if we tell millions of parents that they have to go home to their kids and explain that there is no more money coming in to put food on the table?

Are we not stealing hope from millions of children if we take away the security of being able to sleep in their own bedrooms each night, if we stand aside as they are thrown out on the street when the banks come to take away the keys to their homes?

Are we not stealing hope from our children if there is not enough money to allow them to go to college because all of the money that might have been saved needs to be used now to keep the family from going bankrupt?

This bill commits generational theft? We have been told by economists across the political spectrum that today's economic malaise is greater than anything we have experienced since the Great Depression. We have been warned of the potential for a decade of more lost growth.

What is the cost to our children, if they inherit an economy from us that is stuck in reverse or neutral for years and years? If we have a way out of this crisis and we fail to act, isn't that the real generational theft?

Voting no today steals hope from our children. Voting no today steals economic growth from our children. Voting no today steals a more secure future from millions of children.

That is the theft we commit today if we fail to send this recovery bill to the President's desk.

Mr. GRASSLEY. Mr. President, I would like to speak on concerns I have with the Medicaid and welfare provisions in the conference agreement we will be voting on shortly.

This bill would provide an \$87 billion slush fund for the States.

As I have said on the Senate floor numerous times during this debate, States don't need \$87 billion for their Medicaid Programs.

The Congressional Budget Office analyzed an amendment I wrote to target funds just for enrollment-driven increases in Medicaid spending. The non-partisan Congressional Budget Office gave us the answer for how much it would cost to provide federal funding for the additional Medicaid enrollment

caused by the economic downturn. And that cost is not \$87 billion; it is 1.8 billion.

The remaining \$75 billion in this bill goes to helping States fill in their deficits. Giving States almost eight times what they need for enrollment-driven Medicaid does not meet the definition of targeted in my book.

Now, we will hear that this \$87 billion Medicaid slush fund for States is necessary to avoid tax increases at the State and local level. We will also hear that vital State services will be cut unless the Federal Government cuts this big blank check to the States. But when asked to tie the taxpayer dollars to guarantees that the States will not raise taxes or cut services, we have been turned back by Members on the other side.

I heard some folks on the other side of the aisle claim the formula for distributing the funds better targets relief to the States that need it most by using unemployment rates in the formula.

Using unemployment makes sense to target—there is nothing wrong with that. But it doesn't work if you then funnel the money for the States through Medicaid.

Let me explain. Every State has a different sized Medicaid program—some States have bigger Medicaid Programs and some have smaller ones.

By using Medicaid to distribute the 87 billion, the formula in the bill necessarily biases the funds towards States with large Medicaid Programs, like California, Illinois, Massachusetts and New York.

Now we'll hear that those States need more because they have larger Medicaid Programs. But remember it only takes \$10.8 billion to pay for enrollment-driven Medicaid spending increases.

So States like California, Illinois, Massachusetts and New York get favored treatment and everyone else gets short-changed.

Simply put, this way of targeting misses the target. The formula in this bill clearly fails the targeting test of the three Ts.

This bill also undermines key principles of welfare reform. While it makes sense to provide a safety net for families that have lost their jobs, this bill moves welfare policy in the wrong direction.

The historic Welfare Reform law signed by President Clinton already has a built-in mechanism to help states during an economic downturn. That law provides welfare contingency funds for States in economic need.

But rather than make the existing contingency fund more accessible to States, this bill creates a new fund that includes policies that are not consistent with the principles of meaningful welfare reform.

For the first times since the abolishment of the aid to families with dependent children program, this new fund gives States financial incentives

for expanding their welfare caseloads. Rather than encourage States to reduce their welfare rolls, this provision rewards States for enrolling families on welfare.

This bill also relieves States of the responsibility to engage able-bodied adults on welfare in work training, work experience programs or education.

It makes no sense to promote policies that encourage States to expand their welfare rolls while loosening requirements on States to provide work training, work experience programs or education. At this critical time, these job training activities are even more important than ever.

These changes will not stimulate the economy nor will they lead to productive jobs. In fact, these policies could trap families in deep and persistent poverty.

Mr. President, that is clearly not what we should be doing in this bill and it is another reason why I am unable to support the legislation.

Mr. President, I am back again to speak about some provisions that are buried deep within this stimulus bill that was put together behind closed doors without input from the minority. I know this was done behind closed doors because I was a conferee to the negotiations and I wasn't even in the room.

Now, I have always been a strong advocate of opening up Government, making it more transparent, making it more accountable, and shedding some sunlight on how the Government works for the people. So, in that vain, I am here today to shed some light on provisions hidden away in the conference report that will actually hurt transparency and accountability of taxpayer dollars.

Inspectors general are the front line against fraud, waste, and abuse of taxpayer dollars at Federal agencies. They are independent from the Federal agencies they oversee and are independent from Congress. They are the watchdogs that are responsible for sifting through all the budgets and expenditures by conducting audits, performing program evaluations, investigating allegations of wrongdoing, and working closely with whistleblowers to uncover the truth. Inspectors general point out problems that need to be fixed and save taxpayers billions of dollars a year. They are integral to any effort to stamp out waste and deter fraud and abuse. So, I was pleased to see that they weren't forgotten in the bill and they were given some more resources to oversee the billions in new spending. However, tucked away in this bill is a provision that threatens to micro-manage these independent watchdogs in a manner that is contrary to not only the spirit and intent of the Inspectors General Act of 1978, but the 31 years of results these dedicated fraud fighters have worked to achieve.

I will point my colleagues to division A, page 465 of the conference report.

There, section 1527 is, ironically titled, "Independence of Inspectors General." Great title, something you would think you would like to support. If you keep reading, it states that "nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds." Again, a nice statement that reinforces the fact that we want inspectors general to be independent, but, unfortunately, the provision doesn't stop there.

If you read a little further you will find that the bill gives a new entity, the "Recovery Accountability and Transparency Board" the authority to, request "that an inspector general conduct or refrain from conducting an audit or investigation." It goes on further to say that if an IG objects to being told what to do and acts independently—as we expect them to—he or she must submit a report to that board, the agency they oversee, and to Congress within 30 days.

Now, I don't know about everyone else around here, but that sounds to me like a lot of redtape for an independent watchdog to go about doing their job. In fact, it is fitting that the acronym for this board is RAT, because that is what I smell here.

But, most importantly, this provision strikes right at the heart of any inspectors' general independence. It appears to me that the majority that crafted this bill, isn't all that interested in transparency and accountability. Let me say it loud and clear: I don't like this one bit and from the chatter I hear, the IGs don't like it either—especially if it involves a criminal investigation.

Now, some of my colleagues will say this isn't too burdensome and that it will help coordinate the work of inspectors general. Others say that the new board will contain IGs who will have input so it won't stifle investigations. Both of these arguments lack merit when you peel the onion back.

Any new limitation on the independence of inspectors general is dangerous. Here, even though an inspector general is allowed to buck the new board and continue an investigation they are told not to do, he or she must then put together a report for that board, the agency that is being investigated, and Congress, all within 30 days. This will take resources away from investigating and auditing fraud, and turn a truly independent IG into a report writer.

As to the argument about the make-up of the new board, it is true that inspectors general will make up the bulk of the board. However, it will be chaired by either: the Deputy Director of the Office of Management and Budget, a Presidential appointee confirmed by the Senate, or any other individual subject to Senate confirmation. So, based upon this model, you could have a situation where the President appoints a sitting Cabinet Secretary to oversee the board that oversees the inspectors general that oversee the agency run by the Secretary in charge of

the board. I don't want to even try to imagine the scenario where the head of the board is a private sector corporate figurehead of a company that has a financial conflict stemming from the fact that the company receives stimulus money. The system this bill creates is not only unworkable; it is loaded with potential for conflicts of interest that are simply mind blowing.

I also question the need for yet another board full of Government officials. Why do we need yet another Government entity? The inspectors general have worked cooperatively for years via the President's Council for Integrity and Efficiency, PCIE, and the Executive Councils for Integrity and Efficiency, ECIE, which are made up of inspectors general. These entities were recently rolled into the Council of the Inspectors General on Integrity and Efficiency, CIGIE, by the Inspector General Reform Act of 2008. This new board created by the stimulus bill will simply duplicate already existing efforts in addition to hindering the independence of inspectors general.

We have repeatedly recognized the need for independent IGs and we unanimously passed the Inspector General Reform Act of 2008 that was signed into law by President Bush last October. That law was passed because Congress and the IGs recognized that changes were needed to strengthen the independence of inspectors general. It included simple, straightforward reforms such as ensuring each inspector general had access to independent legal advice free and clear of agency influence. It seems to me we all agreed independence was needed for IGs so long as it occurred when there was a Republican President. I hate to think that there is some conspiracy here, but when we have all backed the independence of IGs in the past, you have to question the change of direction buried deep within this bill.

This is a dangerous provision that will hamper oversight, restrict transparency, and damage the independence of inspectors general. It works against the pledge of transparency and accountability that President Obama has advocated for and puts another layer of bureaucracy between taxpayers and the truth about how the hundreds of billions of dollars are spent.

Mr. President, I would like to talk about an immigration provision that was included in the final conference report, as well as a couple that were not.

First, the good news. I was pleased to hear that the conference report retained the Sanders-Grassley amendment to ensure businesses that receive TARP funds go through a very rigorous hiring process before employing new H-1B visa holders. Hiring American workers for limited available jobs should be a top priority for businesses taking taxpayer money through the TARP program. With the unemployment rate at 7.2 percent, there is no need for companies to hire foreign workers through the H-1B program—particularly in the

banking industry. According to an AP article, the banking industry requested more than 21,800 visas for foreign guest workers over the last 6 years. At least 100,000 workers were laid off in the banking industry in the past few months. Now that many qualified American bank employees are unemployed, banks who want to hire workers shouldn't have a hard time finding what they need from an American workforce.

The Sanders-Grassley language requires that a company receiving TARP funds and applying for workers under the H-1B process must operate as an "H-1B dependent company." This means they will still be able to hire H-1B visa holders, but must comply with the H-1B dependent employer rules which include attesting to actively recruiting American workers; not displacing American workers with H-1B visa holders; and not replacing laid off American workers with foreign workers. This restriction would last for 2 years.

So this amendment would ensure that TARP recipients comply with strict hiring standards in order not to displace qualified American workers. The bottom line is that if banks are going to be getting TARP money—American taxpayer money then they need to be hiring American workers. While I support the H-1B program, it needs to be used in the way it was intended and not to replace qualified American workers. This amendment helps to ensure that taxpayer money going to assist companies get back on their feet also helps American workers keep and/or get jobs.

Now, the bad news. I am extremely disappointed that the final bill doesn't include some very important E-verify provisions. The House passed stimulus bill included language to extend the E-verify program, a program that allows employers to verify the social security numbers and legal status of newly hired employees. The E-verify process has been an extremely successful program for employers. In addition, the House passed stimulus bill included language that would have made it mandatory for companies receiving TARP funds to use the E-verify system when hiring new employees. These two provisions passed the House with broad bipartisan support.

Here on the Senate side, my friend Senator SESSIONS filed several amendments to extend E-verify and require TARP recipients to use E-verify. I fully supported those amendments. Unfortunately, the good Senator from Alabama was blocked from offering his amendments to the Senate bill—even though, if given the chance, I am sure that his amendments would have passed with the same overwhelming vote as the House amendments.

I was ready to support the House E-verify provisions in conference. As we all know, Republican conferees were shut out from any negotiation of this conference report. But we were ex-

tremely hopeful that the provisions were going to be retained, because of strong bipartisan support on both sides of Capitol Hill.

So I was really surprised to hear that House leadership stripped E-verify completely from the conference report. Many people supported these provisions and understood their importance. These E-verify provisions would have helped stimulate the economy by preserving jobs for a legal workforce, so it is outrageous that they were not included in the final conference agreement. The American taxpayer is spending nearly a trillion dollars to spur the economy. It's not much to ask that the companies receiving hard earned taxpayer dollars actually make sure they are employing legal workers. The exclusion of both the E-verify reauthorization and the requirement that companies getting TARP money have to use the E-verify program is truly a colossal failure on the part of our congressional leadership to stimulate the economy and ensure that jobs go to legal workers.

The fight is not over. I am a strong believer in the E-verify program. I will continue to work with my colleagues to make sure that this important program is reauthorized and utilized by as many employers as possible.

Mr. BINGAMAN. Mr. President, section 405 of division A of this conference report involves an amendment to section 1304 of the Energy Independence and Security Act of 2007, which is under the jurisdiction of the Committee on Energy and Natural Resources, of which I am the chair. It is a provision that deals with the standards and protocols that will be used in Smart Grid demonstration projects. With respect to these demonstration projects, the conference report states that the Secretary of Energy "shall require as a condition of receiving funding under this subsection that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate." This is a clarification of language originally passed by the House of Representatives on the subject. It makes clear that all protocols and standards used by Smart Grid demonstration projects must be open. Some of those open protocols and standards may involve sending information over the Internet. Others may use other means of data transfer. The parenthetical inclusion of Internet-based protocols and standards under the requirement for open standards means nothing more than that to the extent that an open standard uses the Internet, it is still an open standard, but (1) the universe of open standards and protocols is not considered to be limited to only those which use the Internet, and (2) the mere use of the Internet would not cause a standard to meet the criterion of being open if it were not otherwise an open standard. There is no intent in this language to discriminate for or against any given

open protocol or standard, or to promote any one technology solution over another, so long as they are available and considered to be appropriate by the Secretary of Energy. The Senate expects the Secretary to conduct the process of making awards under this authority in a way that ensures there is no discrimination for or against any open protocol and standard that is otherwise available and appropriate.

Ms. CANTWELL. Mr. President, the Senate tonight will send to the President the American Recovery and Reinvestment Act. I think this legislation is a first step not only in turning the economy around in the short term, but also in laying the groundwork for rebuilding and growing it over the near and longterm. But we need to do much more.

I think it is important to lay down a marker right now that our job on rebuilding this economy is not finished. We must continue to focus on making the right kind of investments, ones that help us realize our maximum economic potential and ones that update our economic engines for the 21st century and beyond. To do this, we must make a commitment to invest in our capacity to innovate and in our capability to commercialize new technologies and discoveries.

I have worked with many of my colleagues, especially Chairman BAUCUS and Senator HATCH, on bolstering the incentives that support our country's research capabilities.

For example, I have long been a supporter of making the R&D tax credit permanent. I continue to believe that we have done ourselves a tragic disservice by failing to provide long-term predictability to the very businesses that are driving economic growth and are at the frontline of every innovation and discovery that moves us forward as a society.

We all know that if the high-wage jobs of the future are going to be created in the United States we have to make the necessary investments in intellectual infrastructure to keep American business competitive in the global economy.

Investing in America's intellectual infrastructure is key to economic growth and instrumental in spurring entrepreneurial innovation and job creation. It is just as important as our commitment to physical infrastructure.

Yet, thousands of companies employing U.S. workers in cutting-edge, research-oriented industries such as biotechnology, high technology, and clean technology are suffering from the same fate that has affected our U.S. manufacturing companies. Without credit markets properly functioning and with little to no investment from the equity markets or venture capital, this next generation of job creators will shrink and become less competitive in the global economy if we do not take action.

Economic analysis tells us that because R&D doesn't produce fast cash it

is often a target when times are rough and companies need to reduce costs. It is in our collective interest as a country to help companies take a different path during this economic downturn and find ways to help innovative companies sustain and increase their R&D spending now so they are better positioned to succeed when economic conditions turn around.

I will ask to have printed in the RECORD a letter from 11 technology-oriented, R&D-dependent trade associations such as the Biotechnology Industry Organization, BIO, the Advanced Medical Technology Association, AdvaMed, and others—that represent companies employing hundreds of thousands of U.S. workers reliant on our commitment to intellectual infrastructure.

This letter was recently sent to all members of the Senate Finance Committee and outlines an approach that would allow small businesses to accelerate their use of accumulated net operating losses, NOLs, if they invest in U.S.-based research and development.

Expanding incentives to encourage more R&D activity in the United States will be essential to the American innovators who are developing the technologies of the future.

We must commit to considering new and thoughtful legislative approaches like this one that can truly move us forward in creating the high-quality, high-paying jobs of this century, and I look forward to working with my colleagues on these issues.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

JANUARY 15, 2009.

Hon. MAX BAUCUS,  
*Chairman, Senate Finance Committee, Washington, DC.*

Hon. CHARLES B. RANGEL,  
*Chairman, House Ways and Means Committee, Washington, DC.*

Hon. CHARLES E. GRASSLEY,  
*Ranking Member, Senate Finance Committee, Washington, DC.*

Hon. DAVE CAMP,  
*Ranking Member, House Ways and Means Committee, Washington, DC.*

DEAR CHAIRMAN BAUCUS, RANKING MEMBER GRASSLEY, CHAIRMAN RANGEL, AND RANKING MEMBER CAMP: The thousands of companies represented by our organizations, and the U.S. workers they employ, are key drivers of the innovation that enables America to compete in today's global marketplace. As such, we respectfully request Congress take action in the upcoming economic recovery package to invest in America's intellectual infrastructure to support and create the high-quality, high-paying jobs of the 21st century.

Specifically, we ask that you support efforts to spur U.S.-based research and development (R&D) during the economic downturn by allowing small businesses to elect a one-time accelerated use, at a discount, of a portion of their accumulated net operating losses (NOLs) in exchange for giving up the future tax benefits associated with those losses. This proposal, if enacted, will help America's cutting-edge companies weather a difficult storm at a time when the U.S. cap-

ital markets are largely frozen to many of our nation's most innovative businesses. Further, this proposal will help to ensure that U.S.-based R&D by smaller firms does not drastically decline or disappear as America's capital markets recover from the current financial crisis. Failure by Congress to move quickly to enact this temporary proposal could result in a sharp decline in R&D on cutting-edge technologies (many of which are in fields where the U.S. is currently the global leader) and additional job losses.

Investing in America's intellectual infrastructure is key to economic growth and instrumental in spurring entrepreneurial innovation and job creation. Innovative, research-intensive industries enhance America's living standards while creating high-quality, high-paying jobs. American innovation is increasingly challenged by more rigorous global competition and the future of the American economy depends on critical investments today to lay the groundwork for the breakthroughs of tomorrow. Without investment in these fields, the U.S. will find it more difficult to compete in a 21st century global economy.

We respectfully urge you to invest in America's intellectual infrastructure by including a proposal to accelerate the utilization of NOLs in the upcoming economic recovery and reinvestment legislation. We thank you for your consideration of this request and we look forward to working with you to get our economy moving again in a way that protects and creates the high-paying jobs associated with America's innovation economy.

Sincerely,

James C. Greenwood, President and CEO, Biotechnology Industry Organization; Stephen J. Ubl, President and CEO, Advanced Medical Technology Association; Mark G. Heesen, President, National Venture Capital Association; Mark B. Leahey, President and CEO, Medical Device Manufacturers Association; Jonathan Zuck, President, Association for Competitive Technology.  
Marianne Hudson, Executive Director, Angel Capital Association; Patricia Glaza, Executive Director and CEO, Clean Technology and Sustainable Industries Organization; Sean Murdock, Executive Director, NanoBusiness Alliance; Zack Lynch, Executive Director, Neurotechnology Industry Organization; Bretton Alexander, President, Personal Spaceflight Federation; F. Mark Modzelewski, Founder and President, Water Innovations Alliance.

Mr. LEAHY. Mr. President, today, the Congress considers critical legislation to renew America's promise of prosperity and security for all of its citizens. I am pleased that the greatly needed relief provided in the American Recovery And Reinvestment Act includes an investment in health information technology that takes meaningful steps to protect the privacy of all Americans.

I have long held the view that American innovation can—and should—play a vital role in revitalizing our economy and in improving our Nation's health care system. That is why I have worked so hard with the lead sponsors of this bill to make sure that privacy was addressed at the outset, as our Nation moves towards a national health information technology system.

I commend the lead sponsors of this legislation in the House and Senate, Majority Leader REID, and Speaker

PELOSI for making sure that the economic recovery package includes meaningful privacy safeguards for electronic health records. I also commend the many stakeholders, including, the Center for Democracy & Technology, the Vermont Information Technology Leaders, Inc., Consumers Union, the American Civil Liberties Union and Microsoft, that have advocated tirelessly for meaningful health IT privacy protections in this legislation.

The privacy protections in this legislation are essential to a successful national health IT system. Without adequate safeguards to protect health privacy, many Americans would simply not seek the medical treatment that they need for fear that their sensitive health information will be disclosed without their consent. Likewise, health care providers who perceive the privacy risks associated with health IT systems as inconsistent with their professional obligations would avoid participating in a national health IT system.

The economic recovery package includes several of my recommendations to better protect Americans' health information privacy. First, the provisions give each and every American the right to access his or her own electronic health records, and the right to timely notice of data breaches involving their health information. The recovery package also imposes critical restrictions on the sale of sensitive health data and on the use of Americans' health data for marketing purposes. Lastly, the legislation makes sure that the Secretary of the Department of Health and Human Services receives input from individuals with specific expertise in health information privacy and security, as the Secretary develops a national health information technology system.

These and many other privacy safeguards in the bill will help tackle the difficult, but essential task of ensuring meaningful health information privacy for all Americans. But, we can—and should—do more. There is much more to be done to ensure that Americans have greater control over their own electronic health records. Another critical issue is the use of new technologies to better secure sensitive health records, so that data breaches involving health and other sensitive personal data do not occur in the first place.

Yesterday, we celebrated the bicentennial of the birth of our Nation's 16th President—Abraham Lincoln—who once remarked that “you cannot escape the responsibility for tomorrow by evading it today.” We all have a responsibility to ensure quality health care that is both efficient and respectful of all Americans' privacy rights. I am pleased that the Congress acted to address the issue of health information privacy at the outset of the ambitious effort to fully digitize America's health records during the next 5 years. During the months and years ahead, Congress must build upon this early privacy suc-

cess with more work on health information privacy on behalf of all Americans.

Mr. LEVIN. Mr. President, the American people are counting on us to act to stabilize and revitalize the economy, and passage of the American Recovery and Reinvestment Act is an essential part of that effort. I am encouraged by how promptly the Senate and House have been able to reach a compromise on this critical legislation. I support final passage because it will create jobs and make investments to bolster our economy in both the short and long-term.

The Nation is in a deep recession and the situation is particularly dire in Michigan where the unemployment rate is the highest in the country. The Bush policy, still supported apparently by all but three Republicans, was a failure. It provided repeated tax cuts to the wealthy with the hope that some of it would trickle down to help those who really need it.

The legislation before us will provide tax breaks to our working families. It will provide a tax cut to 3.9 million Michigan workers, and allow over 120,000 Michigan families to benefit from a tax credit to make college more affordable. This legislation will also create or save 3.5 million jobs over the next 2 years, including jobs in health care, clean energy and construction. It will also strengthen the social safety net by increasing unemployment insurance benefits by \$100 a month for over 1 million Michigan workers.

That is why it is so important that we take aggressive action now.

Job creation must be our No. 1 priority as we work to turn the economy around, and jobs are the focus of this conference report. Shovel-ready infrastructure projects are the most immediate way to create jobs and get the economy moving quickly. The recovery plan includes \$48 billion in funding for ready-to-go road, bridge, rail and other projects to immediately and directly create jobs. This legislation is expected to provide Michigan with approximately \$1 billion dollars in highway and transit formula funds, allowing for significant repairs to roads and bridges and purchases of buses for our public transit authorities. There is additional funding which will hopefully result in investments in the Midwest High-Speed Rail corridor, and improvements to Amtrak that can help bring commuter rail to Michigan.

I am hopeful the Army Corps will direct a significant portion of the \$4 billion toward the Great Lakes to address the backlog of ready-to-go projects and maintain this vital maritime highway of the Midwest.

I am also hopeful that the EPA will direct a portion of its funds for cleaning up contaminated sediment under the Great Lakes Legacy Program. One report concluded that there is a 2½ to 1 ratio of return on a Federal investment on restoring the Great Lakes.

The recovery package also contains \$6 billion in funding for water infra-

structure. These projects immediately create jobs and play a critical role in protecting public health, improving the environment, and creating a sustainable and strong economic climate in which commerce can thrive. Specifically, Michigan is slated to receive more than \$150 million to address wastewater projects, and \$70 million to upgrade water mains, leaking pipes, and water treatment plants. These job-creating water infrastructure projects will address current needs in Michigan, while investing in upgrades that will prepare us for years to come. In addition, this legislation contains \$200 million for environmental infrastructure that the Army Corps would manage. In Michigan, this funding could be used to address combined sewer overflows, which dump harmful pollutants into the Great Lakes.

Additionally, the conference committee legislation contains \$750 million for the National Park Service, NPS. The NPS has a significant backlog of deferred maintenance projects that can be started within the next 18 months which will create jobs and help restore and enhance our national treasures. Michigan's four National Park units and the North Country National Scenic Trail have significant funding needs, and a number of projects have been delayed for years. I am hopeful that the NPS will direct a sizable portion of the \$750 million included in the package to address the significant needs of Michigan's parks and trails.

I am pleased that the \$100 million for brownfields competitive grants can be awarded for both cleanup and site assessment projects. I asked the conferees to expand the flexibility for these grants so that more Michigan communities could benefit from this funding, and I am pleased that the final bill contains this broader language.

The funding in the conference report will create jobs by making smart investments in technology and modernization efforts that will continue to pay dividends by helping us compete in the global economy. I am especially pleased the bill includes \$2 billion in grants to encourage companies to invest in the development and production of advanced batteries and battery systems, which will fuel the energy-efficient vehicles of the future and make it more likely they will be produced in U.S. factories. In so doing, the conferees have adopted the Senate approach of focusing exclusively on grant funding rather than loan guarantees, which I believe will go much further in providing American manufacturers the resources and support they need to manufacture these batteries in U.S. facilities. This funding is critical because battery manufacturers and other manufacturers are deciding now where to locate their production facilities, and we cannot afford to lose those facilities and the associated jobs to other countries that are willing to offer greater financial incentives than we are.

I am also pleased that the conference report includes significant measures to

expand the American market for advanced technology vehicles. It will make these vehicles more affordable for consumers by increasing the availability of consumer tax credits for plug-in hybrid vehicles. Instead of making the tax credit available only for a total of 250,000 vehicles as is in current law, the conference report will make these tax credits available to consumers who purchase the first 200,000 plug-in hybrid vehicles sold by each manufacturer. Taking this important step will help America get to the goal set forth by President Obama of putting 1 million plug-in hybrid vehicles on the road by 2015. I am pleased that the conference report also includes some funding for Federal agencies to aggressively lease alternative energy vehicles—such as hybrid vehicles—to support a wide variety of agency missions. Government leasing of these vehicles will help stimulate production of these vehicles. We cannot just preach about the need to produce these vehicles. We must lead the way in purchasing them, even though their up-front cost is greater.

The conference report also makes a clarification in the Tax Code to prevent an unintended tax consequence that would have hurt auto companies and others receiving TARP funds. This clarification will limit section 382 of the Tax Code in instances where a change in corporate control is the result of restructuring required by the Government pursuant to a TARP agreement. This maintains the clear intent of 382 while preventing unintended results that would have hurt these companies at the very time the Government is stepping in to help.

This legislation also helps those who have lost their jobs by including important measures that will help States modernize their current unemployment insurance programs and includes administrative dollars and funds to incentivize States to do this. For my home State of Michigan this means they will receive more than \$90 million straight away. This plan will also provide a further extension of unemployment benefits which will help the more than 400,000 unemployed workers in Michigan who are unable to find a job in these hard economic times and the, on average, 13,000 individuals whose unemployment benefit will expire this month alone. Additionally, it will provide an additional \$100 per month in unemployment benefits, pumping money directly into depressed economic areas and exempts the first \$2,400 unemployment benefits from income tax, meaning more of these funds can go to recipients and help grow the economy.

The bill provides funding for important job training in new and expanding fields, as well as funding to enhance and expand education initiatives aimed at ensuring that our next generation of Americans is able to meet the challenges of a global economy. Specifically, it includes \$53.6 billion for the

State Fiscal Stabilization Fund, including \$40.6 billion to local school districts using existing funding formulas, which can be used for preventing cutbacks, teacher layoffs, or other purposes; \$5 billion to States as bonus grants for meeting key performance measures in education; and \$8.8 billion to States for high-priority needs such as public safety and other critical services, which may include modernization, renovation and repairs of public school facilities and institutions of higher education facilities.

The bill includes \$3.95 billion for job training including State formula grants for adult, dislocated worker, and youth programs, including \$1.2 billion to create up to 1 million summer jobs for youth. The training and employment needs of workers will also be met through dislocated worker national emergency grants, new competitive grants for worker training in high growth and emergency industry sectors, with priority consideration to training for “green” jobs, including preparing workers for activities supported by other economic recovery funds, such as retrofitting of buildings, green construction, and the production of renewable electric power.

It includes \$13 billion for title 1 to help close the achievement gap and enable disadvantaged students to reach their potential; \$12.2 billion for special education/IDEA to improve educational outcomes for disabled children. This level of funding will increase the Federal share of special education services to its highest level since the inception of the program. Finally, the bill provides \$15.6 billion to increase the maximum Pell grant by \$500, which will help 7 million students pursue postsecondary education. Further, the bill includes \$2.1 billion for the Head Start and Early Head Start to allow additional children to participate in this proven program, which provides development, educational, health, nutritional, social and other activities that prepare children to succeed in school.

The tax provisions in this legislation will create a refundable tax credit of \$400 for working individuals and \$800 for working families, covering 95 percent of working families. Taxpayers can receive this benefit through a reduction in the amount of tax that is withheld from their paychecks, or through claiming the credit on their tax returns. This will mean direct and immediate relief for nearly 4 million Michigan workers and their families. The legislation also expands the child tax credit and the earned-income tax credit to ensure that more low-income families get the full benefit. There is also a new, partially refundable \$2,500 tax credit that will help make 4 years of college more affordable for an estimated 121,000 families in Michigan. For many struggling families, these targeted tax cuts will help them make ends meet in these tough times. Putting extra money in families’ pockets will offer an immediate boost to the economy.

Together, the provisions in this bill offer significant hope for our Nation’s economic future. Still, a comprehensive economic recovery effort is balanced on a three-legged stool consisting of creating jobs, unfreezing credit markets, and addressing the housing crisis, including reduction in the flood of foreclosures.

As the housing crisis worsens, I will continue to urge Treasury to move quickly to implement a loan modification program to help prevent avoidable foreclosures. While much still remains to be done with respect to ending the crisis in our financial sector, the financial stability outline put forth by Treasury Secretary Tim Geithner this week outlined some new approaches so that recipients of the so-called TARP funds will cooperate with mortgage foreclosure mitigation programs and provide reports of how the Federal loans are used and will expand their lending. This is a positive step in the right direction toward resuming the flow of credit, but Congress must continue to exercise stringent oversight of the TARP program and we must work to reform our financial system to restore commonsense regulation of this industry.

This legislation represents a significant and essential step in stabilizing our economy. The infrastructure projects will create Michigan jobs, the tax provisions will help Michigan families and the investments in technology and modernization will pay dividends for years to come. While there are major challenges before us that we must address in order to end this recession, passage of the Economic Recovery and Reinvestment Act will give us some urgently needed momentum.

Mr. AKAKA. Mr. President, I support the conference report for H.R. 1, the American Recovery and Reinvestment Act. This vital legislation will create jobs, ensure that States can continue to provide essential health and social services, improve education, and assist veterans.

This legislation will create jobs by encouraging innovation for the development of clean energy and strengthening our Nation’s infrastructure. Additionally, the legislation includes funding for the Economic Development Administration to create additional economic opportunities.

Our States are confronted with declining revenue while citizens have increasing health care and social service needs. This bill will provide funding to States so that they can continue to provide health care coverage and essential social services that will help our constituents in this great time of need. States must be good stewards of these resources and utilize them for their intended purposes. This recovery bill will also provide relief to workers and families hardest hit by the economic recession.

In order to ensure that we have a well-educated workforce both now and in the future, I am pleased to support

the provisions included in the American Recovery and Reinvestment Act designed to increase and support educational opportunities for our country's children as well as provide much needed resources and infrastructure improvements for educators nationwide. The establishment of a State Fiscal Stabilization Fund will help schools suffering during this difficult economic time to retain teachers and continue programs vital to helping students achieve their academic potential. I also applaud the inclusion of \$100 million for impact aid. Due to the significant military presence in Hawaii, these funds are vitally important to Hawaii's public schools.

I have been working, along with other members of the Veterans' Affairs Committee, to advocate for the needs of veterans in the context of this recovery and reinvestment bill and am pleased that the conference report includes funding that will benefit VA and the veterans it serves.

Although I wanted the final agreement to include more of the Senate's shovel-ready projects to improve health care and other services veterans receive from VA, I am grateful the conference report includes more than a billion dollars in immediate funding that will create jobs while improving services for veterans.

The conference report also includes \$50 million to make key improvements to Veterans Benefit Administration IT systems and \$150 million to provide a temporary increase in claims processing staff.

In addition, there is \$50 million included in the conference report that is intended for VA's National Cemetery Administration. This funding will be used to provide much needed cemetery infrastructure support and repair and investment in VA's National Shrine Initiative. I believe the funding will help meet our obligation to provide final resting places for veterans and honor their service.

As helpful as this infusion of funding will be, more resources are needed. I remind all of my colleagues that these funds only begin to address existing, unmet needs. When it is time to begin work on the new budget, we must provide a robust VA appropriation to meet the new fiscal year's costs.

I am glad that the conference report retains a provision to make sure that certain veterans facing financial hardship in this time of uncertainty receive an economic recovery payment. I will continue to work with my colleagues to secure additional resources for VA.

I commend my colleague, Senator INOYE, for his ongoing advocacy on behalf of the Filipino veterans of World War II. This conference report contains an authorization for a lump sum payment for funds that were appropriated last session for these veterans.

I look forward to having the conference report signed into law quickly so that we can begin our economic recovery and assist our citizens in need.

Mrs. FEINSTEIN. Mr. President, I rise today to offer my support for the American Recovery and Reinvestment Act of 2009.

Our economy is in dire straits. And urgent action is required to get the economy moving and reverse the alarming trend of job loss that is currently plaguing our cities.

This Nation is in the grip of the most serious recession in more than seven decades. American families are increasingly facing tough choices as economic indicators tumble across the board.

Bad news has fallen like a row of dominoes. Our current economic situation is a result of many different problems, all developing at the same time. The major factors: The collapse of the subprime housing market sent shockwaves through the financial sector of the American economy. This was the direct result of a scheme in which poorly underwritten loans promoted by unregulated mortgage brokers and lenders were sliced, diced, securitized and spread all over, with severe consequences that are global in scope. Unregulated markets schemes like this were a fertile breeding ground for greed and fraud. The Enron scandal of the late 1990s was a smaller-scale precursor, costing taxpayers billions of dollars and ending in the collapse of the energy giant, as well as the loss of hundreds of millions of dollars in Enron investments held by more than 50 mutual funds and insurance companies.

Enormous State deficits have deepened with the combined effects of rampant foreclosures and plummeting property values which have significantly cut into revenues. And local governments, trying to maximize returns for taxpayers with investments in firms like Lehman Brothers, have lost their money. They are looking to the State for help, and the State is looking to the Federal Government for help.

The financial sector is currently held aloft by a lifeline from the federal government. Main Street is also looking to Washington to provide an injection of financial stability.

There are many different vectors of this economic crisis. But there is only one sure solution. And that is the infusion of large amounts of capital into the marketplace from the only place with the capacity to do so, which is the Federal Government.

It is time to give the American people some good news for a change. It is estimated that the bill could help sustain and create up to 3.5 million jobs over the next 2 years—with 396,000 in California alone.

The bill before us is far from perfect. But we need to give the President the flexibility and resources he needs to create jobs and revive our ailing economy.

This bill will not meet every need, and some difficult choices have been made in order to move it forward with the 60 votes it needed to secure passage in the Senate.

But faced with a choice of taking action to confront this crisis, or simply dithering away as families lose their jobs, their homes and their hope, I think the choice is clear: We must support this economic recovery package.

President Obama inherited an unprecedented fiscal mess when he took office last month: National debt: \$10.7 trillion; this year's budget deficit: \$1.2 trillion, projected; GDP: Fell by 3.8 percent last quarter 4th quarter 2008, the worst showing in 26 years; unemployment is skyrocketing: 7.6 percent nationwide. Since the recession started in December 2007, 3.6 million jobs have been lost. More than 598,000 jobs were lost in January. Economists say 3 million more could be lost by the end of this year.

In California we have a 9.3 percent unemployment rate, Dec. 2008. There are at least 1.7 million unemployed workers in California. We have the fourth highest foreclosure rate in the Nation. There were 837,665 foreclosures filed in 2008 up 110 percent from 2007. State budget deficit has reached \$42 billion. This has real and serious implications.

The Governor has had to halt public infrastructure projects. Public employees are being furloughed and local governments are planning to slash the critical services upon which taxpayers depend.

The bill before us will not solve every problem, but it will provide funding for critical investments that will create jobs and get our economy moving again.

First, transportation: \$29 billion for highways and bridges. California's share by formula will be at least \$2.6 billion; \$8.4 billion for public transit—i.e., subway, bus, and light rail projects. California's share by formula will be \$1 billion; \$1.3 billion for Airport capital improvements, funding allocated by competition; and \$9.3 billion for intercity passenger rail, including \$8 billion targeted at building high speed rail funding allocated by competition.

In total, the bill provides roughly \$50 billion for transportation. These projects will not only modernize the corridors used to transport passengers and goods that move across America, they are also a critical part of the jobs creation goal of this package.

Experts estimate that between 27,000 to 37,000 jobs are created for every \$1 billion invested in transportation projects. So an estimated 1.5 million jobs could be generated by transportation projects funded in this bill.

Second, water. We have a huge water infrastructure problem in this country. The Government Accountability Office and EPA report that the nation faces a \$300–500 billion water and wastewater funding gap over the next 20 years. That is why it is so important that this bill includes a substantial investment in water infrastructure:

Army Corps of Engineers: \$4.6 billion for construction, maintenance, etc.,

that will create 37,000 direct jobs and 102,000 indirect jobs; clean water and drinking water state revolving Funds: \$6 billion. California would receive \$444 million; Bureau of Reclamation: \$1 billion, including \$126 million for title XVI Water Recycling and Reuse Projects.

The U.S. Department of Commerce Bureau of Economic Analysis estimates that for each additional job created in the water and sewer industries, 3.68 jobs are created in all industries.

So, investing in these projects will help create millions of jobs here at home, and better protect human health and the environment. This is a vital investment.

Third, housing.

It is widely recognized that the roots of this economic recession were in the bursting of the housing bubble. Last year, there were more than 830,000 foreclosures filed in California alone, an increase of more than 100 percent over 2007.

So it is important that the bill makes a major commitment to stabilizing the housing market—and to helping hardworking Americans avoid the devastating loss of their homes through foreclosure.

The bill provides a public housing capital fund of \$4 billion to help local public housing agencies address a \$32 billion backlog in capital needs. California's share by formula will be \$118.5 million; home investment: \$2.25 billion for State and local governments to acquire, construct, and rehab affordable housing.

It is critical that Congress do whatever we can to help restore and foster the American dream of home ownership—and this bill is part of that effort.

Fourth, the bill also boosts funding for our Nation's health care and education systems and provides increases for other safety nets, including:

\$87 billion for Medicaid. California will receive an estimated \$10 billion; \$13 billion for title I education; \$12.2 billion for special education; \$2.1 billion for Head Start and Early Head Start; \$20 billion for additional food stamps benefits; and an additional \$100 per month in unemployment insurance benefits.

Finally, Energy.

This legislation makes a serious down payment towards our permanent shift away from fossil fuels and towards a more sustainable energy system.

The bill invests in efficiency, providing \$5 billion to weatherize the homes of low income individuals through the Weatherization Assistance Program.

It also establishes a tax credit for 30 percent of the cost to homeowners that weatherize their own homes, and provides cities with \$3.2 billion in block grants to assist them with building codes, efficiency improvements to their own facilities, and renewable energy projects.

These efforts will help us realize the goal of weatherizing millions of homes.

It invests in a "smart grid," putting \$4.5 billion into an effort to improve electricity delivery through technology.

The legislation will allow WAPA to build new powerlines, to deliver renewable electricity to California consumers who would otherwise continue to depend on coal power.

And finally, this legislation establishes a grant program at DOE and expands a loan guarantee program.

These two steps will help capital intensive wind, solar, geothermal, and cellulosic biofuels projects move forward even at a time when financing capital projects has become all but impossible.

Bottom line: these are all investments that will either provide an immediate benefit to local economies by adding jobs or will help shore up the safety net for Americans who have been hit by the crisis.

This is a very welcome sum of investment in States that are facing grim scenarios today.

One headline in the Monterey Herald recently asked whether the "Golden State is rusting."

But the truth is, California is not alone in suffering these consequences. Every State in the Union is feeling the painful effects of this downturn, and every State needs this injection of investment at this critical time.

President Obama has stated clearly that this economic recovery package is the tool he needs to get our economy back on track and move this country forward.

The millions of people who are losing their jobs and their homes have no use for partisan bickering. Re-enacting Washington's usual ideological battles won't stop any companies from downsizing, free up any credit for businesses in need, or put food on the table of a family in need.

Candidly, I would have written a very different bill than the one before us. And there are some aspects of this bill that I would still like to change—I would have liked to see more job-creating infrastructure projects and fewer costly tax cuts.

But despite the imperfections in this bill, I believe we must recognize the enormous task at hand by providing the president with the resources he needs to get the job done.

This bill is a major part of that effort, and it should be approved.

Ms. SNOWE. Mr. President, I rise on this occasion to speak on the economic stimulus conference report that is before this chamber—at a time when we face the longest and deepest recession since World War II, and a moment of economic peril not seen since the days of the Great Depression almost 80 years ago.

There has been a great deal of healthy and vigorous debate about this stimulus package—here in the Congress and certainly throughout America—and rightfully so, given the magnitude of the legislation we have delib-

erated upon over the past few weeks. And let me say, I well recognize this process got off to a less than stellar start.

And yet, especially given that people look to the Senate to temper the passions of politics—to provide an institutional check that ensures all voices are heard and considered—should we have allowed that inauspicious beginning to establish a permanent detour from ultimately passing an economic stimulus package that economists from across the political spectrum have said is urgently required?

I believe the answer to that question is no. And in that light, I extend my gratitude to Majority Leader REID for bringing us together in forging the much improved package we consider today. I thank Chairman BAUCUS and Ranking Member GRASSLEY of the Senate Committee on Finance, Chairman INOUE and Ranking Member COCHRAN of the Senate Committee on Appropriations, as well as Senators COLLINS, SPECTER, NELSON, and LIEBERMAN for their yeoman leadership in yielding this consensus-based solution. I also thank those who argued against this package—because, frankly, I agreed with a number of their arguments, and ultimately the concerns expressed have helped to improve this final product.

Indeed, we lost 3.6 million jobs since the onset of the recession, the most since 1945. The Department of Labor has reported the number of people receiving unemployment benefits has reached 4.8 million, an all-time high since record keeping began in 1967—and that doesn't include the nearly 1.7 million getting benefits through an extension last summer. At the end of January, we learned that the economy shrank at its fastest pace in nearly 27 years in the fourth quarter of 2008. Our gross national product dropped at a 3.8 percent annual rate, worst since 1982.

And with more than 11 million jobless Americans today, inaction has, frankly, never been a viable option. In fact, economist Mark Zandi of Moody's Economy.com—who advised both Presidential candidates McCain and Obama, I might add—projects an even higher unemployment rate of a remarkable 11.1 percent—should we fail to pass a vigorous economic stimulus package. That is 11.1 percent—and that is unacceptable. We cannot stand on the sidelines.

That is why I have said from the outset—as I stated on the Senate floor at the beginning of last week—that I wanted to support a stimulus package. But at the same time as I also said, I could not support just any package. The fact is, we are confronting a multidimensional crisis that requires a multidimensional approach, and we can ill afford to get it wrong.

Our approach must be successful, as it must also go hand-in-hand with monetary policy to ensure that vital credit—that is the lifeblood of our economy—is flowing to American individuals and businesses.

Already Congress passed a rescue plan for financial institutions, but the lending expected to free up our credit markets has yet to take effect. Already, the Treasury Department has issued a second component to the rescue plan, which I might add is regrettably long on aspirations and short on details. And already the Federal Reserve has essentially exhausted its options to improve the economy through monetary policy, having reduced interest rates to zero—something else that hasn't happened since the 1930s—and lent more than \$1 trillion to stabilize the financial and credit markets. So, as I said during the mark-up in the Senate Finance Committee, we ought to remember that for us, in crafting fiscal policy to meet this historic challenge, there are no “do-overs.”

That is why I have said repeatedly that this isn't about how much we label as “tax relief” and how much we label as “spending.” Rather, in the final analysis, it's been about the merits of the individual measures in this legislation, and whether the totality of a package can deliver job creation and assistance to those who have been displaced—because both elements are essential to turning the economic tide and aligning our nation for a more prosperous future. In short, the challenge has been to fashion a measure that meets the “what works” test.

Critical to that test is whether a stimulus measure is timely, targeted, temporary, and achieves the critical equilibrium of creating jobs and assisting those displaced by this economic crisis through no fault of their own. There has been widespread agreement, even from the harshest critics of this bill, that economic stimulus must meet this standard. That is exactly what a Washington Post editorial called for when it advocated a focused stimulus as the most viable approach. And after a week of intense, bicameral negotiations and compromises, this economic stimulus package—while not what everyone may have wanted—while not everything I would have wanted—meets that threshold.

It has not been easy arriving at this point. At the beginning of deliberations on the floor and throughout the amendment process, I was deeply concerned this bill more closely resembled omnibus legislation rather than emergency stimulus legislation. Indeed, as the Senate considered and adopted amendments on the floor, this package had actually ballooned to \$920 billion. Let me repeat that—\$920 billion.

Let's look at the House-passed bill. The House bill was voted out at \$819 billion. And then the Senate bill ultimately passed at \$838 billion. But now, with our efforts over the past week, this package has emerged as a \$787.2 billion conference report that is not only more narrowly tailored toward stimulus, but actually has a lower overall cost than either the House-passed bill at \$819 billion or the Senate-passed bill at \$838 billion. And that is no insignificant achievement.

At the same time, the package isn't only right—it is right sized. As the President has stated, we will lose \$2 trillion in consumer demand this year and next—demand, I might add, that must be “backfilled” in our economy with a substantial investment in both tax relief and targeted, effective expenditures that will create jobs. The fact is, given the monumental level of this recession, we can't just be throwing pebbles in the pond. Rather, we require the ripple effect of a boulder—while at the same time ensuring that this is not an open-ended passport to spending in perpetuity.

I know that there are those who criticize the top-line number on this package. And given this legislation is deficit-financed, the cost and the stimulative affect of each of the elements of this bill should be of concern to all of us. I said on the floor at the beginning of this process that we cannot overload this bill with items that are not within the strictures of stimulus. We must ensure that programs that may well be worthwhile policy but not economic stimulus are not considered in this package, and instead are vetted through the budget and regular legislative process. We cannot, under the auspices of stimulus legislation—open the door to permanent spending that exceeds the life and purpose of what is before us today.

But in terms of the actual size of the package, let's consider for a moment the economic stimulus packages passed in 2001 and in 2003—and compare the cost of those measures with the cost of this package, and the economic conditions at those times, with the far worse economic conditions of now.

In June 2001, when the economy was in recession as well, we responded with a \$1.35 trillion package. In the quarter when that bill passed, the economy grew by 1.2 percent, and unemployment was at 4.5 percent. In 2003, we passed a bill that was essentially a trillion dollar package masquerading as a \$350 billion bill. During the spring of 2003, when that bill passed, the economy grew by 3.5 percent and unemployment was at 6.1 percent.

Fast forward to today with this \$787 billion package on the floor. The economy shrank at an annual rate of 0.5 percent in the third quarter of 2008, and 3.8 percent in the fourth quarter of 2008. The unemployment rate is currently at 7.6 percent. Furthermore, over the past 13 months alone, as I mentioned earlier, the economy has lost 3.6 million jobs. By comparison, we lost a total of 2.7 million total jobs in the 2001 recession. The bottom line is this package is not by any means oversized for the times—it is right-sized.

When we began our deliberations in the Senate, the spending in the Senate package reached \$366 billion. Fortunately, through our bipartisan efforts, we were able to trim that spending by an additional \$55 billion in nonstimulative items. Today, this package contains a total of \$286.5 billion in tax pro-

visions, \$311 billion in discretionary spending appropriations, and \$192.4 billion in nondiscretionary spending items more narrowly focused on job creation and assistance to those displaced.

On the spending side of the ledger, we demonstrated our commitment to job creation by investing in infrastructure. For example, the compromise accelerated the timeline for spending out 50 percent of the money for roads and bridges from 180 days to 120 days—with the remaining 50 percent required to be obligated within one year—to further frontload the stimulative effect. Right now, the U.S. Conference of Mayors has a list of nearly 19,000 shovel-ready projects nationally, totaling almost \$150 billion. Moreover, the Federal Highway Administration projects that for every one billion dollars spent, 28,500 jobs are created, and with the 7.5 billion contained in this Conference Report for highways alone. That is 783,750 jobs just for roads and bridges.

We included \$40 billion for enhancing unemployment insurance as CBO said last year that the cost-effectiveness of such a policy for stimulative effect is “large”. . . the length of time for impact is “short”. . . and recently, Moody's Economy.com estimated that every dollar spent on unemployment benefits generates \$1.63 in near term GDP. I thank Chairman BAUCUS for including in this conference report my provision to exclude the first \$2,400 of unemployment benefits from taxation, to further maximize the provision's stimulative impact. And as increasing food stamps is also among the most immediate and effective stimulative steps we can take—we provided \$19.9 billion to do just that.

I am also particularly pleased, as ranking member of the Small Business Committee, that we included such critical job-creation funding as \$730 million for the Small Business Administration's lending programs. This spending is targeted toward increasing access to capital and lowering the cost of capital for our Nation's small businesses that have created fully two-thirds of America's net new jobs, that created or retained 770,000 jobs in FY 2008 alone, and will unquestionably be at the forefront of leading us out of this crisis. The bill contains many of Chair LANDRIEU's and my priorities, such as ones to slash fees for SBA borrowers and reduce them for lenders; increase funding for the microloan program; and a new program targeted toward small businesses struggling to make loan payments.

Additionally, on the spending side we provided vital Medicaid assistance to the states—and I have heard the arguments against it. But does anyone seriously believe that with 45 states currently experiencing a shortfall and a projected, combined budgetary gap of \$350 billion over the next 2 years won't have a profound impact on our national economy, as States grapple with raising taxes or slashing spending to balance their budgets?

We also included \$28 billion for adoption of Health Information Technology by health care providers. This would not only actually result in an eventual \$10 billion in savings, but also improvements in care and costs, while creating an additional 40,000 jobs that will endure. As we grapple with the gravity of our economic circumstances, doesn't it make sense to simultaneously create transformational, well-paying jobs that, rather than looking to the past, will endure and ensure that America is competitive in the global economy of the 21st century?

As I mentioned earlier, this package also contains more than \$286 billion in tax relief—with many provisions I was proud to ensure were included as a member of the Senate Finance Committee—that will directly result in job creation and retention, and bolster our economy.

The President's signature making work pay tax credit, which the President agreed to trim in this conference report, will provide additional money in every paycheck to more than 95 percent of working families in the United States, which Mark Zandi has said will be "particularly effective, as the benefit will go to lower income households . . . that are much more likely to spend any tax benefit they receive."

I am pleased to have helped retain in this legislation relief from the alternative minimum tax as it will not only boost the value of the making work pay credit but will also ensure that around 30 million Americans won't be ensnared by this onerous levy. We increase eligibility for the extraordinarily successful refundable portion of the child tax credit that I originally spearheaded to reach low-income families earning between \$3,000 and \$9,667 a year. I have heard the arguments before against refundability, but this program reaches people who may not earn enough to have federal tax liability but who work and contribute local taxes and payroll taxes and will, therefore, get additional money into the pockets of those most likely to spend it.

When it comes to tax relief and America's greatest job generators, our Nation's 27.2 million small businesses, this package contains provisions I authored to help them sustain operations and employees. This includes enhanced section 179 expensing for 2009, allowing small businesses throughout the Nation to invest up to \$250,000 in plant and equipment that they can deduct immediately, instead of depreciate over a period of 5, 7, or more years.

The conference report also contains a provision to extend to 5 years the carryback period of net operating losses for small businesses with up to \$15 million in gross receipts which will help small businesses sustain operations with a cash infusion during these trying times. This modification was the result of a last-minute negotiation, and I very much appreciate the personal efforts of Chairman BAUCUS.

This agreed-upon measure makes a welcomed, commonsense change to re-

duce to 90 percent the requirement that small business owners prepay 110 percent of their previous year's tax liability. The purpose of quarterly prepayments is to ensure that the Government gets every penny owed. Because of the recession and the credit crunch, the overpayment of quarterly income taxes by America's small business owners is unnecessary, because few businesses are experiencing 10 percent growth, and harmful because it drains vital cash flow away from an ongoing business.

The conference report also retains a provision I joined Senators LINCOLN and HATCH in spearheading to lessen the impact of the built-in gains tax on small businesses. This change is absolutely essential at a time in which our Nation's credit markets remain frozen and small businesses are struggling to meet their financing requirements. This provision will benefit up to 900 small businesses in my home state of Maine and hundreds of thousands across the country.

We must not neglect our Nation's distressed and rural communities. This conference report rightly recognizes that imperative by including an additional \$1.5 billion in each 2008 and 2009 allocation authority for the new markets tax credit. And my understanding is that the Community Development Financial Institutions Fund, which administers the incentive, can allocate the augmented 2008 credit authority within 90 days, which will create 11,000 permanent jobs and 35,000 construction jobs.

This agreement also contains tax credits for renewable energy that I have long fought for that will create more than 89,000 jobs. Frankly, if we had not dithered last year and opted to pass the extension of the renewable tax credits at the beginning of 2008, we would have already been on the road to creating 100,000 new jobs. I know in my home State, there are a number of wind farm projects, for example, that could be ready to move forward right now.

I am also pleased that the stimulus bill contains a provision I helped to draft that will allow base communities across the Nation that have been significantly affected by a closure or realignment to qualify for vital recovery zone economic development bonds.

Finally, I am pleased this bill includes a provision I wrote to expand the definition of "manufacturing" as it pertains to the small-issue Industrial Development bond, or IDB, program to include the creation of "intangible" property. For example, this would allow the bonds to be used to benefit companies that manufacture software and biotechnology products by helping them get the financing necessary to assist their operations in innovating and create new jobs. Knowledge-based businesses have been at the forefront of this innovation that has bolstered the economy over the long-term. For example, science parks have helped lead

the technological revolution and have created more than 300,000 high-paying science and technology jobs, along with another 450,000 indirect jobs for a total of 750,000 jobs.

There will be those who say the cost of this package is too much, and others will say it is too little. Some will say it should have higher levels of tax relief, others that we should focus almost entirely on spending. There are 535 Members between the House and the Senate who all have their own legitimately held beliefs about this legislation. There are millions of Americans with their own, differing views, questions, concerns, and expectations.

At the end of the day, I must return to my own evaluation—again, shared by so many across the political spectrum—that inaction is not an option and, frankly, time is of the essence. I also return to my standard for evaluating a stimulus: Is it sufficiently focused on creating jobs and assisting those who have been displaced. In that light, this package deserves to be passed now and signed into law. It is supported by organizations such as the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Institute of Building Sciences, because they also believe it will create jobs. On balance, this is the right approach at the right time that offers us the best course for economic recovery and, therefore, I will be supporting this conference report.

#### SALES TAX

Mr. CARPER. Mr. President, I rise for the purpose of entering into a colloquy with the senior senator from Montana regarding the car purchase tax credit introduced by Sen. MIKULSKI and included in this conference report.

Mr. Chairman, my home State of Delaware does not have a State sales tax, which this provision addresses. However, a "document fee" of 3.75 percent is collected when a new vehicle is sold in Delaware. This fee is the equivalent of a State sales tax, although it is not called that term.

Alaska, Montana, Hawaii, Oregon and New Hampshire lack State sales taxes. Instead, these States levy fees and/or taxes or allow local governments to levy fees or taxes on new vehicles. For example, in your home State of Montana, there is a county option tax on vehicles. In New Hampshire, towns and cities can collect fees on motor vehicles. Hawaii levies a four-percent excise tax on goods, which includes automobiles. This tax is passed along to Hawaiian new car purchasers.

As the purpose of the Mikulski amendment is to encourage Americans to purchase new automobiles, is it the chairman's understanding that it is the intent of Congress that the document fee in Delaware is the functional equivalent of a State sales tax?

Mr. BAUCUS. The Senator is correct. In fact, IRS currently counts vehicle registration fees based on a vehicle's value as a personal property tax, which

is deductible. This is true even if the State calls the fee a "registration fee" or a "vehicle use fee." In Montana, new passenger vehicles are subject to a \$217 fee, as well as a county option tax-based on the value of the vehicle. The same standard should apply to Section 1008.

Mr. CARPER. I thank the Senator. Additionally, in lieu of paying States sales taxes or in the case of Delaware, a document fee, is it the intent of Congress that the motor vehicle registration fees on new vehicles collected by State or local governments in Alaska, New Hampshire, Oregon, Hawaii and Montana qualify for a deduction as defined under section 1008?

Mr. BAUCUS. Yes, that is correct.

Mr. CARPER. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I wish to proceed on my leader time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, across the country Americans are struggling with a very bad economy. Every day we hear more heartbreaking stories about foreclosures and lost jobs. The situation is serious. It appears to be getting worse. It was in the midst of this scenario that our new President took office. As did all of us, the President wanted to do all he could to help the economy. So he asked Congress to put together a stimulus bill aimed at preventing as much future damage as possible.

From the very start, Republicans supported the idea of a stimulus. All of us, Democrat and Republican, thought it was important and necessary. The question was, what kind of stimulus? What would it look like? What would it cost? Who would it help? Where would it go? Most importantly, would it work?

These are important questions, particularly when the economists tell us that a bad stimulus is worse than no stimulus at all. As the President's top economist, Larry Summers has written:

Poorly provided fiscal stimulus can have worse side effects than the disease that is to be cured.

These questions naturally lead to another: How do we measure whether a stimulus will work? Well, according to Summers, it is a fairly simple three-point test. First, in order to be effective, a fiscal stimulus must be timely; second, it must be targeted; and, third, it must be clearly and credibly temporary. So using the standard outlined by the President's own top economist, Republicans have asked: Is this bill timely? Is it targeted? Is it temporary?

The answer, I have regretfully concluded, is a resounding no. This bill fails on all three points. This means, in my view, that congressional Democrats have put together a stimulus that by Democrats' own standards is likely to fail. Yet, with interest, this bill is expected to cost taxpayers \$1.1 trillion.

So the question now is, what can the taxpayers expect for their money?

Well, at a time when millions are struggling to hold on to their homes and jobs, Democrats in the name of stimulus want taxpayers to cover the cost of golf carts, electric motorcycles, and ATVs; \$300 million for new government cars; \$1 billion for ACORN-eligible block grants; \$50 million for out-of-work artists; \$165 million to maintain and build fish hatcheries—\$165 million for fish hatcheries; \$1 billion for the Census. I defy anyone to explain to me how \$1 billion for the Census will stimulate the U.S. economy.

So a stimulus bill that was supposed to be timely, targeted, and temporary is none of the above. This means Congress is about to approve a stimulus that is unlikely to have much stimulative effect.

That is why an analysis by the Congressional Budget Office actually predicted a potential sustained economic decline—decline—as a direct result of this bill. That is why I can't support it.

This is one of the most expensive pieces of legislation Congress has ever approved. Including interest, as I have said, it is expected to cost \$1.1 trillion. To put that figure in perspective, consider this: If you spent \$1 million a day every day since Jesus was born, you still wouldn't have spent \$1 trillion. This is an extraordinary sum of money. It deserves an extraordinary level of scrutiny.

Yet even based on the ordinary standards of evaluation, it easily fails the test. Even if the bill were timely, targeted, and temporary, we would still have to look at the pricetag in the context of all the other spending we are all soon going to be asked to consider. The American people need to remember this stimulus is just one piece of the Democrats' overall spending plan.

Soon we will be asked to consider \$50 billion for housing and unspecified hundreds of billions of dollars—possibly even another trillion—for troubled banks. We will also soon be voting on a \$400 billion Omnibus appropriations bill that will bring the total discretionary spending for this fiscal year to \$1 trillion for the first time in American history.

This isn't Monopoly money. It is real. It adds up. It has to be paid back by our children and their children, and the American people still don't have the facts about the total cost.

We need to tell the American people the whole story. If Americans can't be assured these programs they are paying for will work, they should at least be told what they are going to cost.

Even the Democrats admit this bill is a \$1 trillion risk. Today—this very day—the Democratic majority leader of the House asked his members to pray: "Pray that this bill works." Why? Because, as he said, he is not sure that it will. I can't take that big of a risk on this big of a commitment of the American people's money.

I know everyone believes their efforts will help strengthen the economy and create jobs. No one should doubt that. Everyone is trying to do the right thing. My concern is not the motiva-

tion behind these efforts but the wisdom—the wisdom—of these efforts.

This bill has been roundly criticized for being loaded with wasteful spending and hundreds of billions of dollars in permanent—permanent—Government expansion. Our plan would have reduced monthly mortgage payments and made it easier to buy a home. Workers would have been able to keep more of what they earn. It is also about half the cost of the Democratic plan.

Every Member of Congress, Republican and Democrat, wants the economy to recover. The question is, which plan would work? In my view, it is highly unlikely this one will. I can't take that big of a risk with other people's money. I will vote against it, and I urge my colleagues to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, the American Recovery and Reinvestment Act, I believe, is a good bill. It is not perfect. It may have imperfections, but I believe it deserves our support.

Many compromises were made, and the final compromises that we made in conference were very difficult. There is no doubt those of us on this side of the aisle had to make some very difficult decisions and some painful cuts to programs that I personally believe would have been of great benefit to the American people. But in the end, I remain convinced we have gained far more than we have lost, and this bill is essential in beginning the task of turning our economy around.

The American Recovery and Reinvestment Act will create more than 3.5 million jobs. This is nothing to sniff at. It will provide tax cuts for working families, aid to our States, and will allow us to invest in our future by rebuilding our roads, schools, and mass transit systems.

As chairman of the Appropriations Committee, I know that the \$311 billion in appropriated funds that are contained in this bill will make a difference as we confront the economic crisis. For example, the funds will prevent layoffs of State employees, will allow for increased funding for education, health care initiatives, improved energy efficiency, and many other vital investments.

With this large influx of Federal funding now headed to our States, including my home State of Hawaii, it is essential that each State has a plan of action in place to ensure that these resources are invested quickly and responsibly, and in the right places. In Hawaii, for example, we have established working groups of State and local officials and community leaders to identify priorities that will have the most effective and timely economic impact in local communities throughout the State.

Before concluding my remarks, I want to take a moment to thank the

Members and staff of the Appropriations Committee for all of their dedication and hard work in taking this bill from conception to completed legislation in a matter of a few months. On our committee, we have 12 subcommittees, each of which was involved in this bill. It is the subcommittees, the chairmen and ranking members who, along with their subcommittee clerks and staff, are the people who have carried the load on this bill. I believe that the Senate owes them its gratitude.

At this time, I wish to inform the Senate that division A of the conference report on H.R. 1 does not contain any congressionally directed spending items as defined in rule XLIV of the Standing Rules of the Senate.

There is no quick fix or easy answer to this grave economic crisis, but I am confident this plan will begin to put America on the road to recovery.

I believe the American Recovery and Reinvestment Act of 2009 is the right medicine for what ails our economy. It will not fix our problems overnight, but it will begin the process. We face some tough times in the coming year, but this legislation will have an impact. It will help millions of Americans, directly and indirectly and, most importantly, it will give America confidence that we can overcome this crisis.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I ask unanimous consent to be recognized for 2 minutes.

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

Mr. SESSIONS. Mr. President, I want to say something at the conclusion of the debate. I have spoken a number of times and have had my say, but this is not a normal bill. This is the largest expenditure in the history of this Republic, or of any nation in the history of the world. Some have said—and we heard this from the Administration—that they want to remake the economy. A press person asked me today: What do you think happened to bipartisanship?

I said, well, I don't know if I can hold hands and walk down the road to socialism. I don't want to walk down the road together to say our heritage of limited Government and lower taxes and individual freedom and responsibility ought to be altered.

What I am concerned about, at my deepest level, is that this step, as huge as it is, is only one of many that we are going to see. We had the Wall Street bailout of \$700 billion. We hear there may be another \$500 billion coming on housing and that kind of thing, because there's not much housing benefit in this.

This endangers our heritage. It is not a little bitty matter. I am proud of my colleagues who have said no. I believe it is the right vote and I hope and pray that yet it might fail.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona is recognized.

Mr. McCAIN. How much time remains on both sides?

The PRESIDING OFFICER. The proponents of the legislation have 3½ minutes, and the opponents have 8½ minutes.

Mr. McCAIN. What is the disposition of the Senator from Illinois?

Mr. DURBIN. Mr. President, I believe we have 3 minutes and a few seconds and I will use that time.

Mr. McCAIN. Would the Senator wish to go now or wait for me?

Mr. DURBIN. I defer to the Senator from Arizona.

Mr. McCAIN. I thank the Senator.

Mr. President, we are, obviously, about to vote affirmatively on the legislation before us. I want to say that I think the debate has been good and respectful. I congratulate the Members on the other side of the aisle and the President for their success in achieving the timetable that they laid out for the passage of this legislation.

I point out that the allegation that this is a bipartisan piece of legislation is simply not accurate. A total of three Republican Members in the entire Congress will be voting for this bill—only three. That is not a bipartisan approach, by any measure.

I think there are some hard facts we should not ignore as we address and dispose of this issue and move on to others. I remind my colleagues that the current national debt is \$10.7 trillion. The 2009 projected deficit is another \$1.2 trillion. The cost of this legislation before us is \$1.124 trillion; that is, \$789 billion plus interest. The expected omnibus spending bill, which will be coming shortly, is roughly \$400 billion. The expected supplemental request for Afghanistan and Iraq will be an additional \$80 billion. We will be addressing appropriations bills for 2010 that will be over a trillion dollars. We are already spending \$700 billion on TARP I and II. And estimates, according to the media, are that TARP III will be somewhere around \$1.5 trillion.

We are on a spending spree of unprecedented and historic proportions. We are committing what some of us have called generational theft because we are laying this debt on our children and our grandchildren.

My colleagues—and the Senator from Illinois who has been here constantly and has argued his side effectively—will point out that Republicans did the same thing. I agree, and Republicans were punished in the last election for doing so.

What grieves me the most about this process we have been through is that it started out with a phrase by the Speaker of the House that “we won, we wrote the bill.” I think I understand the lesson. That is the process that it has been through, without Republican involvement and without Republican negotiations, which I think are nec-

essary to achieve the consensus that is necessary when we are addressing an issue of this magnitude.

This has not been a bipartisan effort. The other side will emerge victorious in a few minutes, but we have to face additional challenges. I mentioned TARP III—\$1.5 trillion—and the expected war supplemental request. There are all of these new challenges—not to mention national security challenges and policy challenges.

I think I understand the message from the 2008 election. I think I understand it very well. That message is that the American people don't want business as usual. They do want us to sit down together. We want to be in on the takeoff, so that we can be in on the landing. We want to work together with the other side.

This is not the example that I think the American people want us to exercise as we address the enormous challenges. We need a stimulus package, we need to address the war in Afghanistan, and we need to provide for the much-needed services to Americans as revenues decline with a bad economy.

I end my remarks and yield back the balance of my time by saying again: Congratulations to those who will succeed in passing this legislation. The next time—and it will be soon, because I understand there will be an omnibus appropriations bill, TARP III and others—let us sit down and negotiate and work together. When we come out with a solution and legislation, we can tell the American people that we learned the lesson but, most importantly, we will reflect their wishes that we have worked together to address some of the most difficult challenges of anyone's lifetime.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I have listened to the critics of this legislation. What would they have us do? They would have us do nothing. What they offer is one-half of this bill, in the hopes that that might do it. We tried that. I say to the critics of the bill that we tried their tax cuts last year under President Bush, and they didn't work. We tried their TARP under President Bush, and it didn't work as well as we had hoped.

Now we are asking for a chance. This President, President Obama, inherited the worst economic crisis in 75 years. He is showing leadership, and he came with a solution and offered it to the Republicans and said sit down with us, work with us together. Only three Republicans out of all those elected on Capitol Hill would do so. This President made direct overtures to bring in Republicans, to try to find a solution to these problems, and they refused to do so. Many of the same Republicans—not the Senator from Arizona—who have spoken earlier supported amendments to this, adding to the cost of this package \$70 billion in the Finance

Committee, up to \$30 billion on the floor; and after their amendments were adopted, they said, of course, we cannot vote for the bill because it costs too much—after they added some \$100 billion in costs to the bill.

They cannot have it both ways. They cannot ask us, as Democrats, to stand with President Bush when he tried to solve it and then walk out the door when we face this crisis under President Obama. We have invited the Republicans to join us, and three stepped forward. I salute them for their courage in doing so. I hope more will do that in the future.

A lot of the arguments are about the impact on the next generation. Consider the impact on the next generation of Americans if their parents lose a job. Consider the impact on kids in the next generation if their home is foreclosed upon. Consider the impact on the next generation if they are forced out of college because their parents cannot pay the bills. In this bill, we address each of those issues, providing tax relief to working families, creating up to 4 million jobs, giving people a chance to stay in their homes and trying to help them pay for a college education. Yes, we have our eye on the next generation.

What we are doing in the bill is trying to give a lifeline to our economy for those who are suffering in Arizona, Illinois, Colorado, and all across this country. This is a serious effort to find a solution. We have tried to work together. It is a transparent approach with full accountability, and we will do our best to pass it and turn this economy around and give America the new day it deserves.

I yield the floor.

The PRESIDING OFFICER. (Mrs. HAGAN). All time has expired.

Mr. MCCAIN. Madam President, in keeping with the previous unanimous consent agreement, I believe this point of order and final passage are both combined in one vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Madam President, pursuant to section 294(a) of the 2008 budget resolution, S. Con. Res. 21, of the 110th Congress, I raise a point of order against the emergency designation in section 5(a) of the conference report.

The PRESIDING OFFICER. Under the previous order, a motion to waive the applicable point of order is considered made.

The question is agreeing to the motion.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) was absent.

The yeas and nays resulted—yeas 60, nays 38, as follows:

[Rollcall Vote Nos. 63, 64 Leg.]

YEAS—60

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

NAYS—38

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

NOT VOTING—1

Kennedy

The PRESIDING OFFICER (Mr. DURBIN.) On this vote, the yeas are 60, the nays are 38. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion to waive section 204(a)(5)(A) of S. Con. Res. 21 regarding emergency legislation is agreed to. As a result, the point of order falls.

Pursuant to the previous order which imposed a 60-vote threshold for the adoption of this conference report, this vote also constitutes the vote on the adoption of the conference report.

Pursuant to that order, the conference report to accompany H.R. 1 is agreed to, and the motion to reconsider that vote is considered made and laid upon the table.

Mr. REID. 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. REID. 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. GRASSLEY. Mr. President, yesterday I spoke about how the trade adjustment assistance provisions in the conference report represent the one shining example of bipartisanship in this mammoth legislation. It's unfortunate that the overall conference report wasn't the product of a similarly bipartisan process, but that missed opportunity should not detract from the tremendous bipartisan effort that my colleagues and our staffs undertook to bring about this significant achievement in reforming and reauthorizing our trade adjustment assistance programs. I want to take a moment to

note for the record my appreciation to those who have worked so hard to produce this good compromise legislation on trade adjustment assistance.

I will begin by thanking my colleagues on the House Ways and Means Committee, Chairman RANGEL and Ranking Member CAMP. Our bicameral negotiations over the last 6 weeks have been intensive, and at times difficult but always professional and constructive. Chairman RANGEL was ably advised by Tim Reif and Viji Rangaswami, his respective staff director and deputy staff director on the trade subcommittee, as well as Alex Perkins, international trade counsel to the chairman, and Indivar Dutta-Gupta, adviser to the chairman on the professional staff of the subcommittee on income security and family support. Congressman CAMP was ably advised by his chief trade counsel, Angela Ellard, as well as David Thomas, international trade counsel to the ranking member.

Of course I must thank my partner on the Finance Committee, Chairman BAUCUS, with whom I have been actively overseeing the operation of our trade adjustment assistance programs since the last time we implemented reforms in 2002. We have been negotiating over this legislation since April of last year, so this is the culmination of a lot of effort by our two staffs. My thanks begin with his staff director, Russ Sullivan, and extend to Demetrios Marantis, his chief international trade counsel, and the rest of his trade team, particularly Hun Quach, Ayesha Khanna, and Darci Vetter, as well as Amber Cottle, Chelsea Thomas, and Janis Lazda. I would also like to thank Liz Fowler and Neleen Eisinger from his health staff, and Anya Landau French, formerly of his trade staff.

On my staff I want to thank first my staff director on the Finance Committee, Kolan Davis, and my deputy staff director and chief tax counsel, Mark Prater, for their wise counsel in managing the legislative processes that have led to today's achievement. I also want to thank my chief international trade counsel, Stephen Schaefer, who has spearheaded my oversight of trade adjustment assistance since 2003 and led my negotiating effort these many months, as well as David Ross, my international trade counsel, who played an integral role in the negotiations that produced today's compromise. In addition, I want to thank David Johanson, my international trade counsel and agricultural trade specialist, for his role in negotiating a reform of the trade adjustment assistance for farmers program, and Claudia Bridgeford Poteet, my international trade policy advisor, for her advice and support. Additional members of my staff that merit special recognition include Mark Hayes, my chief health counsel, and Andrew McKechnie, also on my health staff, as well as Kristin Bass and Colette Desmarais, formerly of my health staff. I also want to thank Chris Condeluci, my tax and benefits

counsel, as well as Lacey Oliver, an intern on my Finance Committee staff, and John Kalitka, a former detail to my Finance Committee trade staff from the Department of Commerce, for their work on trade adjustment assistance.

Our work has been supported by the substantial efforts of dedicated professionals at the Department of Labor, and my appreciation there begins with Erin Fitzgerald in the Division of Trade Adjustment Assistance, as well as Mark Morin and Lois Zuckerman in the Office of the Solicitor, and Erica Cantor, the administrator of the Office of National Response. I also want to thank Mason Bishop, Blake Hanlon, and Geoffrey Burr, formerly of the Department of Labor, as well as Justin McCarthy and John Bailey, formerly on the White House staff of the previous administration.

I mentioned that Chairman BAUCUS and I have been engaged in joint oversight of the trade adjustment assistance programs since 2002, and our oversight has included requesting a series of reports from the Government Accountability Office to examine various aspects of the operation of these programs. Among current and former personnel at the Government Accountability Office who merit special recognition for their hard work are Sigurd Nilsen, Dianne Blank, Lorin Obler, and Wayne Sylvia.

Finally, I want to acknowledge the tremendous effort of our House and Senate legislative counsels to deliver timely drafts and constructive critiques of proposed legislative provisions. On the House side I want to thank Sandra Strokoff and Mark Synnes, and here in the Senate I want to thank our experts on customs and international trade law, Polly Craighill and Margaret Roth-Warren.

As you can see, today's achievement is the result of the dedication, hard work, and commitment of many individuals. It is the culmination of years of effort, and I am confident that the result will serve to benefit American workers in Iowa and across the United States for years to come.

Mr. COCHRAN. Mr. President, although I voted against the motion to waive the Congressional Budget Act on the conference report to accompany H.R. 1, the so-called stimulus bill, and on the adoption of the conference report to H.R. 1, I must acknowledge the courtesies and thoughtful leadership of the Appropriations Committee by the distinguished Senator from Hawaii, Mr. INOUE.

He carried out his responsibilities as chairman of our committee in a fair minded way that reflected credit on the Senate.

This legislation was written by our committee, but in many respects it reflected the attitude and interests of the other body. The bill in my opinion creates too many new programs and policies that will have a major impact on the Federal budget for years to come.

Our Nation faces an economic emergency, but a health information program is not an emergency and should not have been included in this bill. Upgrading the elective grid is not an emergency and neither is improving our Nation's scientific capacity, but they should have been considered in the President's budget request and through a deliberative congressional process.

There are many things like this that should not have been included in this bill.

The process has been anything but deliberative.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask we now go to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### HONORING JOE BURKE

Mr. DURBIN. Mr. President, today I would like to recognize Mr. Joseph "Joe" Burke for his 33 years of service with the U.S. Capitol Police.

Joe was raised and educated in Pennsylvania and Virginia. He attended Moravia College in Pennsylvania and graduated with a degree in criminal justice. Joe's studies didn't occupy all his time while at Moravia; he was an extremely talented baseball player and tried out for the Pittsburgh Pirates.

After choosing a career in law enforcement, Joe joined the U.S. Capitol Police on December 8, 1975. He served in several positions within the department before finding his true calling—the Containment and Emergency Response Team, CERT, in 1981.

Joe was among the original members of CERT upon its inception in 1981. The tryouts for CERT were strenuous; held at the FBI Academy, they consisted of shooting drills, running an obstacle course and jumping into a pool with a rubber gun before swimming the length of the pool. The Unit started with three five-man teams that train twice a month. This modest beginning has grown into the CERT we see today—a highly trained, full-time tactical team.

Over the years, Joe has remained committed to serving the congressional community. He has served during several challenging periods for the Capitol Police including the tragic shooting at the Capitol, the attacks on September 11, 2001, and the anthrax mailings. Joe's experience was invaluable during big events, too—the state funerals of Presidents Reagan and Ford, demonstrations, eight Presidential Inaugurations and numerous State of the Union Addresses.

Joe Burke's experience and service have helped CERT become a SWAT team that ranks among the top teams in the country. He is responsible for many of the programs currently used by the Capitol Police to train CERT personnel.

Joe has been recognized for his leadership and efforts to develop an enhanced and professional tactical team and for his work with area teams to develop response and coverage capabilities across the region.

Mr. President, Joe Burke retired from the U.S. Capitol Police on January 3, 2009. I would like to thank him for his years of service to the congressional community and ask that my colleagues join me in wishing Joe well in his retirement.

#### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP RULES OF PROCEDURE

Ms. LANDRIEU. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. Today, February 12, 2009, the Committee on Small Business and Entrepreneurship held a business meeting during which the members of the committee unanimously adopted rules to govern the procedures of the committee. Consistent with Standing Rule XXVI, I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Small Business and Entrepreneurship for the 111th Congress.

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

#### RULES FOR THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP—111TH CONGRESS

##### GENERAL

All applicable provisions of the Standing Rules of the Senate, the Senate Resolutions, and the Legislative Reorganization Acts of 1946 and of 1970 (as amended), shall govern the Committee.

##### MEETINGS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chair. All other meetings may be called by the Chair as he or she deems necessary, on 5 business days notice where practicable. If at least three Members of the Committee desire the Chair to call a special meeting, they may file in the office of the Committee a written request therefore, addressed to the Chair. Immediately thereafter, the Clerk of the Committee shall notify the Chair of such request. If, within 3 calendar days after the filing of such request, the Chair fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chair is not present at any regular, additional or special meeting, such member of the Committee as the Chair shall designate shall preside.

(b) It shall not be in order for the Committee to consider any amendment in the

first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the Clerk of the Committee at least 2 business days prior to the meeting. This subsection may be waived by agreement of the Chair and Ranking Member or by a majority vote of the members of the Committee.

#### QUORUMS

(a) (1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments, and steps in an investigation including, but not limited to, authorizing the issuance of a subpoena.

(3) In hearings, whether in public or closed session, a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(b) Proxies will be permitted in voting upon the business of the Committee. A Member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, or through oral or written personal instructions to a Member of the Committee or staff. Proxies shall in no case be counted for establishing a quorum.

#### NOMINATIONS

In considering a nomination, the Committee shall conduct an investigation or review of the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. In any hearings on the nomination, the nominee shall be called to testify under oath on all matters relating to his or her nomination for office. To aid in such investigation or review, each nominee may be required to submit a sworn detailed statement including biographical, financial, policy, and other information which the Committee may request. The Committee may specify which items in such statement are to be received on a confidential basis.

#### HEARINGS, SUBPOENAS, & LEGAL COUNSEL

(a) (1) The Chair of the Committee may initiate a hearing of the Committee on his or her authority or upon his or her approval of a request by any Member of the Committee. If such request is by the Ranking Member, a decision shall be communicated to the Ranking Member within 7 business days. Written notice of all hearings, including the title, a description of the hearing, and a tentative witness list shall be given at least 5 business days in advance, where practicable, to all Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chair and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting, but must be in writing.

(b) (1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact.

(2) The Chair and Ranking Member shall be empowered to call an equal number of witnesses to a Committee hearing. Such number shall exclude any Administration witness unless such witness would be the sole hearing witness, in which case the Ranking Member shall be entitled to invite one witness. The preceding two sentences shall not apply when a witness appears as the nominee. In-

terrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chair or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least two business days in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chair and the Ranking Minority Member.

(c) Any witness summoned to a public or closed hearing may be accompanied by counsel of his or her own choosing, who shall be permitted while the witness is testifying to advise the witness of his or her legal rights. Failure to obtain counsel will not excuse the witness from appearing and testifying.

(d) Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, and other materials may be authorized by the Chair with the consent of the Ranking Minority Member or by the consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting, but must be in writing. The Chair may subpoena attendance or production without the consent of the Ranking Minority Member when the Chair has not received notification from the Ranking Minority Member of disapproval of the subpoena within 72 hours of being notified of the intended subpoena, excluding Saturdays, Sundays, and holidays. Subpoenas shall be issued by the Chair or by the Member of the Committee designated by him or her. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents, records, and other materials shall identify the papers or materials required to be produced with as much particularity as is practicable.

(e) The Chair shall rule on any objections or assertions of privilege as to testimony or evidence in response to subpoenas or questions of Committee Members and staff in hearings.

#### CONFIDENTIAL INFORMATION

(a) No confidential testimony taken by, or confidential material presented to, the Committee in executive session, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members. Other confidential material or testimony submitted to the Committee may be disclosed if authorized by the Chair with the consent of the Ranking Member.

(b) Persons asserting confidentiality of documents or materials submitted to the Committee offices shall clearly designate them as such on their face. Designation of submissions as confidential does not prevent their use in furtherance of Committee business.

#### MEDIA & BROADCASTING

(a) At the discretion of the Chair, public meetings of the Committee may be televised, broadcasted, or recorded in whole or in part by a member of the Senate Press Gallery or an employee of the Senate. Any such person wishing to televise, broadcast, or record a Committee meeting must request approval of the Chair by submitting a written request to the Committee Office by 5 p.m. the day before the meeting. Notice of televised or broadcasted hearings shall be provided to the Ranking Minority Member as soon as practicable.

(b) During public meetings of the Committee, any person using a camera, micro-

phone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of Committee members or staff on the dais, or with the orderly process of the meeting.

#### SUBCOMMITTEES

The Committee shall not have standing subcommittees.

#### AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended; provided, however, that not less than a majority of the entire Membership so determined at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Mr. DODD. Mr. President, I rise today to honor and celebrate the 100th anniversary of the National Association of the Advancement of Colored People—the NAACP—and thank my colleagues for unanimously adopting H. Con. Res. 35, introduced by my friend, Congressman AL GREEN, of Texas. I was honored to introduce companion legislation in the Senate.

Yesterday we were reminded once again of the historic nature of the work the NAACP has done over the last century as our Nation's first African-American President came to the United States Capitol to pay tribute to President Abraham Lincoln on his 200th birthday.

When we reflect on how far we have come in this country, we must acknowledge the crucial role the NAACP has played in making so many of those steps possible.

Founded on February 12, 1909, in New York City by a small multiracial group of activists that included Ida Wells-Barnett and W. E. B. Dubois, the NAACP spent decades working to eliminate discrimination in schools and throughout our society at the grassroots. Nearly a half century later, it would make itself known to the world with one of our Nation's greatest legal victories, the Supreme Court case *Brown v. Board of Education*.

In 1955, the Secretary of the NAACP's Montgomery, AL, branch suffered humiliation and unwarranted arrest for refusing to give up her front seat on a segregated bus in Montgomery, AL. Rosa Parks' simple yet powerful action would ignite the largest civil rights grassroots movement in the history of this country, reminding us once again of the difference that even one American can make to change the course of history.

The NAACP also played an essential role in ensuring the passage of the Civil Rights Acts of 1957, 1960, and 1964.

Though the right to vote was declared to be a basic human right under the U.S. Constitution, persons of color, especially African Americans, were historically—and shamefully—denied this fundamental right. The NAACP played a substantial role pushing for the passage of the Voting Rights Act of 1965, partnering with the likes of Cesar Chavez.

While the NAACP's political work is extraordinary, its community service efforts deserve recognition as well. In

2005, it created the Disaster Relief Fund to provide assistance for Hurricane Katrina victims in Louisiana, Texas, Mississippi, Florida, and Alabama at a time when they needed it most.

As President Obama said, "A nation cannot prosper long when it favors only the prosperous." The NAACP has reminded us of those words for a century.

For all this achievement symbolizes to Americans and the world, the NAACP still recognizes the importance of remaining vigilant in our fight for equality, never allowing the past to be forgotten. I am honored that it has supported the passage of the Emmett Till Unsolved Civil Rights Crime Act that I introduced last Congress, in commemoration of the unspeakably brutal and unjustified murder of an African-American youth, ensuring that criminals of the unsolved hate crimes of the civil rights struggle are brought to justice and that its victims can finally find peace. And I am pleased that this legislation has become law.

Much progress has been made in the lives of persons of color because of the NAACP and its tireless, life-risking, and never-ending work.

As Thurgood Marshall, who a dozen years after arguing *Brown v. the Board of Education* before the Supreme Court would become the first African American to serve on our nation's highest court, said:

In recognizing the humanity of our fellow beings, we pay ourselves the highest tribute.

Today, the U.S. Senate and House of Representatives return that tribute to the NAACP and everyone who has been associated with its achievements and advocacy for this last century.

May its work to ensure equality for all American citizens continue as each of us in this institution and across our country commit to diminishing its necessity.

#### FINANCIAL FRAUD HEARING

Mr. KAUFMAN. Mr. President, I want to bring my colleagues' attention to an important hearing held this past Wednesday by the Judiciary Committee. We have been focused on the economy over the past few weeks, and particularly on the recovery bill that will soon start saving and creating jobs.

But there are more steps we need to take to restart our economy. One step is to renew confidence in our markets, by cracking down on the kind of criminal behavior that has contributed to our current crisis. I am talking about fraud in our financial markets.

On Wednesday, Chairman LEAHY convened a Judiciary Committee hearing on financial fraud. We heard testimony from John Pistole, Deputy Director of the FBI; Rita Glavin, Acting Assistant Attorney General for the Criminal Division; and Neil Barofsky, Special Inspector General for the Troubled Assets Relief Program.

I will ask to include in the RECORD, following my remarks, three articles reporting on the hearing.

Two things became clear at the hearing: First, that the Justice Department's Criminal Division, the FBI and the Special Inspector General are dead-serious about finding and prosecuting financial fraud.

FBI Deputy Director Pistole told the committee that the agency is investigating 530 open corporate fraud investigations, including 38 directly related to the current financial crisis. He said the total number of fraud investigations has nearly doubled, from 881 in fiscal year 2006 to 1,600 in fiscal year 2008.

Second, we learned that Federal law enforcement needs additional resources to do so effectively.

According to Deputy Director Pistole "The increasing mortgage, corporate fraud and financial institution failure case inventory is straining the FBI's limited white collar crime resources."

The FBI's very necessary shift of resources to counterterrorism efforts has had a significant impact on its ability to investigate sophisticated financial crime.

Currently, the FBI has only 240 agents investigating complex financial fraud.

During the savings and loan crisis in the 1980s, the FBI had more than 1,000 agents investigating financial fraud connected to that scandal.

Mr. President, it is clear we need to scale up dramatically the number and training of FBI agents investigating financial fraud, because the financial meltdown of 2008 is much bigger than the savings and loan crisis.

That is why I was proud to join with Chairman LEAHY and Senator GRASSLEY to introduce S.386, the Fraud Enforcement and Recovery Act of 2009.

Mr. President, I look forward to working with Chairman LEAHY and Senator GRASSLEY to pass this important legislation, and I applaud them for their leadership.

Mr. President, I ask unanimous consent to have the three articles to which I referred printed in the RECORD.

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

[From CQ Today, Feb. 11, 2009]

SPIKE IN FRAUD INVESTIGATIONS TAXING LAW ENFORCEMENT RESOURCES, OFFICIALS TESTIFY  
(By Seth Stern)

More resources are needed to combat financial fraud, which has soared amid the meltdown of financial markets, officials told lawmakers Wednesday.

FBI Deputy Director John Pistole told the Senate Judiciary Committee that the agency is investigating 530 open corporate fraud investigations, including 38 directly related to the current financial crisis. He said the total number of fraud investigations has nearly doubled, from 881 in fiscal 2006 to 1,600 in fiscal 2008.

"The increasing mortgage, corporate fraud and financial institution failure case inventory is straining the FBI's limited white-collar crime resources," Pistole said in his written testimony to the committee.

Others noted that the problem was likely to worsen as criminals target funds from the financial bailout (PL 110-343) and the economic stimulus measure being considered by a House-Senate conference (HR 1).

"We stand on the precipice of the largest infusion of government funds over the shortest period of time in our nation's history," testified Neil M. Barofsky, the special inspector general for the Troubled Assets Relief Program. "Unfortunately, our history teaches us that spending so much money in such a short period of time will inevitably draw those seeking to profit criminally."

Patrick J. Leahy, D-Vt., the Judiciary Committee chairman, and Charles E. Grassley, R-Iowa, have introduced legislation (S 386) to extend federal fraud laws to cover more mortgage lenders and funds expended under the financial bailout and authorize the hiring of additional federal prosecutors and FBI agents.

"If we don't address this head-on, we'll have a hard time chasing taxpayer money," Grassley said.

Pistole said the scale of the potential fraud dwarfs the savings and loan crisis of the 1980s. He said 240 FBI agents are currently involved in investigating mortgage fraud, as opposed to the 1,000 agents and forensic experts who investigated the savings and loan crisis.

"More must be done to protect our country and our economy from those who attempt to enrich themselves," Pistole said.

"We're going to see demands on law enforcement really increase" with the stimulus package and financial bailout, Rita M. Glavin, the acting assistant attorney general of the Justice Department's Criminal Division, told the panel.

[From Newsday, Feb. 12, 2009]

RISE IN FRAUD CASES IS "STRAINING" FBI

The economic crisis has sparked an increase in criminal fraud, including an "exponential rise" in mortgage scams that is straining the FBI's resources, a leader of the agency said.

The Federal Bureau of Investigation has more than 1,800 open investigations into mortgage fraud, more than double the number in fiscal 2006, Deputy FBI Director John Pistole told a U.S. Senate hearing yesterday in Washington.

The FBI also has more than 530 open corporate fraud investigations, including 38 linked to the financial crisis, he said.

"The increasing mortgage, corporate fraud and financial institution failure case inventory is straining the FBI's limited white-collar crime resources," Pistole said in prepared testimony.

Yesterday's Senate Judiciary Committee hearing focused on whether there should be beefed-up enforcement to cope with the economic decline. The panel's chairman, Sen. Patrick Leahy (D-Vt.), is pushing legislation to authorize funds to hire fraud prosecutors and investigators. The bill, backed by the Justice Department, also would strengthen financial crime laws.

The 38 corporate cases linked to the financial crisis have the potential to be as complex as that of Enron Corp., which collapsed in 2001. The cases involve companies that "everybody knows about," Pistole said without naming them, and include possible manipulation of financial statements, accounting fraud and insider trading, he said.

The FBI has reassigned some agents from terrorism cases to financial crimes.

The government's \$700-billion Troubled Asset Relief Program and the proposed economic stimulus legislation likely will result in increased criminal activity, Neil Barofsky, special inspector general of the TARP program, said in prepared testimony.

## FBI PROBES 530 CORPORATE FRAUD CASES

(By Devlin Barrett)

(WASHINGTON)—The FBI is conducting more than 500 investigations of corporate fraud amid the financial meltdown, FBI Deputy Director John Pistole told the Senate Judiciary Committee on Wednesday.

Investigators are tackling an even bigger mountain of mortgage fraud cases in which hundreds of millions of dollars may have been swindled from the system, he told lawmakers.

Pistole says there are 530 active corporate fraud investigations, and 38 of them involve some of the biggest names in corporate finance in cases directly related to the current economic crisis. Additionally, the FBI has more than 1,800 mortgage fraud investigations, more than double the number of such cases just two years ago.

There are so many mortgage fraud cases to investigate, he said, that the bureau is not focusing on individual purchasers, but industry professionals generating fraud schemes that could total as much as hundreds of millions of dollars. "It is a matter of lawyers, brokers or real estate professionals that are systematically trying to defraud the system," Pistole said.

Agents have even seen some instances of organized crime getting involved in mortgage fraud, he said.

Also appearing before the committee was Neil Barofsky, the watchdog of the government's \$700 billion Wall Street rescue package passed last year.

Senate Democrats are urging more spending to expand the ranks of the FBI's financial fraud investigators.

After the 2001 terror attacks, about 2,000 FBI agents were moved to counterterrorism work, and Pistole said they are considering moving some of them back to buttress anti-fraud efforts.

Senate Judiciary Committee Chairman Patrick Leahy, D-Vt., urged the FBI and the Justice Department to put people who have committed mortgage fraud behind bars. "Most people are honest," Leahy said. "The ones who are not honest in this field are creating economic havoc and I want to make sure that we're able to go after them. "I want to see people prosecuted . . . Frankly, I want to see them go to jail," he said.

Barofsky, who was appointed the inspector general of the ongoing financial bailout plan, suggested the best way to clean up mortgage fraud is to pursue licensed professionals in the industry, and make examples of them. "They have the most to lose, they're the most likely to flip, and they make the best examples," said Barofsky, a former federal prosecutor in New York.

## HEART FOR WOMEN ACT

Ms. MURKOWSKI. Mr. President, I rise today to share my thoughts as the lead cosponsor on the Heart for Women Act, introduced by Senator STABENOW and myself along with 21 original cosponsors. Heart disease, stroke, and other cardiovascular diseases are critically important health issues that combined, are the No. 1 cause of death in all American women, taking the life of one female nearly every minute. The Heart for Women Act will decrease the burden of heart disease in women, which coupled with stroke will claim the lives of nearly half a million women in America in 2008; this is more than all deaths from breast, cervical, and lung cancers combined.

A new study shows that while in young men under age 45, the heart disease death rate is declining, the rate in young women has actually increased and is now at its highest level since 1987. We cannot idly sit back and allow more of us to become part of these statistics, so to address heart disease mortality and these significant disparities between men and women, Senator STABENOW and I have introduced The HEART for Women Act.

Our legislation, the HEART for Women Act, does three things: First, it provides the public with better information about safe and effective treatments for women by requiring drug safety information to be stratified by sex, race, and ethnicity. This information will help doctors, researchers, and patients better understand why certain treatments work better in men than in women. Second, this legislation expands the WISEWOMAN Program that provides free heart disease and stroke prevention screening to low-income, uninsured women. This program has been incredibly successful throughout the U.S. three out of four women screened by this program had at least one risk factor for heart disease and stroke. The HEART for Women Act also raises awareness among health care providers about the risk for heart disease and stroke. A 2004 survey found that less than 20 percent of physicians were aware that more women than men die each year from cardiovascular diseases.

After all this, there is some good news—a USA Today article from January 2008 points out that heart disease deaths rates fell among women by almost 27 percent between 1999 and 2005; however, researchers estimate that epidemics of diabetes and obesity could threaten these gains.

I encourage my colleagues to join us and support women's heart health. Passage of this legislation will ensure that providers have greater access to life-saving drugs and screening services to prevent the rise of cardiovascular disease in women.

## PANETTA CONFIRMATION

Mr. FEINGOLD. Mr. President, I support the confirmation of Leon Panetta to be Director of the CIA. His integrity and independence, his managerial skills, his broad experience in both the executive and legislative branches, and his testimony during his confirmation hearing suggest he is exactly the kind of CIA Director our country needs right now.

First, his statements, in his meeting with me and at his confirmation hearing, provide assurances that he will put CIA activities squarely within the law and refocus the brave and dedicated professionals of the Agency on what they do best, and on what we need them for the most. Not only did he express his commitment to ending an illegal and ineffective interrogation and detention program, but he clearly indi-

cated that the CIA would not conduct extraordinary renditions to secret detentions. Congressman Panetta also committed to ending the Bush administration's practice of using "Gang of Eight" briefings to evade its legal responsibility to brief the full congressional intelligence committees, thereby thwarting oversight. And he assured me that the CIA would cooperate with the Department of Justice as the Department reviews interrogation, detention, rendition and other matters that raise legal questions. These statements, along with his previous condemnations of torture and of warrantless surveillance of Americans, suggest a personal commitment to the law and to our Constitution that will be needed as the CIA faces the challenges ahead.

I have long been concerned that intelligence resources have not been sufficiently allocated toward long-term and emerging threats in places like Africa, and was pleased that Congressman Panetta testified that he shares these concerns. More importantly, he has committed to conducting a review of CIA operations and resources in light of these concerns and to working closely with the committee in the course of that review. Finally, he testified that he agrees with the goal of developing strategies that integrate clandestine collection with the information obtained openly by our government, particularly through diplomatic collection. Last year, the Senate Intelligence Committee passed legislation creating an independent Commission to make recommendations on how to achieve this integration and Congressman Panetta has committed to working with me on that legislation. These commitments give me confidence that Congressman Panetta will work to refocus the CIA on its central mission of protecting our national security.

## IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I am a working class American male, fighting to maintain a standard of living which will enable me to provide for myself and my family. I find it difficult to imagine why we would continue as a country to be held host to foreign oil.

I find that prices of everything are rising because of the cost of shipping, and some members of Congress I hear think this is a good thing? Sir, I am pleased that you would want to hear from us, but realistically I am less than convinced that much will be done by a body of people who seem so unwilling and unable to work together as the current Congress appears.

I used to be optimistic that one voice could make a difference and now have resigned myself to believe that by and large those who sit in the "hallowed halls of Congress" care only for their power and position and nothing for us as citizens. The price of groceries continues to rise, the price of fuel driving everything higher, shippers cannot afford to transport goods, and I find the future bleak. How long before the trucking industry, the shipping industry, railways and airlines stop because no one can afford to pay the cost?

Foodstuffs such as corn are now being grown for fuel, driving those prices higher and yet no relief is felt at the pump. It seems clear to me that two things must happen; first we must become energy independent, drilling within our own borders, and second finding alternative forms of energy to prevent this from happening. Please use whatever powers of persuasion you possess to convince your fellow Senators to listen and feel the crunch that is crippling our nation!

ALBERT.

My wife and I were born in Idaho (I in Kellogg and my wife in Pocatello) and I work at the INL although I am currently on assignment at the Yucca Mountain Project.

How Do Gas Prices Impact Us and the Nation

I am 67 and my wife is 63 and, with the high cost of gas, we are afraid to retire. These were supposed to be the "golden years" and they are far from that. It is driving up the cost of food and other items that must be shipped by truck and is killing the auto industry. Because of all of these cost increases and the uncertainties it is creating in our economy, the stock market is also dropping and pulling down what retirement investments that we have. Although health care and other issues are also on our mind, I fear that high gas prices are dragging our country to its knees and it is spreading in all directions. They use to say that if we lost Vietnam, it would have the domino effect and we would lose all of that part of Asia.

Well, high gas prices are definitely causing a domino effect, and as people travel less it impacts everyone who support the travel industry. Look what it is doing to the airline industry. The impact of high gas prices is spreading everywhere. I wonder how long it will take to get beyond this mess. Should I plan to retire at 70 or maybe I should think about 75?

#### WHAT TO DO ABOUT GAS PRICES

The country is now looking toward nuclear power and that is great. Wind and solar power might help a little, but they cannot produce enough. And drilling for more oil in new locations could also help. But these are all long-term solutions that cannot help today. I think what makes us frustrated is that the oil companies are making record profits and they aren't doing anything to help the country. It is sort of like their atti-

tude is to take the money and run. So if you want to do something in the short term, you need to deal with them now. Congress needs to look into how much they pay their CEOs and put a cap on that amount. When a CEO makes 100 or 1,000 times more than the President or you, Mike as a Senator, something is wrong. Congress also needs to look into what they are doing with these record profits. They claim that they are doing more exploration but we as the public cannot see this. They should be forced to make public what they are doing with the profits. I do not see them building any new refineries. They should be forced to do that. But you see, why would they want to build new refineries when they have created a shortage that makes money for them. We are asking the Saudis to pump more oil but we do not ask our own oil companies to build more refineries. Congress needs to "get into their rice bowl" as they. And if the oil companies do not want to be part of this, Congress should tax their profits beyond a certain point and use the money to supplement gas prices. In the past during times of war, Congress has created excess profit taxes to take the profit out of war and they should do that now. We are in a domestic war and it is killing our country. Or Congress should look at their profits and set gas prices for them. Set regular gas, for example, at \$3.00 per gallon and the next year if their profits are still beyond reason, drop it down to \$2.50 per gallon.

Thanks for working on this issue Mike. My wife and I are worried for our country. We do not know where all of this is going, but it does not look good.

JIM.

We, as a Nation, have been irresponsible in allowing ourselves to be dependent upon foreign sources for our energy needs. And now, we are all paying the painful price. It is ignorant to believe that we can just purchase all our energy from other countries and in doing so, save the environment. We have some of the strictest standards in place in the United States to prevent damage to the environment, and yet we allow other countries without those standards to pollute the environment in the production of our energy. This is burying our heads in the sand.

We have vastly improved our technologies since the early 1980s when the bans on offshore drilling were put into effect. We would not expect to see the same problems we had in the past if we were to resume that drilling today. We also need to address the fact that we have not built any new refineries in this country, and that is a necessary piece to our energy needs puzzle. We have vast resources of oil reserves that are untouched, mostly due to the cries of the environmentalists, who are using their hearts instead of their minds to raise their objections.

I have a dear friend who is an independent trucker out of Pennsylvania, who has been doing a long-haul run from there to the Northwest for over 10 years now. He has been watching his profits be reduced by thousands of dollars per run, a reduction that he is not able to simply pass along. After almost 25 years of trucking, he is now contemplating something else for the future. What will we, as a nation, do if enough of our truckers quit due to the rising fuel costs? We do not have enough alternatives in place to move our goods, and without moving our goods, our economy will collapse. We, individually, understand the impact on our family budgets for energy increases, but we have not yet begun to feel the entire impact that will trickle down to our level.

We need to develop our own energy. We need to allow more drilling. We need to allow refineries to be built. We need to allow nuclear power plants to be built. We need to de-

velop such things as wind energy and tap waste sources such as landfills for methane gas. We need permanent tax incentives for the installation and use of renewables such as solar and wind. We need to develop a usable hydrogen power. And that should just be the start.

Yes, the increase in fuel has cost me and is hampering my lifestyle. But I fear that, if the current prices become permanent, then the costs to me will be so much greater than they are today, and that is unacceptable.

Thank you for your time in reading this.

MONICA.

In September 2007 my husband changed jobs due to a long commute and high gas prices. He had been travelling from Weston, Idaho, to Promontory, Utah (132 miles round trip), and had done so for the last sixteen years. In September, he took a new job in Logan, Utah, which was half the commute. However, in the exchange, he also took a \$4.50/hr cut in pay. We were okay because of the shorter commute and we were saving in gas. Now, with the higher, much higher fuel prices, we not only have lost the fuel savings but still have the cut in wages. It is getting very difficult to make ends meet. High fuel costs are affecting every aspect of our lives—food, utilities, etc. We are supportive of drilling America's own oil so we are not reliant on outside sources. Speed limits could also be reduced and enforced. We drive small fuel-efficient vehicles, unlike many who are driving large trucks and SUVs. Americans need to wake up. Farmers in our area are really struggling. Fuel prices are making it very difficult to plant and harvest crops. We just need some relief. We appreciate your asking our input and support your efforts in getting the people of Idaho and America some relief.

RICHARD AND CHRISTY, *Weston*.

We need to start drilling now.

I am an Idaho resident and, because of work, commute weekly from Idaho to Washington. The fuel costs are affecting me by not only personal use of my cars but also air fare and food for my farm animals and us.

There is so much oil out there in the US, i.e., shale oil, oil from coal, onshore and offshore oil. Until the new technology comes out for autos and electrical energy we need to use the fuel that we have instead of punishing the people of this country—by listening to the eco terror people, green peace and the others. They are the ones that created the problem plus the new socialist democrats. Who are taking our freedoms away? Oh, one more thing the man caused global warming is a fraud it is natural climate changes. Look at the past.

THOMAS.

I do not have much to say but this. I work as a restaurant manager and I see firsthand the domino effect of the energy/gas crisis. Restaurants are the first to view the troubled economy. Our sales are down, not saying how much. Food cost is rising. People are not coming out to eat. My Team Members are getting hours cut and not making enough money to even survive, let alone put gas in their tanks. My staff is the first hit by any economy issue and our sales have dropped drastically. My restaurant and its staff members who are in a crisis state. Someone needs to do something.

BRANDY, *Boise*.

To Whom It May Concern:

I ride my bike almost everywhere I go so my gas price is \$0/gallon. Also, my pollution impact is minimal as is my road impact, and my health is excellent.

MIKE, *Boise*.

Thank you for the opportunity to provide input on this critical input. I am employed as an Environmental Engineer at the Idaho National Laboratory—Materials Fuels Complex—a nuclear fuels research facility.

Impacts—to name a few:

Greatly reduced discretionary travel and spending

Marked increase in cost of food and consumables

Recent need to reduce percentage of income saved for retirement and college tuition for our children.

Huge increase in cost associated with heating home (Rocky Mountain Power) and irrigate my property.

Enormous cost increase in corn feed and fertilizer

Inability to afford herbicides necessary to combat noxious weeds on property

Decreased property values of vacation home in Island Park Idaho—given drastically reduced numbers of vacation visitors to Fremont Co. since gas and diesel have gone sky high.

The high fuel costs have created an atmosphere in virtually all commodities that the producer can falsely claim that their higher prices charged are merely a result of higher energy costs.

Suggested Actions:

Build infrastructure in U.S.—new, strategically located refineries,—this is not just a crude oil problem, and our refineries are antiquated.

Provide incentives to oil and gas companies to expand exploration—lower their corporate tax.

Prohibit reinstatement of wind+fall profits taxes.

Eliminate overly burdensome environmental/permitting hurdles for petroleum exploration, siting and operation of oil refineries, extraction/processing of oil shale, oils sands, etc.

Target drastically higher dollars for University research of petroleum exploration, extraction, and refining technologies.

#### DEVELOP ANWR AND ALL OFFSHORE RESOURCES

Develop natural gas distribution infrastructure—to gain access to the huge natural gas reserves in North America.

Never sign up to the Law of the Sea Treaty.

Reject Cap and Trade.

Sign on to No global warming (hoax) treaties or initiatives.

Play economic hardball with China and India, whom subsidize their citizens' use of petroleum products.

Firmly commandeer Iraq's oil reserves as partial compensation for the loss of life and financial burden of the Iraq war.

Thank you for the opportunity. P.S.—the U.S. is not too dependent upon fossil fuels; we are not using what we have on U.S. and adjacent soil wisely, or at all.

PAUL, *Idaho Falls.*

I really appreciate your efforts to help out the public. I work as a receptionist at St Alphonsus. Many patients are canceling their appointments primarily because they cannot afford to drive, even if it is 5 miles away. The public is not happy because of the gas prices.

My fiancé and I just moved closer to where I work. If we did not I would not be able to afford the gas to come to work. The rising gas prices are making the gap bigger between the rich and the poor. Something does need to be done quickly. The greed needs to come to an end and the government is the only force here in the United States big enough to help out the public.

Thanks for understanding,

MEGAN, *Boise*

Years ago I was pleased to be able to wait on your wife as she drove thru the MPCU teller window in Idaho Falls. With her in the Suburban were a passel of kids. Now I also have a few children, and these days with energy costs skyrocketing beyond the means of many families I think it is important to speak up. I think twice every time I drive my van because of the costs. We normally visit my family in Idaho Falls four times per year and this year will only be able to reasonably afford two times, and a major component of that decision is the cost of fuel. My husband is an engineer and drives approximately 20 miles round trip to work every day. He and another co worker commute to save fuel. We have not had as much disposable income as heating, cooling and fuel prices have climbed at an astonishing pace. We have stopped eating as much meat because of the cost of it. I water down the milk to make it go further. We fortunately live far below our means, but many families are not as fortunate as we are. One of my dear friends works in 30 miles away, and drives there from Moscow every day. With a long daily commute, and with higher prices looming on the horizon who knows what this winter will bring. She said that if it goes up much more she will not make enough money to justify the driving.

I am not asking for the government to fix this. The American people are resilient, and the government's micromanagement of energy opportunities has only led us to higher prices. You can bet if the oil companies are penalized for their comparatively tiny per gallon profit, prices will continue to climb.

What I propose is for government to get out of the way. Pave the road to energy independence with reduced regulation and open opportunity for exploration of all energy sources. We should pursue coal to oil, nuclear, wind, methane, natural gas and every other type of fuel, with the goal of being energy independent. If the government will just be reasonable, we could do all these things. I appreciate your service, and your request for stories. Thank you for remembering that you are there in our place, remind the others that they are too.

EMILY, *Moscow.*

First I must say that I am a retired federal employee with 34 years of service. As you know living on a fixed income is not easy at best, but with the cost of gas going up that is affecting EVERYTHING. I have cut back on all non essential driving—even to travel 50 miles to see my elderly parents (80 & 78) once a week to help them out. I have cut back on how often I mow the lawn to once every 2 weeks. I do not own any recreation toys such as campers, 4-wheelers, boats or motorcycles so cannot cut any RV usages. There will be very limited vacation trips this summer. . . . Maybe to take my grandsons camping.

I can remember back prior to the 70's gas scare when the government had more controls on the oil companies and gas was much more reasonable and there was still exploration being done by the oil companies. Now without controls these companies are having record net profits (enough to lower the cost of gas close to \$1.00 a gallon), why is this happening? Also the stock market futures on oil dictate price increases before the crude is even bought, but the drops in crude never seem to get passed on to consumers at the same rate as the increases . . . again why is this?

There was a march protesting the petroleum prices here in Lewiston a couple of weeks ago . . . what else can the people do to get thru to our government?

Thank you for the opportunity to voice my frustrations.

Sincerely,

BOB.

We must do all we can to mitigate the energy crisis gripping this nation. We can and must become energy independent on natural gas in America. We have the resources here to achieve this. Start drilling. Prices are on track to double by this winter. However, the brutal truth is that the neo-American Bolshevik socialist left in this country will tie this nation up in the courts for years to prevent this and force their agenda on this nation. They are arrogantly smug about their ability to control us now. And well they should be. They have been trained by some of the finest Marxist professors anywhere in the world today, right here in the USA. In the end, our epitaph will read that we destroyed ourselves with the very freedoms that made us the envy of the free world. May almighty God forgive us for what we have allowed to happen to this grand experiment in human freedom.

RANDY.

#### ADDITIONAL STATEMENTS

##### REMEMBERING WILLIAM H. "MO" MARUMOTO

● Mr. AKAKA. Mr. President, I wish to express my deepest condolences and warmest aloha to the family and friends of William H. "Mo" Marumoto, who passed away last November.

Mr. Marumoto was an inspiration to all of those who came in contact with him. Those who knew him well knew of his selflessness and commitment to the public good.

During World War II, Mr. Marumoto and his family spent 3 years in the Gila River internment camp in Arizona. This experience did little to deter Mr. Marumoto's pursuit of excellence and service to his country. He served as student body president of his high school, Santa Ana High School, and later graduated from Whittier College.

His remarkable career spanned over five decades. He arrived in Washington, DC, in 1969 to serve as assistant to the secretary of the Department of Health, Education and Welfare, responsible for recruiting senior executives for the Office of Education. A year later, Mr. Marumoto became the first Asian American to serve at the executive level in the White House as an aide to President Richard Nixon responsible for filling Cabinet and sub-Cabinet level positions.

In 1973, he founded The Interface Group Ltd., a Washington, DC-based executive search firm which specialized in placing women and minorities in senior executive positions. He is fondly remembered for his efforts to ensure diversity within the most senior levels of government.

He was a remarkable leader as president and CEO of the Asian Pacific American Institute for Congressional Studies and received numerous national professional awards for his work in higher education, fundraising, direct mail, events management, and publications.

My thoughts and prayers go out to Mo's loved ones. He will be deeply

missed and his generosity will forever be remembered. May he rest in peace.●

#### TRIBUTE TO C. EDWARD BROWN

● Mr. GRASSLEY. Mr. President, I wish to recognize a fellow Iowan, C. Edward "Ed" Brown, FACHE, on his election as the chair of the board of directors of the American Medical Group Association.

Mr. Brown has had a distinguished career in health care in Iowa where he has served for the last 15 years as chief executive officer of the Iowa Clinic, a multispecialty group practice in Des Moines. Ed has a long list of achievements in delivering cutting edge, quality focused health care to the benefit of Iowans, and his achievements include the Iowa Clinic's adoption of electronic medical records and information technology systems. He holds a master's degree in health administration from Washington University in St. Louis, and he is a fellow of the American College of Healthcare Executives with over 25 years of experience in executive and senior levels of health care management.

As the head of the American Medical Group Association, Ed's vision and management skills will be put to good use in leading an organization that represents some of the Nation's highest quality and most prestigious health care delivery systems. It is wonderful to see someone with such a distinguished health care record in Iowa recognized at the national level as a dedicated leader who is committed to improving health care at such an important time for our Nation's health care system.

Ed's voice will be a valuable contribution to the health care debate in 2009 in Washington, and I congratulate him on this new chairmanship.●

#### ZULUS 100TH BIRTHDAY

● Ms. LANDRIEU. Mr. President, this month America reflects on a series of notable birthdays and anniversaries, including President Abraham Lincoln turning 200, and the NAACP celebrating its centennial.

In Louisiana, we are honoring a special birthday that is unique to our State. The famous Zulu Social Aid & Pleasure Club will enjoy its 100th year.

The Zulus have a special place in Louisiana's history, which is as colorful as the signature Zulu decorative coconuts. For 100 years they have been an integral part of our Mardi Gras festivities and New Orleans culture. Dubbing themselves "the everyman club," the Zulu Social Aid & Pleasure club is composed of African-American men from all walks of life.

While there are several stories about how the Zulus first came about, we know they made their first appearance in the Mardi Gras parade in 1909 when William Story led the Zulus as King.

That year the group wore raggedy pants and had a Jubilee-singing quartet in front of and behind King Story.

Just 6 years later, the Zulus used their first float. It was rather modestly decorated with palmetto leaves and moss. Of course, this first float gave rise to the more lavishly decorated Zulu floats that we are accustomed to seeing today.

Since 1916, the Zulus have given the first official Mardi Gras toast to King and Queen Zulu at the Geddes and Moss Funeral Home on Washington Avenue.

Since 1910, the Zulus have been famous for the Zulu Coconut, often called the "Golden Nugget," which they throw from floats during Mardi Gras parades. The tradition developed, and they began scraping and painting the coconuts—now an indelible part of New Orleans Mardi Gras culture.

In January, I was honored to receive from Zulu president Charles Hamilton, Jr., a special Zulu coconut as gift for President Obama. Mr. Hamilton traveled to Washington by train to hand deliver the gift, which I hope to present to the President very soon. It was hand-painted by Gretna artist Keith Eccles and incorporates Mardi Gras colors and themes with the distinctive red, white and blue of Washington, DC. Mr. Hamilton has said that he wanted to give President Obama a piece of New Orleans and Zulu history. I can't think of a better representation.

In addition to the Zulu coconut, the Zulus' contribution to New Orleans is well-documented. The group proudly participates in the Adopt-A-School program and contributes to Southern University's scholarship fund. The Zulus also give Christmas baskets to needy families each holiday season.

Over the years, many famous Louisianians have taken part in the Zulu tradition. In 1949, Louis Armstrong was King Zulu. And in 1988, New Orleans native Desiree Rogers—now the White House social secretary for President Obama—served as Zulu Queen.

This year, that proud tradition will be carried on by Zulu King Tyrone Mathieu, Sr., and Zulu Queen Sheila Barnes Mathieu.

I congratulate the many generations of Zulus who have left their mark on Mardi Gras and our great city of New Orleans. I ask the Senate to join me in wishing the Zulus a happy 100th birthday—and all the best in the next 100 years.●

#### MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 35. Concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary.

At 3:31 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, an-

nounced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

At 5:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 663. An act to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building".

The message also announced that pursuant to 22 U.S.C. 1928a, and the order of the House of January 6, 2009, the Speaker appoints the following Member of the House of Representatives to the United States Group of the NATO Parliamentary Assembly: Mr. TANNER of Tennessee, Chairman.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 663. An act to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-754. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Credit Union Service Organizations" (RIN3133-AD20) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-755. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation AA, Regulation DD and Regulation Z" ((Docket No. R-1314)(Docket No. R-1315)(Docket No. R-1286)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-756. A communication from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band" ((FCC 08-260)(ET Docket No. 04-186)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-757. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Salt River (Va Shly'ay Akimel), Maricopa County, Arizona; to the Committee on Environment and Public Works.

EC-758. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Island Creek, West Virginia; to the Committee on Environment and Public Works.

EC-759. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Salt River (Rio Salado Oeste), Arizona; to the Committee on Environment and Public Works.

EC-760. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Santa Cruz River, Arizona; to the Committee on Environment and Public Works.

EC-761. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Tamiami Trail, Florida; to the Committee on Environment and Public Works.

EC-762. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Liberty State Park, New Jersey; to the Committee on Environment and Public Works.

EC-763. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation" (FRL-8773-2) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Environment and Public Works.

EC-764. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation" (FRL-8773-3) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Environment and Public Works.

EC-765. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Gasoline and Diesel Fuel Test Methods" (FRL-8771-6) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Environment and Public Works.

EC-766. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries" (FRL-8768-2) received in the Office of the President of the Senate on January 29, 2009; to the Committee on Environment and Public Works.

EC-767. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Allocation of Section 36 First-Time Homebuyer Credit Between Taxpayers Who Are Not Married" (Notice 2009-12) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-768. A communication from the Director, Defense Security Cooperation Agency, transmitting, pursuant to law, a report rel-

ative to Section 25(a)(6) of the Arms Export Control Act; to the Committee on Foreign Relations.

EC-769. A communication from the Acting General Counsel, Peace Corps, transmitting, pursuant to law, the report of a vacancy and designation of acting officer in the position of Director of Peace Corps, received in the Office of the President of the Senate on January 29, 2009; to the Committee on Foreign Relations.

EC-770. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-709, "Firearms Registration Amendment Act of 2008" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-771. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-709, "14W and the YMCA Anthony Bowen Project Real Property Tax Exemption and Real Property Tax Relief Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-772. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-710, "The Urban Institute Real Property Tax Abatement Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-773. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-711, "Get DC Residents Training for Jobs Now Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-774. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-712, "GPS Anti-Tampering Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-775. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-713, "Equitable Parking Meter Rates Temporary Amendment Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-776. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-714, "Taxi Zone Operating Hours Temporary Amendment Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-777. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-715, "Reimbursable Details Clarification Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-778. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-716, "Uniform Child Abduction Prevention Act of 2008" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-779. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-717, "Local Rent Supplement Program Second Temporary Amendment Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-780. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-718, "HPAP Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-781. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-719, "Employment of Returning Veteran's Tax Credit Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-782. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-720, "Public Service Commission Holdover Temporary Amendment Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-783. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-721, "District Employee Protection Temporary Act of 2009" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-784. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-722, "Lead-Hazard Prevention and Elimination Act of 2008" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-785. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-723, "Paramedic and Emergency Medical Technician Transition Amendment Act of 2008" received in the Office of the President of the Senate on February 9, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-786. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, the report of a vacancy in the position of Principal Deputy Director of National Intelligence, received in the Office of the President of the Senate on January 29, 2009; to the Select Committee on Intelligence.

EC-787. A communication from the Acting General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Reorganization of Regulations on Control of Employment of Aliens" (RIN1125-AA64) received in the Office of the President of the Senate on February 9, 2009; to the Committee on the Judiciary.

EC-788. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of (2) officers authorized to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-789. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development,

transmitting, pursuant to law, the report of a rule entitled "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs; Final Rule" (RIN2501-AD16) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-790. A communication from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Interactive Data for Mutual Fund Risk/Return Summary" (RIN3235-AK13) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-791. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area and Safety Zone, Chicago Sanitary and Ship Canal, Romeoville, IL" ((RIN1625-AA11)(Docket No. USCG-2008-1247)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-792. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Gasco Regulated Navigation Area, Willamette River, Portland, OR" ((RIN1625-AA11)(Docket No. USCG-2008-0112)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-793. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulation; Willamette River, Portland, OR, Schedule Change" ((RIN1625-AA09)(Docket No. USCG-2008-0721)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-794. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "McCormick & Baxter Regulated Navigation Area, Willamette River, Portland, OR" ((RIN1625-AA11)(Docket No. USCG-2008-0121)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-795. A communication from the Project Counsel, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Consolidation of Merchant Mariner Qualification Credentials" ((RIN1625-AB02)(Docket No. USCG-2006-24371)) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC-796. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates" (Notice 2009-16) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-797. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Leaking Underground Storage Tank Remediation Reimbursement Program" (LMSB-4-1108-054) re-

ceived in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-798. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application of Section 367 to a Section 351 Exchange Resulting from a Transaction Described in Section 304(a)(1); Treatment of Gain Recognized under Section 301(c)(3) for Purposes of Section 1248" (RIN1545-BI42) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-799. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedures for Administrative Review of a Determination That an Authorized Recipient Has Failed to Safeguard Tax Returns or Return Information" (RIN1545-BF21) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-800. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Gain Recognition Agreements with Respect to Certain Transfers of Stock or Securities by United States Persons to Foreign Corporations" (RIN1545-BG09) received in the Office of the President of the Senate on February 9, 2009; to the Committee on Finance.

EC-801. A communication from the Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Part 4022) received in the Office of the President of the Senate on February 13, 2009; to the Committee on Health, Education, Labor, and Pensions.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-7. A resolution adopted by the Senate of the State of New Jersey memorializing Congress to protect the automobile industry and expand national infrastructure projects and related industries; to the Committee on Banking, Housing, and Urban Affairs.

#### SENATE RESOLUTION NO. 37

Whereas, a number of specialists have warned that the collapse of the national economy could occur if certain stop-gap and long-term actions are not implemented to overcome the problems facing the automotive and machine tool sectors of our economy; and

Whereas, the loss of the physical capabilities of the automotive industry, especially its tool sector, could mean the end of America's status as a leading world economic power; and

Whereas, while it is in the best interests of our national security to have a strong, vibrant manufacturing and industrial sector, capable of producing the necessary machinery and technology to defend the citizens of the United States and protect our interests abroad, our manufacturing and industrial sector has experienced a dramatic reduction in capacity and production over the last several decades; and

Whereas, government has an obligation to promote economic activity through the cre-

ation of new capital investment, which will result in the expansion of employment opportunities and help jump-start long-term capital investment by private investors.; and

Whereas, as government leaders, we must ensure the continued viability of our automotive and machine tool industries, which is a vital element of the State and federal economy; and

Whereas, diversification of the productive potential of the automotive and machine tool industries into a broader sector of production, coupled with a shift into the domain of essential capital goods and economic infrastructure, such as the repair, expansion, and improvement of our national railway systems, and the development of other urgently needed infrastructure projects, will save existing manufacturing jobs and create large new areas of employment in infrastructure and manufacturing for our citizenry in a manner comparable to the best of the New Deal programs that rescued the nation and the world from the ravages of the Great Depression; and

Whereas, the impact of this intervention will be to provide thousands of productive jobs in the state of New Jersey, repair our infrastructure, and create at least ten million jobs nationally, thus restoring our tax base and increasing the standard of living. Now, therefore, be it

*Resolved by the Senate of the State of New Jersey:*

1. The Senate of the State of New Jersey respectfully memorializes the Congress of the United States to intervene on behalf of national economic interests to ensure that the productive potential of the automobile industry, with its featured technology and machine tool capability, be protected.

2. The Senate of the State of New Jersey respectfully memorializes the Congress of the United States to intervene to vastly expand the construction and maintenance of infrastructure projects and related industries.

3. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to each member of New Jersey's congressional delegation and to the Speaker and Clerk of the United States House of Representatives, Washington, D.C. and the President and Secretary of the United States Senate, Washington, D.C.

POM-8. A resolution adopted by the Senate of the State of Michigan memorializing the Congress to assist Michigan in rebuilding the State's economy, in light of Michigan's high rate of unemployment and pressures on the State's Unemployment Trust Fund; to the Committee on Finance.

#### SENATE RESOLUTION NO. 232

Whereas, our nation is facing an economic crisis, the depth and breath of which has not been seen in decades. With Michigan's historic connection to the automotive industry, the Great Lakes State's economic struggles have been a precursor to the nation's economic maelstrom. Michigan has the nation's highest unemployment rate and has lost 538,000 jobs since 2000. Clearly, federal assistance is necessary to help Michigan restart its economic engine and help drive the national economy back to full recovery. Given the severity of Michigan's economic downturn, the state should be given priority when distributing stimulus dollars to spur economic growth in our country; and

Whereas, indeed, Michigan is now at a tipping point between economic despair and recovery. Technological innovation and business reforms and efficiencies adopted in response to Michigan's "one-state recession" are already paying dividends. However, the national economy and numerous federal policies have continued to negatively impact our

state's ability to pull itself up by its bootstraps. Chief among these are Michigan's longtime status as a donor state for federal highway funding dollars and the relative lack of federal public works and defense investment in this state; and

Whereas, Congress could be of great assistance in our state's economic redevelopment efforts, in particular, temporarily suspending the federal match for highway infrastructure investment, improving the state's share of federal highway funding so Michigan is no longer a donor state, and giving greater weight to Michigan firms in contracting would provide an immediate stimulus to our stagnant state economy. Moreover, longer term efforts such as creating tax-free state economic recovery zones; reducing taxation on innovation, production, and investment; allowing states to designate certain areas of the state as exempt from federal corporate taxes capped at \$1 billion per year; enhancing investment tax credit availability; and targeting federal infrastructure investment to those states with the highest rates of unemployment would help provide economic stability where it is needed the most; now, therefore, be it

*Resolved by the Senate*, that we hereby memorialize the Congress of the United States to assist Michigan in rebuilding the state's economy, in light of unemployment and pressures on the state's Unemployment Trust Fund; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-9. A report from a law enforcement office relative to the Open Government Sunset Review Act; to the Committee on Finance.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. LANDRIEU, from the Committee on Small Business and Entrepreneurship, without amendment:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Small Business and Entrepreneurship.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself and Mr. GRASSLEY):

S. 434. A bill to amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. CASEY (for himself and Ms. SNOWE):

S. 435. A bill to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, health, gang-free, and law-abiding lives; to the Committee on the Judiciary.

By Mr. CORNYN:

S. 436. A bill to amend title 18, United States Code, to protect youth from exploi-

tation by adults using the Internet, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. GRAHAM, Mr. LEAHY, Mr. WYDEN, Mr. CRAPO, Mr. MARTINEZ, and Ms. LANDRIEU):

S. 437. A bill to amend the Internal Revenue Code of 1986 to allow the deduction of attorney-advanced expenses and court costs in contingency fee cases; to the Committee on Finance.

By Mr. WHITEHOUSE:

S. 438. A bill to provide for the voluntary development by States of qualifying best practices for health care and to encourage such voluntary development by amending titles XVIII and XIX of the Social Security Act to provide differential rates of payment favoring treatment provided consistent with qualifying best practices under the Medicare and Medicaid programs, and for other purposes; to the Committee on Finance.

By Mr. INOUE:

S. 439. A bill to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises, to stimulate the development of the private sector of Indian tribal economies, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER (for himself and Mr. LEAHY):

S. 440. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for attorney fees and costs in connection with civil claim awards; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. SANDERS, Mr. TESTER, and Ms. STABENOW):

S. 441. A bill to encourage the development of coordinated quality reforms to improve health care delivery and reduce the cost of care in the health care system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself and Ms. SNOWE):

S. 442. A bill to impose a limitation on lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 443. A bill to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. WHITEHOUSE:

S. 444. A bill to provide for the establishment of a health information technology and privacy system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Ms. LANDRIEU, Mr. CARPER, Mr. KERRY, Mrs. MCCASKILL, and Mr. COCHRAN):

S. 445. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, and Mr. CORNYN):

S. 446. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 447. A bill to amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy and agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER (for himself, Mr. SCHUMER, Mr. LUGAR, and Mr. GRAHAM):

S. 448. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 449. A bill to protect free speech; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Ms. STABENOW, Mr. TESTER, Mr. CONRAD, Mr. JOHNSON, and Mr. SCHUMER):

S. 450. A bill to understand and comprehensively address the oral health problems associated with methamphetamine use; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 49. A resolution to express the sense of the Senate regarding the importance of public diplomacy; to the Committee on Foreign Relations.

By Ms. LANDRIEU:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Small Business and Entrepreneurship; from the Committee on Small Business and Entrepreneurship; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. DURBIN, and Mr. WHITEHOUSE):

S. Con. Res. 7. A concurrent resolution honoring and remembering the life of Lawrence "Larry" King; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 259

At the request of Mr. BOND, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 259, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 311

At the request of Mrs. BOXER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign non-governmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 332

At the request of Mrs. FEINSTEIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 358

At the request of Mr. CORNYN, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oregon (Mr. WYDEN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 358, a bill to ensure the safety of members of the United States Armed Forces while using expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas.

S. 421

At the request of Mr. SPECTER, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. ROBERTS) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 421, a bill to impose a temporary moratorium on the phase out of the Medicare hospice budget neutrality adjustment factor.

S. 427

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 427, a bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program.

S. 433

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 433, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a renewable electricity standard, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Mr. GRASSLEY):

S. 434. A bill to amend title XIX of the Social Security Act to improve the State plan amendment option for providing home and community-based services under the Medicaid program, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, every day millions of Americans are faced with significant challenges when it comes to meeting their own personal needs or caring for a loved one who needs substantial support. Many elderly Americans and individuals of all ages with disabilities need long-term services and supports, such as assistance with dressing, bathing, preparing meals, and managing chronic conditions. They prefer to live and work in their community, and it is time that the Federal Government and states act as better partners to provide improved access to home and community-based long-term care services, HCBS.

The Medicaid program, administered by the States but jointly financed with the Federal Government, is our nation's largest payer for long-term care services. Medicaid spends about \$100

billion per year on long-term services. Despite recognizing that per person spending is much lower in community settings, and that people generally prefer community services, Medicaid still spends 61 percent of its long-term services spending in institutional settings. This disparity is due, in large part, to a strong access and payment bias in the program for institutional care.

Where Medicaid does offer HCBS, it is often in short supply, with more than 280,000 Medicaid beneficiaries on waiting lists for HCBS waiver services. Further, eligibility for HCBS waiver services requires beneficiaries to already have a very significant level of disability before gaining access, and they must meet a level of functional need that qualifies them for a nursing home. This not only contributes to the unmet needs of those in the community but it also prevents states from providing services that can help prevent beneficiaries from one day requiring high-cost institutional care. While institutionalized care may be an appropriate choice for some, it should be just that: a choice that individuals and families are allowed to make about the most appropriate setting for their own care.

The result of Medicaid's "institutional bias" is that, according to the Georgetown Health Policy Institute, "one in five persons living in the community with a need for assistance from others has unmet needs, endangering their health and demeaning their quality of life." This is simply unacceptable.

The lack of long-term care options available to families has a significant impact on their lives. Many of my constituents are affected, as are countless Americans across the country. Take the parents living in Newton who continue to wait for their physically disabled daughter, Julia, to have the opportunity to live independently. Julia is a young adult and instead of starting out on her own, she must watch as her peers move away and begin their independent lives—something she yearns to do as well. Growing up, Julia was able to attend Newton schools and keep a similar schedule to other children in the community but now has limited social interaction, as there is no other option but to live at home with her parents. Julia's parents are her full time caregivers and would like to see her able to live in an environment more conducive to both her needs and their own. Community-based care or home-based care in an apartment she could share with a roommate are options Julia and her parents would mutually benefit from. As the opportunities for the future grow for her peers, Julia's options continue to shrink because housing and home-based supports for adults with disabilities are limited at best. I have heard many stories similar to that of Julia, which emphasizes the urgency in which HCBS is needed. In addition to individual lives being put on hold, entire families must

deal with the consequences of inadequate services available to their family members.

Access to HCBS affects individuals in all stages of life, including Americans dealing with conditions such as Alzheimer's. Take Ann Bowers and Jay Sweatman for example. Without access to HCBS services, Jay, who suffers from early onset Alzheimer's, was forced to first move into assisted living and then a nursing home. By the time Jay was approved for HCBS it was too late and he was no longer able to live independently. Ann had worked tirelessly to coordinate her husband's care and get additional HCBS support but the process was so difficult that by the time help came, it was simply too late. This is just one case of many where early HCBS intervention would have not only saved time, money, and stress for family members, but would have made a significant impact on the quality of life and personal independence for Jay and Ann.

Today I am introducing, with my colleague from the Finance Committee, Senator GRASSLEY, the Empowered at Home Act, a bill that increases access to home and community-based services by giving states new tools and incentives to make these services more available to those in need. It has four basic parts.

First, it will improve the Medicaid HCBS State Plan Amendment Option by giving states more flexibility in determining eligibility for which services they can offer under the program, which will create greater options for individuals in need of long-term supports. In return we ask that states no longer cap enrollment and that services be offered throughout the entire state.

Second, the bill ensures that the same spousal impoverishment protections offered for new nursing home beneficiaries will be in place for those opting for home and community-based services. In addition, low-income recipients of home and community-based services will be able to keep more of their assets when they become eligible for Medicaid, allowing them to stay in their community as long as possible.

Third, the Empowered at Home Act addresses the financial needs of spouses and family members caring for a loved one by offering tax-related provisions to support family caregivers and promotes the purchase of meaningful private long-term care insurance.

Finally, the bill seeks to improve the overall quality of home and community-based services available by providing grants for states to invest in organizations and systems that can help to ensure a sufficient supply of high quality workers, promote health, and transform home and community-based care to be more consumer-centered.

I want to say a word about the Community Choice Act, legislation long-championed by Senator HARKIN that would make HCBS a mandatory benefit in Medicaid. I am a strong supporter

and co-sponsor of this landmark legislation, and look forward to working for its enactment as soon as possible. The legislation I am introducing today seeks to supplement—not supplant—the Community Choice Act by increasing access to HCBS for those who are disabled but not at a sufficient level of need to qualify for nursing home services. These two complimentary bills will finally make HCBS a right while vastly improving HCBS availability to vulnerable citizens of varying levels of disability.

I would also like to thank a number of organizations who have been integral to the development of the Empowered at Home Act and who have endorsed it today, including the National Council on Aging, the American Association of Retired Persons, AARP, the Arc of the United States, United Cerebral Palsy, the American Association of Homes and Services for the Aging, the Alzheimer's Association, the National Association of Area Agencies on Aging, the American Geriatrics Society, ANCOR, the Trust for America's Health, and SEIU.

Improving access to a range of long-term care services for the elderly and Americans of all ages with disabilities is an issue that must not stray from our Nation's health care priorities. I believe this legislation can move forward in a bi-partisan manner to dramatically improve access to high-quality home and community-based care for the millions of Americans who are not receiving the significant supports and services they need.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague Senator KERRY today to re-introduce the Empowered at Home Act for the 111th Congress. This bill is a continuation of efforts that I undertook in 2005 and again in 2008 to improve access to home and community based services for those needing long-term care. This is an important piece of legislation that continues our efforts to make cost-effective home and community based care options more available to those who need it.

In 2005, I introduced the Improving Long-term Care Choices Act with Senator BAYH. That legislation set forth a series of proposals aimed at improving the accessibility of long-term care insurance and promoting awareness about the protection that long-term care insurance can offer. It also sought to broaden the availability of the types of long-term care services such as home and community-based care, which many people prefer to institutional care.

The year 2005 ended up being a very important year for health policy as it relates to Americans who need extensive care. In the Deficit Reduction Act of 2005, Congress passed into law the Family Opportunity Act, the Money Follows the Person initiative, and many critical pieces of the Improving Long-term Care Choices Act. With the bill I am re-introducing today with

Senator KERRY, I hope to set us on the path to completing the work we started in 2005 and continued in 2008.

Making our long-term care system more efficient is a critical goal as we consider the future of health care. There are more than 35 million Americans, roughly 12 percent of the U.S. population, over the age of 65. This number is expected to increase dramatically over the next few decades as the baby boomers age and life expectancy increases. According to the U.S. Administration on Aging, by the year 2030, there will be more than 70 million elderly persons in the United States. As the U.S. population ages, more and more Americans will require long-term care services.

The need for long-term care will also be affected by the number of individuals under the age of 65 who may require a lifetime of care. Currently, almost half of all Americans who need long-term care services are individuals with disabilities under the age of 65. This number includes over 5 million working-age adults and approximately 400,000 children.

Long-term care for elderly and disabled individuals, including care at home and in nursing homes, represents almost 40 percent of Medicaid expenditures. Contrary to general assumptions, it is Medicaid, not Medicare that pays for the largest portion of long-term care for the elderly. Over 65 percent of Medicaid long-term care expenditures support elderly and disabled individuals in nursing facilities and institutions. Although most people who need long-term care prefer to remain at home, Medicaid spending for long-term care remains heavily weighted toward institutional care.

Section 6086 of the Deficit Reduction Act of 2005, DRA, P.L. 109-171, was based on the Improving Long-term Care Choices Act. The DRA provision authorized a new optional benefit under Medicaid that allows states to extend home and community-based services to Medicaid beneficiaries under the section 1915(i) Home and Community-Based Services State Option. Under this authority, states can offer Medicaid-covered home and community-based services under a state's Medicaid plan without obtaining a section 1915(c) home and community-based waiver. Eligibility for these section 1915(i) services may be extended only to Medicaid beneficiaries already enrolled in the program whose income does not exceed 150 percent of the Federal poverty level.

To date, only one State, my own state of Iowa, has sought to take advantage of the provision authorized through the DRA. While we had hoped far more states would participate, we know that the relatively low income cap, 150 percent, in the DRA provision creates an administrative complexity that has not made the option appealing for states.

The bill we are re-introducing today mirrors the one we introduced in 2008

during the 110th Congress. In this bill, the income eligibility standard would be raised for access to covered services under section 1915(i) to persons who qualify for Medicaid because their income does not exceed a specified level established by the state up to 300 percent of the maximum Supplemental Security Income, SSI, payment applicable to a person living at home. This will significantly increase the number of people eligible for these services. States will be able to align their institutional and home and community-based care income eligibility levels.

The bill would also establish two new optional eligibility pathways into Medicaid. These groups would be eligible for section 1915(i) home and community-based services as well as services offered under a state's broader Medicaid program. Under this bill, states with an approved 1915(k) state plan amendment would have the option to extend Medicaid eligibility to individuals: who are not otherwise eligible for medical assistance; whose income does not exceed 300 percent of the supplemental security income benefit rate; and who would satisfy state-established needs-based criteria based upon a state's determination that the provision of home and community-based services would reasonably be expected to prevent, delay, or decrease the need for institutionalized care. Under this new eligibility pathway, states could choose to either limit Medicaid benefits to those home and community-based services offered under section 1915(k) or allow eligibles to access services available under a state's broader Medicaid program in addition to the 1915(k) benefits. These changes will give the states the option of exploring the use of an interventional use of home and community-based services. If states have the flexibility to provide the benefit as contemplated in the bill, they can try to delay the need for institutional care and keep people in their homes longer.

As the number of Americans reaching retirement age grows proportionally larger, ultimately the number of Americans needing more extensive care will grow. Many of these Americans will look to Medicaid for assistance. States need more tools to provide numerous options to people in need so that they can stay in their own homes as long as possible.

The cost of providing long-term care in an institutional setting is far more expensive care than providing care in the home. States will benefit from having options before them that allow them to keep people appropriately in home settings longer. The more States learn how to use those tools, the more States and ultimately the Federal taxpayer will benefit from reduced costs for institutional care.

I am also pleased that this bill will include key provisions from S. 2337, the Long-Term Care Affordability and Security Act of 2007. The bill includes important tax provisions that I introduced in previous Congresses as well,

the Improving Long-term Care Choices Act of 2005, introduced in the 109th Congress.

Research shows that the elderly population will nearly double by 2030. By 2050, the population of those aged 85 and older will have grown by more than 300 percent. Research also shows that the average age at which individuals need long-term care services, such as home health care or a private room at a nursing home, is 75. Currently, the average annual cost for a private room at a nursing home is more than \$75,000. This cost is expected to be in excess of \$140,000 by 2030.

Based on these facts, we can see that our nation needs to prepare its citizens for the challenges they may face in old age. One way to prepare for these challenges is by encouraging more Americans to obtain long-term care insurance coverage. To date, only 10 percent of seniors have long-term care insurance policies, and only 7 percent of all private-sector employees are offered long-term care insurance as a voluntary benefit.

Under current law, employees may pay for certain health-related benefits, which may include health insurance premiums, co-pays, and disability or life insurance, on a pre-tax basis under cafeteria plans and flexible spending arrangements, FSAs. Essentially, an employee may elect to reduce his or her annual salary to pay for these benefits, and the employee doesn't pay taxes on the amounts used to pay these costs. Employees, however, are explicitly prohibited from paying for the cost of long-term care insurance coverage tax-free.

Our bill would allow employers, for the first time, to offer qualified long-term care insurance to employees under FSAs and cafeteria plans. This means employees would be permitted to pay for qualified long-term care insurance premiums on a tax-free basis. This would make it easier for employees to purchase long-term care insurance, which many find unaffordable. This should also encourage younger individuals to purchase long-term care insurance. The younger the person is at the time the long-care insurance contract is purchased, the lower the insurance premium.

Our bill also allows an individual taxpayer to deduct the cost of their long-term care insurance policy. In other words, the individual can reduce their gross income by the premiums that they pay for a long-term care policy, and therefore, pay less in taxes. This tax benefit for long-term care insurance should encourage more individuals to purchase these policies. It certainly makes a policy more affordable, especially for younger individuals. This would allow a middle-aged taxpayer to start planning for the future now.

Finally a provision that is included in our bill that I am really pleased with is one that provides a tax credit to long-term caregivers. Long-term caregivers could include the taxpayer

him- or herself. Senator KERRY and I recognize that these taxpayers—who have long-term care needs, yet are taking care of themselves—should be provided extra assistance. Also, taxpayers taking care of a family member with long-term care needs would also be eligible for the tax credit. These taxpayers should be given a helping hand. As our population continues to age, the least that we can do is provide a tax benefit for these struggling individuals.

By Mr. SPECTER (for himself, Mr. GRAHAM, Mr. LEAHY, Mr. WYDEN, Mr. CRAPO, Mr. MARTINEZ, and Ms. LANDRIEU):

S. 437. A bill to amend the Internal Revenue Code of 1986 to allow the deduction of attorney-advanced expenses and court costs in contingency fee cases; to the Committee on Finance.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation to amend Section 162 of the Internal Revenue Code to permit attorneys to deduct expenses and court costs incurred on behalf of contingency fee clients as an ordinary and necessary business expense in the year such expenses are sustained. I introduced the same legislation in the 110th Congress, and the bill attracted bipartisan support. My bill simply clarifies the law to make certain that attorneys who take on contingency fee cases are able to enjoy the same tax benefits as virtually every other small business in the country.

Contingency agreements between attorneys and clients are very common in personal injury, medical malpractice, product liability, Social Security disability, workers compensation, civil liberties, and employment cases. Under these agreements, an attorney pays all out-of-pocket costs associated with a case before any conclusion to the case. Such expenses include costs for expert witnesses, depositions, medical records, and court fees. Contingency agreements have numerous benefits to clients; in particular, indigent individuals who might otherwise be unable to afford legal services.

The obvious benefit to clients of contingency fee arrangements is that they do not have to incur out-of-pocket expenses for attorneys' fees. This may be particularly valuable to clients who do not have the ability to pay attorneys by the hour to advance their case. The arrangement also benefits the client by effectively spreading the risk of litigation. An hourly-rate payment agreement requires the client to assume all of the risk because the attorneys' fees are a sunk cost. However, under a contingent-fee arrangement, the attorney shares that risk and is only paid a fee if he wins the case or obtains a settlement.

Currently, the Internal Revenue Service, IRS, treats expenses and court costs on behalf of contingency clients as loans to the client. As a result, the IRS does not permit any deduction by

the attorney until the litigation is resolved, sometimes many years after the attorney has incurred the expenses on behalf of their client. The IRS treats the expenses and court costs as a loan despite the fact that no interest is charged and the lawyer only recoups costs if the case is won or settled. Not only is the IRS's position illogical, but it is contrary to a ruling by the United States Court of Appeals for the 9th Circuit.

In *Boccardo v. Commissioner*, 56 F.3d 1016, 9th Cir. 1995, the 9th Circuit held that because the firm had a "gross fee" contract with the client, the firm incurred ordinary and necessary business expenses in the payment of costs and charges in connection with its clients' litigation. Consequently, litigation costs such as filing fees, witness fees, travel expenses, and medical consultation fees were deductible as ordinary and necessary business expenses in the year the costs were incurred on behalf of the clients. In a "gross fee" contract, the client is only obligated to pay their attorney a percentage of the amount recovered and is not expressly responsible for specific repayment of costs. While the *Boccardo* court contrasted "gross fee" contracts with "net fee" contracts, such a distinction is trivial for tax purposes. In both agreements, the attorney takes a considerable business risk to incur significant costs on behalf of a client and only recoups the expenses if a recovery is won.

Despite the *Boccardo* court's ruling in favor of attorneys, the IRS continues to treat the out-of-pocket costs related to contingency fee cases as loans. Lawyers who make the decision to deduct these costs are exposed to potential audit and litigation. Over the past 13 years, taxpayers have had to proceed at their own peril—Ninth Circuit taxpayers risk a conflict with the IRS on this matter despite the case law, and taxpayers outside of the Ninth Circuit have no guidance at all since they cannot directly rely on *Boccardo*.

My bill reverses an unfair IRS position by treating these businesses the same as all other small businesses. It does so by allowing attorneys with contingency fee clients to deduct their expenses and costs in the year that they are paid. My legislation does not give attorneys anything above and beyond that which is currently enjoyed by virtually every other small business in our country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 437

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

**SECTION 1. DEDUCTION OF ATTORNEY-ADVANCED EXPENSES AND COURT COSTS IN CONTINGENCY FEE CASES.**

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (q) as subsection (r) and by

inserting after subsection (p) the following new subsection:

“(q) **ATTORNEY-ADVANCED EXPENSES AND COURT COSTS IN CONTINGENCY FEE CASES.**—There shall be allowed as a deduction under this section any expenses and court costs paid or incurred by an attorney the repayment of which is contingent on a recovery by judgment or settlement in the action to which such expenses and costs relate. Such deduction shall be allowed in the taxable year in which such expenses and costs are paid or incurred by the taxpayer.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to expenses and costs paid or incurred after the date of the enactment of this Act, in taxable years beginning after such date.

By Mr. INOUE:

S. 439. A bill to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises, to stimulate the development of the private sector of Indian tribal economies, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, I rise today to introduce a bill to establish an Indian Development Finance Corporation as an independent, Federally-chartered corporation that is modeled after the family of Development Banks established by the World Bank in lesser-developed countries around the world.

Mr. President, in my more than 30 years of service on the U.S. Senate Committee on Indian Affairs, I have visited many Indian communities and Alaska Native villages, and I have seen that in many parts of Indian country, there are economic and social conditions that are as dire as those conditions found in the so-called “lesser developed countries” around the world. And although we have seen some economic success in recent years across Native America as a result of the Indian Gaming Regulatory Act, most Indian tribes and Native villages are not engaged in the conduct of gaming, nor have tribal governments found the means to overcome the challenges associated with their remote locations from populations centers and market places that serve the commercially-successful tribal gambling operations.

In those rurally-isolated areas, there is real potential to succeed in developing viable local economies based on agricultural and fishery resources, and the development of the vast energy resources that are located on Indian lands. What these Native communities need is the type of development financing services that the World Bank has successfully established—institutions empowered to make small, leveraged capital investments and economic infrastructure development to support tailored industrial programs, internet-based communication services, national and international trade agreements, and economic research capabilities. An Indian Development Finance Corporation could provide these kinds

of services through a network of centers that would be based in Indian Country.

Under this bill, the Corporation would be authorized to issue 500,000 shares of common stock at \$50 per share to every Tribal Nation in Indian Country and Alaska. The Corporation would be managed by a Board elected by the Tribal shareholders and the Board would be charged with hiring a President and a team of managers as well as set operating policies. Seed capital would be injected into the Indian Development Finance Corporation (IDFC) by the U.S. Treasury in exchange for the issuance of capital stock. Initially, \$20 million in start-up funds would be invested and after the majority of common stock was purchased by tribes, another \$80 million would be authorized.

I believe that the IDFC can take advantage of opportunities to integrate the economic stimulus activities soon to be created by the American Recovery and Reinvestment Act, and. I am confident that there will be support forthcoming from those tribal governments and Alaska Native corporations that have the resources to invest in the economic infrastructure initiatives that will be established by the IDFC in this period of our greatest need.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 439

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Indian Development Finance Corporation Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and policy.
- Sec. 3. Definitions.

**TITLE I—INDIAN DEVELOPMENT FINANCE CORPORATION**

- Sec. 101. Establishment of Corporation.
- Sec. 102. Duties and powers.
- Sec. 103. Loans and obligations.
- Sec. 104. Board of Directors.
- Sec. 105. President of Corporation.
- Sec. 106. Annual shareholder meetings.
- Sec. 107. Annual reports; development plan.

**TITLE II—CAPITALIZATION**

- Sec. 201. Issuance of stock.
- Sec. 202. Borrowing authority.

**TITLE III—AUTHORIZATION OF APPROPRIATIONS**

- Sec. 301. Authorization of appropriations.

**SEC. 2. FINDINGS AND POLICY.**

(a) **FINDINGS.**—Congress finds that—

(1) a special relationship has existed between the United States and Indian tribes, which is recognized in clause 3 of section 8 of article I of the Constitution of the United States;

(2) pursuant to laws, treaties, and administrative authority, Congress has implemented activities to fulfill the responsibility of the United States for the protection and preservation of Indian tribes and tribal resources;

(3) despite the availability of abundant natural resources on Indian land and a rich cultural legacy that places great value on self-determination, self-reliance, and independence, Indians and Alaska Natives experience poverty and unemployment, together with associated incidences of social pathology, to an extent unequaled by any other group in the United States;

(4)(A) the reasons for that poverty and unemployment have been widely studied and documented by Congress, the Government Accountability Office, the Department of the Interior, private academic institutions, and Indian tribes; and

(B) the studies described in subparagraph (A) have consistently identified as fundamental obstacles to balanced economic growth and progress by Indians and Alaska Natives—

(i) the very limited availability of long-term development capital and sources of financial credit necessary to support in Indian country the development of a private sector economy comprised of Indian-owned business enterprises;

(ii) the lack of effective control by Indians over their own land and resources; and

(iii) the scarcity of experienced Indian managers and technicians;

(5) previous efforts by the Federal Government directed at stimulating Indian economic development through the provision of grants, direct loans, loan guarantees, and interest subsidies have fallen far short of objectives due to—

(A) inadequate funds;

(B) lack of coordination;

(C) arbitrary project selection criteria;

(D) politicization of the delivery system; and

(E) other inefficiencies characteristic of a system of publicly administered financial intermediation; and

(6) the experience acquired by multilateral lending institutions among “lesser-developed countries” has demonstrated the value and necessity of development financial institutions in achieving economic growth in underdeveloped economies and societies that are strikingly similar to Indian and Alaska Native communities in relation to matters such as—

(A) control over natural resource management;

(B) the absence of experienced, indigenous managers and technicians; and

(C) the availability of long-term development capital and private sources of financial credit.

(b) **POLICY.**—It is the policy of the United States that, in fulfillment of the special and long-standing responsibility of the United States to Indian tribes, the United States should provide assistance to Indians in efforts to break free from the devastating effects of extreme poverty and unemployment and achieve lasting economic self-sufficiency through the development of the private sector of tribal economies by establishing a federally chartered, mixed-ownership development financing institution to provide a broad range of financial intermediary services (including working capital, direct loans, loan guarantees, and project development assistance) using the proven efficiencies of the private market mode of operation.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **BOARD.**—The term “Board” means the Board of Directors of the Corporation.

(2) **CORPORATION.**—The term “Corporation” means the Indian Development Finance Corporation established by section 101(a).

(3) **INDIAN.**—The term “Indian” means an individual who is a member of an Indian tribe.

(4) INDIAN BUSINESS ENTERPRISE.—

(A) IN GENERAL.—The term “Indian business enterprise” means any commercial, industrial, or business entity—

(i) at least 51 percent of which is owned by 1 or more Indian tribes;

(ii) that produces or provides goods, services, or facilities on a for-profit basis;

(iii) that is chartered or controlled by an Indian tribe or tribal organization that is a [shareholder/member] of the Corporation;

(iv) the principal place of business of which is located within or adjacent to the boundaries of a reservation; and

(v) the principal business activities of which, in addition to the production of a stream of income, as determined by the Corporation—

(I) are directly beneficial to an Indian tribe; and

(II) contribute to the economy of that Indian tribe.

(B) INCLUSION.—The term “Indian business enterprise” includes any subsidiary entity owned and controlled by an entity described in subparagraph (A).

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) RESERVATION.—The term “reservation” has the meaning given the term in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(8) TRIBAL ORGANIZATION.—The term “tribal organization” means—

(A) the governing body of an Indian tribe; and

(B) any entity established, controlled, or owned by such a governing body.

## TITLE I—INDIAN DEVELOPMENT FINANCE CORPORATION

### SEC. 101. ESTABLISHMENT OF CORPORATION.

(a) IN GENERAL.—There is established a corporation, to be known as the “Indian Development Finance Corporation”.

(b) POWERS OF CONGRESS.—Congress shall have the sole authority—

(1) to amend the charter of the Corporation; and

(2) to terminate the Corporation.

### SEC. 102. DUTIES AND POWERS.

(a) DUTIES.—The Corporation shall—

(1) provide development capital through financial services under section 103;

(2) encourage the development of new and existing Indian business enterprises eligible to receive assistance from the Corporation by providing, and coordinating the availability of—

(A) long-term capital and working capital;

(B) loans, loan guarantees, and other forms of specialized credit; and

(C) technical and managerial assistance and training;

(3) maintain broad-based control of the Corporation relative to the voting shareholders of the Corporation;

(4) encourage active participation in the Corporation by Indian tribes through ownership of equity securities of the Corporation; and

(5) otherwise assist in strengthening Indian tribal economies through the development of Indian business enterprises.

(b) POWERS.—In carrying out this Act, the Corporation may—

(1) adopt and alter a corporate seal, which shall be judicially noticed;

(2)(A) enter into agreements and contracts with individuals, Indian tribes, and private or governmental entities; and

(B) make payments or advance payments under those agreements and contracts without regard to section 3324 of title 31, United

States Code, except that the Corporation shall provide financial assistance only in accordance with this Act;

(3) with respect to any real, personal, or mixed property (or any interest in such property)—

(A) lease, purchase, accept gifts or donations of, or otherwise acquire the property;

(B) own, hold, improve, use, or otherwise deal in or with the property; and

(C) sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of the property;

(4)(A) sue and be sued in corporate name;

(B) complain and defend in any court of competent jurisdiction; and

(C) represent itself, or contract for representation, in any judicial, legal, or other proceeding;

(5)(A) with the approval of the department or agency concerned, make use of the services, facilities, and property of any board, commission, independent establishment, or Federal department or agency in carrying out this Act; and

(B) pay for that use, with the payments to be credited to the applicable appropriation that incurred the expense;

(6) use the United States mails on the same terms and conditions as a Federal department or agency;

(7) obtain insurance or make other provisions against losses;

(8) participate with 1 or more other financial institutions, agencies, instrumentalities, trusts, or foundations in loans or guarantees provided under this Act on such terms as may be agreed on;

(9) accept guarantees from other agencies for which loans made by the Corporation may be eligible;

(10) establish, as soon as practicable, regional offices to more efficiently serve the widely dispersed Indian population;

(11) buy and sell—

(A) obligations of, or instruments insured by, the Federal Government; and

(B) securities backed by the full faith and credit of any Federal department or agency;

(12) make such investments as the Board determines to be appropriate;

(13) establish such offices within the Corporation as are necessary, including—

(A) project development;

(B) project evaluation and auditing;

(C) fiscal management;

(D) research and development; and

(E) such other activities as are authorized by the Board; and

(14) exercise all other authority necessarily or reasonably relating to the establishment of the Corporation to carry out this Act.

### SEC. 103. LOANS AND OBLIGATIONS.

(a) IN GENERAL.—The Corporation may—

(1) make loans or commitments for loans to any Indian business enterprise; and

(2) purchase, insure, or discount any obligation of an Indian business enterprise, if the Indian business enterprise meets the requirements of subsection (b).

(b) REQUIREMENTS.—An Indian business enterprise meets the requirements of this subsection if the Corporation determines that—

(1) the Indian business enterprise has or will have—

(A) a sound organizational and financial structure;

(B) income in excess of the operating costs of the Indian business enterprise;

(C) assets in excess of the obligations of the Indian business enterprise; and

(D) a reasonable expectation of continuing demand for—

(i) the products, goods, commodities, or services of the Indian business enterprise; or

(ii) the facilities of the Indian business enterprise; and

(2) the loan or obligation proposed to be purchased, insured, or discounted will be fully repayable by the Indian business enterprise in accordance with the terms and conditions of the loan or obligation.

(c) TERMS, RATES, AND CHARGES.—

(1) IN GENERAL.—In establishing the terms, rates, and charges for a loan provided under this section, the Corporation, to the maximum extent practicable, shall seek to provide the type of credit needed by the applicable Indian business enterprise at the lowest reasonable cost and on a sound business basis, taking into consideration—

(A) the cost of money to the Corporation;

(B) the necessary reserve and expenses of the Corporation; and

(C) the technical and other assistance attributable to loans made available by the Corporation under this section.

(2) INTEREST RATES.—The terms of a loan under this subsection may provide for an interest rate that varies from time to time during the repayment period of the loan in accordance with the interest rates being charged by the Corporation for new loans during those periods.

(d) ADVANCING AND RELOANING.—A loan provided under this section may be advanced or reloaned by the Corporation to any member or shareholder of the Corporation for the development of an individually owned business on or adjacent to a reservation, in accordance with the bylaws of the Corporation.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Corporation may guarantee any part of the principal or interest of a loan that is provided—

(A) by a State-chartered or federally chartered lending institution to an Indian business enterprise that meets the requirements of subsection (b); and

(B) in accordance with such terms and conditions (including the rate of interest) as would be permissible if the loan was a direct loan provided by the Corporation.

(2) CHARGES.—The Corporation may impose a charge for a loan guarantee provided under this subsection.

(3) LIMITATION.—The Corporation shall not provide a loan guarantee under this subsection if the income to the lender from the applicable loan is excludable from the gross income of the lender for purposes of chapter 1 of the Internal Revenue Code of 1986.

(4) ASSIGNABILITY.—A loan guarantee under this subsection shall be assignable to the extent provided in the contract for the loan guarantee.

(5) INCONTESTABILITY.—A loan guarantee under this subsection shall be incontestable, except in any case of fraud or misrepresentation of which the holder of the loan had actual knowledge at the time the holder acquired the loan.

(6) PURCHASE OF GUARANTEED LOANS.—

(A) IN GENERAL.—In lieu of requiring the original lender to service a loan guaranteed under this subsection until final maturity or liquidation, the Corporation may purchase the guaranteed loan without penalty, if the Corporation determines that—

(i) the purchase would not be detrimental to the interests of the Corporation;

(ii) liquidation of the guaranteed loan would—

(I) result in the insolvency of the borrower; or

(II) deprive the borrower of an asset essential to continued operation; and

(iii)(I) the guaranteed loan will be repayable on revision of the rates, terms, payment periods, or other conditions of the loan, consistent with loans made by the Corporation under subsection (a)(1); but

(II) the lender or other holder of the guaranteed loan is unwilling to make such a revision.

(B) AMOUNT.—The amount paid by the Corporation to purchase a loan under subparagraph (A) shall not exceed an amount equal to the sum of—

(i) the balance of the principal of the loan; and

(ii) the amount of interest accrued on the loan as of the date of purchase.

(f) PURCHASES OF EQUITY AND OWNERSHIP; SUPERVISION AND PARTICIPATION.—

(1) PURCHASES OF EQUITY AND OWNERSHIP.—For purposes of providing long-term capital and working capital to Indian business enterprises, the Corporation may purchase, or make commitments to purchase, any portion of the equity or ownership interest in the Indian business enterprise if the Corporation determines, after a full and complete appraisal of all project and business plans associated with the investment, that the investment will not expose the Corporation to any unreasonable business risk, taking into consideration applicable development finance standards, as applied to Indian economic development in light of the socioeconomic, political, and legal conditions unique to reservations.

(2) SUPERVISION AND PARTICIPATION.—The Corporation may supervise or participate in the management of an Indian business enterprise in which an investment has been made under paragraph (1), in accordance with such terms and conditions as are agreed to by the Corporation and the Indian business enterprise, including the assumption of a directorship in the corporate body of the Indian business enterprise by an officer of the Corporation.

#### SEC. 104. BOARD OF DIRECTORS.

(a) MEMBERSHIP.—The Corporation shall be headed by a board of directors, to be composed of 21 members, of whom—

(1) 1 shall be a Federal official, to be appointed by the Secretary;

(2) 19 shall be representatives of the shareholders of the Corporation, to be appointed by the Secretary—

(A) based on consultation with, and recommendations from, Indian tribes;

(B) in accordance with subsection (b); and

(C) taking into consideration the experience of a representative regarding—

(i) private business enterprises; and

(ii) development or commercial financing; and

(3) 1 shall be the president of the Corporation.

(b) APPOINTMENT OF SHAREHOLDER REPRESENTATIVES.—The initial members of the Board appointed under subsection (a)(2) shall be appointed by the Secretary, based on recommendations from Indian tribal leaders.

(c) TERMS OF SHAREHOLDER REPRESENTATIVES.—The terms of service of the initial members of the Board appointed under subsection (a)(2) shall terminate at the beginning of the first annual meeting of shareholders of the Corporation held as soon as practicable after the date on which subscriptions have been paid for at least 10 percent of the common stock of the Corporation initially offered for sale to Indian tribes under section 201(b).

(d) VACANCIES.—

(1) IN GENERAL.—Subject to paragraph (2), a vacancy on the Board resulting from the resignation or removal of a member of the Board shall be filled by the Board in accordance with the bylaws of the Corporation.

(2) TERM.—The term of service of a member of the Board appointed under paragraph (1) shall terminate at the beginning of the next annual shareholder meeting of the Corporation occurring after the date of appointment.

(e) REMOVAL.—A member of the Board may be removed from office by the Board only for—

(1) neglect of duty; or

(2) malfeasance in office.

(f) ADMINISTRATIVE DUTIES.—

(1) CHAIRPERSON AND VICE-CHAIRPERSON.—

The Board shall annually elect from among the members of the Board described in [subsection (a)(2)] a chairperson and vice-chairperson.

(2) POLICIES AND MANAGEMENT.—The Board shall—

(A) establish the policies of the Corporation; and

(B) supervise the management of the Corporation.

(3) BYLAWS.—The Board shall adopt and amend, as necessary, such bylaws as are necessary for the proper management and function of the Corporation.

(4) MEETINGS.—

(A) IN GENERAL.—The Board shall meet at the call of the chairperson of the Board, in accordance with the bylaws of the Corporation, not less frequently than once each quarter.

(B) PRIVATE EXECUTIVE SESSIONS.—The Board may meet in a private executive session if the matter involved at the meeting may impinge on the right of privacy of an individual.

(g) MEMBER APPOINTED BY SECRETARY.—The member of the Board appointed by the Secretary under subsection (a)(1) shall—

(1) have 20 percent of the share of votes cast at each annual shareholder meeting; and

(2) be overruled only by  $\frac{2}{3}$  majority vote at a regular meeting of the Board with respect to any matter regarding—

(A) a request by the Board of capital under subsection (b)(3)(B) or (c)(2)(B) of section 201;

(B) borrowing by the Corporation of any amount in excess of \$10,000,000;

(C) a loan or investment made by the Corporation in excess of \$10,000,000; or

(D) a change to an investment or credit policy of the Corporation.

(h) COMPENSATION.—

(1) NON-GOVERNMENTAL EMPLOYEES.—A member of the Board who is not otherwise employed by the Federal Government or a State government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveling time, during which the member carries out a duty as a member of the Board.

(2) GOVERNMENTAL EMPLOYEES.—A member of the Board who is an officer or employee of the Federal Government or a State government shall serve without additional compensation.

(3) TRAVEL AND OTHER EXPENSES.—Each member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in carrying out a duty as a member of the Board.

#### SEC. 105. PRESIDENT OF CORPORATION.

(a) APPOINTMENT.—The Board shall appoint a president of the Corporation.

(b) DUTIES AND POWERS.—The president shall—

(1) serve as the chief executive officer of the Corporation; and

(2) subject to the direction of the Board and the general supervision of the chairperson, carry out the policies and functions of the Corporation;

(3) manage the personnel and activities of the Corporation; and

(4) on approval of the Board, appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Corporation, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; or

(B) chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

#### SEC. 106. ANNUAL SHAREHOLDER MEETINGS.

(a) MEETINGS.—

(1) IN GENERAL.—The Corporation shall hold meetings of the shareholders of the Corporation not less frequently than once each year.

(2) OPENNESS.—A shareholder meeting under this section shall be held open to the public.

(3) NOTICE.—The Corporation shall provide to each shareholder of the Corporation a notice of each shareholder meeting under this section by not later than 30 days before the date of the meeting.

(b) ACTIVITIES.—

(1) CORPORATION.—At a shareholder meeting under this section, the Corporation—

(A) shall provide to shareholders a report describing—

(i) the activities of the Corporation during the preceding calendar year; and

(ii) the financial condition of the Corporation as in effect on the date of the meeting; and

(B) may present to the shareholders proposals for future action and other matters of general concern to shareholders and Indian business enterprises eligible to receive services of the Corporation.

(2) SHAREHOLDERS.—At a shareholder meeting under this section, a shareholder of the Corporation may—

(A) present a motion or resolution relating to any matter within the scope of this Act; and

(B) participate in any discussion relating to such a matter or any other matter on the agenda of the meeting.

(c) VOTING.—Each Indian tribe that is a member of the Corporation may vote the common stock of the Indian tribe regarding—

(1) any matter on the agenda of a meeting under this section; or

(2) any other matter relating to the election of a member of the Board.

#### SEC. 107. ANNUAL REPORTS; DEVELOPMENT PLAN.

(a) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Board shall submit to the appropriate committees of Congress a report describing—

(A) the activities of the Corporation during the preceding calendar year; and

(B) the capital and financial condition of the Corporation as in effect on the date of submission of the report.

(2) INCLUSION.—Each report under paragraph (1) shall include recommendations for legislation to improve the services of the Corporation.

(b) DEVELOPMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Corporation shall submit to Congress a comprehensive, 5-year organizational development plan that includes—

(1) financial projections for the Corporation;

(2) a description of the corporate structure and locations of the Corporation; and

(3) operational guidelines for the Corporation, particularly regarding the coordinating relationship the Corporation has, or plans to have, with Federal domestic assistance programs that allocate financial resources and services to Indian tribes and reservations for economic and business development purposes.

#### TITLE II—CAPITALIZATION

##### SEC. 201. ISSUANCE OF STOCK.

(a) ISSUANCE.—

(1) IN GENERAL.—The Corporation may issue shares of stock in the Corporation, in

such quantity and of such class as the Board determines to be appropriate, in accordance with this section.

(2) REQUIREMENT.—A share of stock under paragraph (1) may be issued to, and held by, only—

- (A) an Indian tribe; or
- (B) the Federal Government.

(3) REDEMPTION AND REPURCHASE.—The Corporation may redeem or repurchase a share of stock issued pursuant to paragraph (1) [at a price to be determined by the Board].

(b) INITIAL OFFERING OF COMMON STOCK.—

(1) IN GENERAL.—The Corporation shall make an initial offering of common stock of the Corporation to Indian tribes under this section—

(A) in a quantity of not less than 500,000 shares; and

(B) at a price of not less than \$50 per share.

(2) FORM OF PAYMENT.—Of the price paid by an Indian tribe for a share of stock of the Corporation under this subsection—

(A) 20 percent shall be provided in cash or cash-equivalent securities; and

(B) 80 percent shall be provided in the form of a legally binding financial commitment that is—

(i) available at the request of the Board to meet the obligations of the Corporation; but

(ii) not available for any lending activity or administrative expenses of the Corporation.

(c) SUBSCRIPTION BY SECRETARY FOR SHARES OF CAPITAL STOCK.—

(1) IN GENERAL.—The Secretary may subscribe for not more than 2,000,000 shares of capital stock of the Corporation.

(2) PAYMENTS.—

(A) INITIAL PERIOD.—Not later than 2 years after the date of enactment of this Act, the Secretary shall pay to the Corporation for subscription for capital stock under paragraph (1) not less than \$20,000,000.

(B) SUBSEQUENT PERIOD.—

(1) IN GENERAL.—Beginning in fiscal year 2012, the Secretary shall pay to the Corporation for subscription for capital stock under paragraph (1)—

(I) \$80,000,000; or

(II) such lesser amount as the Board may request, in accordance with clause (ii).

(ii) REQUESTS BY BOARD.—The amount of a request by the Board under clause (i)(II) shall be determined jointly by the Secretary and the Board based on an assessment of the need of the Corporation, taking into consideration a risk analysis of the investment and credit policies and practices of the Corporation.

(iii) LIMITATIONS.—A payment under this subparagraph—

(I) shall be subject to the availability of appropriations;

(II) shall be provided only as needed to meet the obligations of the Corporation; and

(III) shall not be available for any lending activity or administrative expenses of the Corporation.

(3) REQUIREMENTS.—A share of capital stock subscribed for by the Secretary under this subsection—

(A) shall be valued at not less than \$50 per share;

(B) shall be nonvoting stock;

(C) shall not accrue dividends; and

(D) shall not be transferred to any individual or entity other than the Corporation.

(d) EXEMPTED SECURITIES.—A share of stock, and any other security or instrument, issued by the Corporation shall be considered to be an exempted security for purposes of the laws (including regulations) administered by the Securities and Exchange Commission.

#### SEC. 202. BORROWING AUTHORITY.

(a) ISSUANCE OF OBLIGATIONS.—The Corporation may issue such bonds, notes, and other obligations at such times, bearing interest at such rates, and containing such terms and conditions as the Board, in consultation with the Secretary of the Treasury, determines to be appropriate.

(b) AMOUNT OF OBLIGATIONS.—The aggregate amount of the obligations issued pursuant to subsection (a) shall not exceed an amount equal to the sum of—

(1) the product obtained by multiplying—

(A) the sum of—

(i) the paid-in capital of the Corporation; and

(ii) the retained earnings and profits of the Corporation; and

(B) 10; and

(2) the sum of the book values of—

(A) the capital subject to request of the Board represented by the total commitments of Indian tribal shareholders under section 201(b)(2)(B); and

(B) the amount paid by the Secretary under section 201(c)(2).

(c) SALE OF OBLIGATIONS.—An obligation of the Corporation under subsection (a) may be—

(1) issued through an agent by negotiation, offer, bid, syndicate sale, or otherwise; and

(2) completed by book entry, wire transfer, or any other appropriate method.

#### TITLE III—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL OPERATIONAL EXPENSES.—There are authorized to be appropriated—

(1) \$2,000,000 for fiscal year 2009 to carry out this Act;

(2) \$2,500,000 for each of fiscal years 2010 through 2014 to carry out project development activities under this Act; and

(3) such sums as are necessary to carry out this Act (other than subparagraphs (A) and (B) of section 201(c)(2)) for each of fiscal years 2010 through 2014.

(b) PAID-IN CAPITAL STOCK.—There are authorized to be appropriated—

(1) for each of fiscal years 2010 and 2011, \$10,000,000 to carry out section 201(c)(2)(A); and

(2) for fiscal year 2011 and each fiscal year thereafter, \$80,000,000 to carry out section 201(c)(2)(B).

By Mr. SPECTER (for himself and Mr. LEAHY):

S. 440. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for attorney fees and costs in connection with civil claim awards; to the Committee on Finance.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation to amend Section 62(a)(20) of the Internal Revenue Code to allow taxpayers to subtract from their taxable gross income the attorneys' fees and court costs paid by the taxpayer in connection with an award or settlement of monetary damages in a civil claim. Such a deduction is commonly referred to as an "above-the-line" deduction.

Under current law, there is an inequity in the tax code that results in the double taxation of attorneys' fees and costs in certain circumstances. In addition, attorneys' fees paid by individuals in recovering a taxable award in certain civil claims are only deductible as miscellaneous itemized deductions. As such, they are subject to a re-

duction equal to two percent of the individual's adjusted gross income and subject to a complete disallowance when calculating the alternative minimum tax. Consequently, many plaintiffs end up incurring significant tax liability beyond the amount they actually bring home after winning or settling a case.

Congress partially corrected the problem in 2004, when we passed, and President Bush signed, the American Jobs Creation Act of 2004, Jobs Act. The Jobs Act allows an above-the-line deduction for amounts attributable to attorneys' fees and costs received by individuals based on claims brought under certain statutes, including the False Claims Act, 1862(b)(3)(A) of the Social Security Act, or unlawful discrimination claims. Prior to enactment of the Jobs Act, the Internal Revenue Code already excluded from income awards arising out of claims relating to physical injury and sickness. However, attorneys' fees paid in the pursuit and collection of punitive awards, awards for libel, slander, or other awards in cases not involving a physical injury or a claim of discrimination are still not subtracted from gross income.

In 2005, the United States Supreme Court added further confusion to the issue. In *Commissioner v. Banks*, 543 U.S. 426 (2005), the Court attempted to resolve a circuit split on the Federal income tax treatment of attorneys' fees. In an 8-0 opinion, the Court held that when a litigant's recovery constitutes income, the litigant's income includes the portion of the recovery paid to the attorney as a contingent fee. Consequently, for those claims not excluded from gross income in the Jobs Act, attorneys' fees are subjected to double taxation; subjected to a reduction equal to two percent of the individual's adjusted gross income when listed as a miscellaneous itemized deduction; and subjected to a complete disallowance when calculating the alternative minimum tax.

My legislation corrects the problem by permitting taxpayers to subtract from their taxable gross income the attorneys' fees and court costs paid by the taxpayer in connection with an award or settlement of monetary damages in all civil claims. The legislation would ensure more uniform treatment of contingency fees in all types of litigation, not just the limited categories of litigation as specified in the Jobs Act. Importantly, this change does not affect the requirement that attorneys pay federal income tax on legal fees they receive. The legislation does eliminate the inequity of the client also paying taxes on attorneys' fees despite not receiving the funds under the terms of a contingency fee contract.

I encourage my colleagues to join me in this effort to bring fairness to the tax code.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 440

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

**SECTION 1. ABOVE-THE-LINE DEDUCTION FOR ATTORNEY FEES AND COSTS IN CONNECTION WITH CIVIL CLAIM AWARDS.**

(a) IN GENERAL.—Paragraph (20) of section 62(a) of the Internal Revenue Code of 1986 is amended to read as follows:

“(20) COSTS INVOLVING CIVIL CASES.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a civil claim. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.”.

(b) CONFORMING AMENDMENT.—Section 62 of the Internal Revenue Code of 1986 is amended by striking subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after the date of the enactment of this Act with respect to any judgment or settlement occurring after such date.

Mr. LEAHY. Mr. President, I am pleased to join Senator SPECTER in the introduction of two bills, S. 437 and S. 440, that will correct inconsistencies and provide fairness to lawyers and their clients under the Federal Tax Code.

Currently, attorneys who take on contingency fee cases, and advance their clients funds for court costs, witnesses, or other expenses, cannot deduct these expenses as ordinary business expenses at the time they are made. Instead, attorneys who advance these costs may not take a deduction until the case for which they are advanced is resolved. In most cases this is a timeframe of several years. This results in an attorney carrying the burden of these costs from year to year until the case is resolved. For many small law firms or solo practitioners, this is a significant burden.

Where attorneys are advancing costs to clients so that those clients may pursue their rights in court, they deserve to be treated as any other small business owner. This disparate treatment is inequitable and correcting it will make legal representation more easily provided by attorneys and more available to clients.

The other bill we introduce today helps clients who have been awarded funds through a contingency fee arrangement. Under current tax law, punitive damages awards and awards to a plaintiff resulting from certain claims are subject to Federal taxation for the entire amount of the award, even if the plaintiff then uses a portion to satisfy a contingency fee agreement. The result is that the portion of an award to a plaintiff in a contingency fee arrangement that then goes to an attorney is taxed twice—once through the plaintiff and again through the attorney.

This legislation will allow a plaintiff who has recovered an award to take an above the line deduction for the portion of his or her award that will be transmitted to the attorney who provided the representation. This is a commonsense solution and where an individual has suffered an injury and will rely on his or her award it is sound policy to reduce this unnecessary and duplicative tax burden.

Neither of these bills gives any special treatment to attorneys or their clients. Rather, in combination, they will help attorneys provide more representation to clients who by virtue of their financial or other circumstances must enter a contingency fee arrangement, and will allow a greater amount of funds recovered to be put to use by the individual for whose benefit they were awarded.

I thank Senator SPECTER for introducing this legislation and I hope all Senators will join us in supporting these sensible corrections to our Tax Code.

By Mr. DORGAN (for himself and Ms. SNOWE):

S. 442. A bill to impose a limitation on lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I join today with Senator DORGAN to address the growing problem of beneficiaries who exceed their lifetime cap on health care coverage. Today, many Americans responsibly purchase a health plan to cover themselves and their loved ones in case of illness. Tragically, some of these individuals become stricken by illness that is extremely expensive to treat, and too often exceeds their policy's lifetime cap provision. After doing all you can to act responsibly and avoid becoming a burden on society, an overly restrictive lifetime cap on benefits can cause one to go bankrupt—and ultimately shifts costs to public programs such as Medicaid.

We have seen that even beneficiaries who acquire health insurance with seemingly hefty lifetime caps have found that the high cost of modern treatments—combined with medical inflation which exceeds the consumer price index by two to threefold—has greatly deflated the true value of the lifetime cap. The legislation offered today addresses this issue by setting a higher minimum cap. It has been estimated the cost of this improved protection—spread over many insurance purchasers—will increase premiums by approximately \$8 per year. This reinforces the principle of insurance—spreading high risks over many purchasers—in order to assure adequate protection should a protracted and expensive illness befall an individual. This bill will also assure that costs are not inappropriately shifted onto the government programs, such as Medicaid—where taxpayers will feel the brunt of financial responsibility for costly treatment.

As I work with my colleagues and the administration to grapple with how to make health care more affordable to the millions of Americans struggling to pay their premiums, coinsurance and copays—raising the floor on lifetime caps will provide the immediate financial relief to families so that they will have access to health care should a costly, chronic disease occur.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 443. A bill to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes; to the Committee on Indian Affairs.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 443

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Hoh Indian Tribe Safe Homelands Act”.

**SEC. 2. FINDINGS.**

(a) FINDINGS.—Congress finds the following:

(1) The Hoh Indian Reservation, located along the Hoh River and the Pacific Ocean in a remote section of Jefferson County, Washington, is the homeland of the Hoh Indian Tribe, a federally recognized Indian tribe.

(2) Established by Executive Order in 1893, the Reservation is approximately one square mile, but its habitable acreage has been reduced over time due to storm surges, repeated flooding and erosion, and lack of river dredging.

(3) Due to its location along the river and ocean and frequent torrential rains, 90 percent of the Reservation is located within a flood zone and, in fact, has flooded repeatedly over the last five years. In addition, 100 percent of the Reservation is within a tsunami zone, leaving most of the Reservation unfit for safe occupation.

(4) The Tribe has repeatedly suffered from serious flood and wind damage to homes, tribal buildings, and utility infrastructure that have caused significant damage and resulted in critical safety and environmental hazards.

(5) Federal agencies such as the Bureau of Indian Affairs, the Department of Housing and Urban Development, and the Federal Emergency Management Agency have limited authority to assist the Tribe with housing and other improvements and services due to the dangerous and unsustainable location of the Reservation.

(6) The Tribe has purchased from private owners near the Reservation approximately 260 acres of land in order to move key infrastructure out of the flood zone.

(7) In addition, the State of Washington's Department of Natural Resources has transferred ownership of 160 acres of land to the Tribe.

(8) An approximately 37 acre parcel of logged land, administered by the National Park Service, lies between the current Reservation land and those lands acquired by the Tribe, and the only road accessing the Reservation crosses this parcel.

(9) Together, the lands described in paragraphs 6, 7, and 8 would constitute a contiguous parcel for the Reservation and would

create a safe area for members of the Tribe to live and rebuild their community.

### SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term “Federal land” mean the Federal lands described in section 4(c)(2);

(2) the term “Reservation” means the reservation of the Hoh Indian Tribe;

(3) the term “Secretary” means the Secretary of the Interior; and

(4) the term “Tribe” means the Hoh Indian Tribe, a federally recognized Indian tribe.

### SEC. 4. TRANSFER OF LANDS TO BE HELD IN TRUST AS PART OF THE TRIBE'S RESERVATION; PLACEMENT OF OTHER LAND INTO TRUST.

(a) IN GENERAL.—The Secretary shall transfer to the Tribe all right, title, and interest of the United States in and to the Federal land. Such land shall be held in trust by the United States for the benefit of the Tribe. Such land shall be excluded from the boundaries of Olympic National Park. At the request of the Tribe, at the time of transfer of the Federal land, the Secretary shall also place into trust for the benefit of the Tribe the non-Federal land owned by the Tribe and described in subsection (c)(1).

(b) RESERVATION.—Land taken into trust for the Tribe pursuant to subsection (a) shall be part of the Reservation.

(c) DESCRIPTION OF LANDS.—The land to be transferred and held in trust under subsection (a) is the land generally depicted on the map titled “H.R. \_\_\_\_\_ Hoh Indian Tribe Safe Homelands Act”, and dated \_\_\_\_\_ and further described as—

(1) the non-Federal land owned by the Hoh Tribe; and

(2) the Federal land administered by the National Park Service, located in Section 20, Township 26N, Range 13W, W.M. South of the Hoh River.

(d) AVAILABILITY OF MAP.—Not later than 120 days after the completion of the land transfer of Federal land under this section, the Secretary shall make the map available to the appropriate agency officials and congressional committees. The map shall be available for public inspection in the appropriate offices of the Secretary.

(e) CONGRESSIONAL INTENT.—It is the intent of Congress that—

(1) the condition of the Federal land at the time of the transfer under this section should be preserved and protected;

(2) that the natural environment existing on the Federal land at the time of the transfer under this section should not be altered, except as described in this Act; and

(3) the Tribe and the National Park Service shall work cooperatively on issues of mutual concern related to this Act.

### SEC. 5. PRESERVATION OF EXISTING CONDITION OF FEDERAL LAND; TERMS OF CONSERVATION AND USE IN CONNECTION WITH LAND TRANSFER.

(a) RESTRICTIONS ON USE.—The use of the Federal land transferred pursuant to section 4 is subject to the following conditions:

(1) No commercial, residential, industrial, or other buildings or structures shall be placed on the Federal land being transferred and placed into trust. The existing road may be maintained or improved, but no major improvements or road construction shall occur on the lands.

(2) In order to maintain its use as a natural wildlife corridor and to provide for protection of existing resources, no logging or hunting shall be allowed on the land.

(3) The Tribe may authorize tribal members to engage in ceremonial and other treaty uses of these lands and existing tribal treaty rights are not diminished by this Act.

(4) The Tribe shall survey the boundaries of the Federal land and submit the survey to the National Park Service for review and concurrence.

(b) COOPERATIVE EFFORTS.—Congress urges the Secretary and the Tribe to enter into written agreements on the following:

(1) Upon completion of the Tribe's proposed emergency fire response building, Congress urges the parties to work toward mutual aid agreements.

(2) The National Park Service and the Tribe shall work collaboratively to provide opportunities for the public to learn more about the culture and traditions of the Tribe.

(3) The land may be used for the development of a multi-purpose, non-motorized trail from Highway 101 to the Pacific Ocean. The parties agree to work cooperatively in the development and placement of such trail.

### SEC. 6. HOH INDIAN RESERVATION.

All lands taken into trust by the United States under this Act shall be a part of the Hoh Indian Reservation.

### SEC. 7. GAMING PROHIBITION.

No land taken into trust for the benefit of the Hoh Indian Tribe under this Act shall be considered Indian lands for the purpose of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

By Mr. SPECTER (for himself, Ms. LANDRIEU, Mr. CARPER, Mr. KERRY, Mrs. MCCASKILL, and Mr. COCHRAN):

S. 445. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to reintroduce the Attorney-Client Privilege Protection Act of 2009, which is nearly identical to S. 3217, a bill I introduced in July of 2008 under the same name. This legislation continues to address the Department of Justice's corporate prosecution guidelines. Those guidelines, last revised by Deputy Attorney General Mark Filip in August 2008, erode the attorney-client relationship by allowing prosecutors to continue considering the provision of privileged information in order for corporations to receive co-operation credit.

To their credit, the Filip guidelines preclude prosecutors from asking for privilege waivers in nearly all circumstances. However, as evidenced by the numerous versions of the Justice Department's corporate prosecution guidelines over the past decade, the Filip reforms cannot be trusted to remain static. Moreover, unlike Federal law—which requires the assent of both houses and the President's signature or a super-majority in Congress—the Filip guidelines are subject to unilateral executive branch modification. Therefore, to avoid a recurrence of prosecutorial abuses and attorney-client privilege waiver demands, legislation is necessary.

Like my previous bills, this bill will protect the sanctity of the attorney-client relationship by statutorily prohibiting Federal prosecutors and investigators across the executive branch from requesting waiver of attorney-client privilege and attorney work product protections in corporate investigations. The bill would similarly prohibit the government from conditioning

charging decisions or any adverse treatment on an organization's payment of employee legal fees, invocation of the attorney-client privilege, or agreement to a joint defense agreement.

The bill makes many subtle improvements over earlier iterations, including defining “organization” to make clear that continuing criminal enterprises and terrorist organizations will not benefit from the bill's protections. The bill also clarifies language that the Department of Justice had previously criticized as ambiguous. The bill further makes clear in its findings that its prohibition on informal privilege waiver demands is far from unprecedented. The bill states: “Congress recognized that law enforcement can effectively investigate without attorney-client privileged information when it banned Attorney General demands for privileged materials in the Racketeer Influenced and Corrupt Organizations Act. See 18 U.S.C. §1968(c)(2).”

Though an improvement over past guidelines, there is no need to wait to see how the Filip guidelines will operate in practice. There is similarly no need to wait for another Department of Justice or executive branch reform that will likely fall short and become the sixth policy in the last 10 years. Any such internal reform may prove fleeting and might not address the privilege waiver policies of other government agencies that refer matters to the Department of Justice, thus allowing in through the window what isn't allowed through the door.

As I said when I introduced my first bill on this subject, the right to counsel is too important to be passed over for prosecutorial convenience or Executive Branch whimsy. It has been engrained in American jurisprudence since the 18th century when the Bill of Rights was adopted. The 6th Amendment is a fundamental right afforded to individuals charged with a crime and guarantees proper representation by counsel throughout a prosecution. However, the right to counsel is largely ineffective unless the confidential communications made by a client to his or her lawyer are protected by law. As the Supreme Court observed in *Upjohn Co. v. United States*, “the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law.” When the *Upjohn Court* affirmed that attorney-client privilege protections apply to corporate internal legal dialogue, the Court manifested in the law the importance of the attorney-client privilege in encouraging full and frank communication between attorneys and their clients, as well as the broader public interests the privilege serves in fostering the observance of law and the administration of justice. The *Upjohn Court* also made clear that the value of legal advice and advocacy depends on the lawyer having been fully informed by the client.

In addition to the importance of the right to counsel, it is also fundamental

that the Government has the burden of investigating and proving its own case. Privilege waiver tends to transfer this burden to the organization under investigation. As a former prosecutor, I am well aware of the enormous power and tools a prosecutor has at his or her disposal. The prosecutor has enough power without the coercive tools of the privilege waiver, whether that waiver policy is embodied in the Holder, Thompson, McCallum, McNulty, or Filip memorandum.

As in my prior bills designed to protect the attorney-client privilege, this bill amends title 18 of the United States Code by adding a new section, §3014, that would prohibit any agent or attorney of the U.S. Government in any criminal or civil case to demand or request the disclosure of any communication protected by the attorney-client privilege or attorney work product. The bill would also prohibit government lawyers and agents from basing any charge or adverse treatment on whether an organization pays attorneys' fees for its employees or signs a joint defense agreement.

This legislation is needed to ensure that constitutional protections of the attorney-client relationship are preserved in Federal prosecutions and investigations.

By Mr. SPECTER (for himself,  
Mr. GRASSLEY, Mr. DURBIN, Mr.  
SCHUMER, Mr. FEINGOLD, and  
Mr. CORNYN):

S. 446. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, once more I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the High Court to permit television coverage of its open sessions unless it decides by a majority vote of the Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. The Supreme Court makes pronouncements on Constitutional and Federal law that have a direct impact on the rights of Americans. Those rights would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of and reasons for the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled *Richmond Newspapers v. Virginia*.

In this case, the Court noted that a public trial belongs not only to the accused but to the public and the press as well and recognized that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own initiative, televise its proceedings but has chosen not to do so. This presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, *Dalton v. Specter*, back in 1994, the Court proceedings were illustrated by an artist's drawings—some of which now hang in my office. Today, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. Although the internet has made the Court's transcripts, and even more recently, audio recordings, more widely accessible, the public is still deprived of the real time transmission of audio and video feeds from the Court. I believe it is vital for the public to see, as well as to hear, the arguments made before the Court and the interplay among the justices. I think the American people will gain a greater respect for the way in which our High Court functions if they are able to see oral arguments.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: "The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system."

When I spoke in favor of this legislation in September of 2000, I said, "I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process." I have continued to reiterate those sentiments in September of 2005 and in January of 2007 when I re-introduced identical bills. Today, I continue to support this legislation because I believe that it is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings

of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about 132 arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: "Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capitol. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our Federal Government."

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: "An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and *modus operandi* is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself."

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there was, in the views of many, simply a difference of opinion as to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives and liberties of all Americans. Since the Court's historic 1803 decision, *Marbury v. Madison*, the Supreme Court has the final authority on issues of enormous importance from birth to death. In *Roe v. Wade*, 1973, the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment.

In the case of *Washington v. Glucksberg*, 1997, the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the Seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In *Furman v. Georgia*, 1972, the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision led Georgia and many States to amend their death penalty statutes and, four years later, in *Gregg v. Georgia*, 1976, the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in *Scott v. Sandford*, 1857—better known as the *Dred Scott* decision—the Supreme Court held that *Dred Scott*, a slave who had been taken into “free” territory by his owner, was nevertheless still a slave.

The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

The Supreme Court has also ensured adherence to the Constitution during more recent conflicts. Prominent opponents of the Vietnam War repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justice Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In *New York Times Co. v. United States*, 1971—the so called “*Pentagon Papers*” case—the Court refused to grant the government prior restraint to prevent the *New York Times* from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the *New York Times* is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In *Brown v. Board of Education*, the Court struck down

the principle of “separate but equal” education for blacks and whites and integrated public education in this country. This case was then followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including *Gamer v. Louisiana*, 1961, *Burton v. Wilmington Parking Authority*, 1961, and *Peterson v. City of Greenville*, 1963.

In recent years *Marbury*, *Dred Scott*, *Furman*, *New York Times*, and *Roe*, familiar names in the lexicon of lawyerly discussions concerning watershed Supreme Court precedents, have been joined with similarly important cases like *Hamdi*, *Rasul*, *Roper*, and *Boumediene*—all cases that affect fundamental individual rights. In *Hamdi v. Rumsfeld*, 2004, the Court concluded that although Congress authorized the detention of combatants, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decision-maker. The Court reaffirmed the nation's commitment to constitutional principles even during times of war and uncertainty. Similarly, in *Rasul v. Bush*, 2004, the Court held that the Federal habeas statute gave district courts jurisdiction to hear challenges of aliens held at Guantanamo Bay, Cuba in the U.S. War on Terrorism. In *Roper v. Simmons*, a 2005 case, the Court held that executions of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments. In *Boumediene v. Bush*, 2008, the Court held that, subsequent to *Hamdan v. Rumsfeld* and regardless of Congress' attempts to strip federal courts of jurisdiction to consider pending habeas corpus petitions from Guantanamo detainees, the detainees nonetheless were not barred from seeking the writ and procedures under the Detainee Treatment Act were not an adequate substitute for it.

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions, such as *Boumediene*, have been reached through a vote of 5-4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the meaning of the Constitution, reason and the application of legal precedents. On the contrary, these major Supreme Court opinions embody critical decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5-4, an individual justice has the power by his or her vote to change the law of the land.

Since the beginning of its October 2005 term when Chief Justice Roberts first began hearing cases, the Supreme Court has issued 45 decisions with a 5-4 split, not including the current October 2008 term, in which I understand there are additional 5-4 decisions with-

in the few cases that have already been decided. It has also issued six 5-3 decisions in which one justice recused. Finally, it has issued a rare 5-2 decision in which Chief Justice Roberts and Justice Alito took no part, and in the October 2007 term, two 4-4 ties. In sum, since the beginning of its October 2005 term and not counting the current term, the Supreme Court has issued 52 decisions establishing the law of the land in which only 5 justices explicitly concurred. Many of these narrow majorities occur in decisions involving the Court's interpretation of our Constitution—a sometimes divisive endeavor on the Court. I will not discuss all 52 thinly decided cases but will describe a few to illustrate my point about the importance of the Court and its decisions in the lives of Americans.

The first 5-4 split decision, decided on January 11, 2006, was *Brown v. Sanders*. In this case the Court considered “the circumstances in which an invalidated sentencing factor will render a death sentence unconstitutional by reason of its adding an improper element to the aggravation scale in the jury's weighing process.” A majority of the Court held that henceforth in death penalty cases, an invalidated sentencing factor will render the sentence unconstitutional by reason of its adding an improper element to the aggravation scale unless one of the other sentencing factors enables the sentencer to give aggravating weight to the same facts and circumstances. The majority opinion was authored by Justice Scalia and joined by Chief Justice Roberts and Justices O'Connor, Kennedy and Thomas. Justice Stevens filed a dissenting opinion in which Justice Souter joined. Similarly, Justice Breyer filed a dissenting opinion in which Justice Ginsburg joined.

In November 2006, the Supreme Court decided *Ayers v. Belmontes*, a capital murder case in which the Belmontes contended that California law and the trial court's instructions precluded the jury from considering his forward looking mitigation evidence suggesting he could lead a constructive life while incarcerated. In *Ayers* the Supreme Court found the Ninth Circuit erred in holding that the jury was precluded by jury instructions from considering mitigation evidence. Justice Kennedy authored the majority opinion while Justice Stevens wrote a dissent joined by three other justices.

Other 5-4 split decisions since October 2005 include *United States v. Gonzalez-Lopez*, concerning whether a defendant's Sixth Amendment right to counsel was violated when a district court refused to grant his paid lawyer permission to represent him based upon some past ethical violation by the lawyer, June 26, 2006; *LULAC v. Perry*, deciding whether the 2004 Texas redistricting violated provisions of the Voting Rights Act, June 28, 2006; *Kansas v. Marsh*, concerning the Eighth and Fourteenth Amendments in a capital murder case in which the defense argued that a Kansas statute established

an unconstitutional presumption in favor of the death sentence when aggravating and mitigating factors were in equipoise, April 25, 2006; *Clark v. Arizona*, a capital murder case involving the constitutionality of an Arizona Supreme Court precedent governing the admissibility of evidence to support an insanity defense, June 29, 2006; *Garcetti v. Ceballos*, a case holding that when public employees make statements pursuant to their official duties they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline, May 30, 2006; and *District of Columbia v. Heller*, June 26, 2008, which found that Washington, D.C.'s gun laws were unconstitutionally restrictive of rights afforded under the Second Amendment.

The justices have split 5-3 six times since October 2005.

In *Georgia v. Randolph*, March 22, 2006, a 5-3 majority of the Supreme Court held that a physically present co-occupant's stated refusal to permit a warrantless entry and search rendered the search unreasonable and invalid as to that occupant. Justice Souter authored the majority opinion. Justice Stevens filed a concurring opinion as did Justice Breyer. The Chief Justice authored a dissent joined by Justice Scalia. Moreover, Justice Scalia issued his own dissent as did Justice Thomas. In *Randolph*, there were six opinions in all from a Court that only has nine justices. One can only imagine the spirited debate and interplay of ideas, facial expressions and gestures that occurred in oral arguments. Audio recordings are simply inadequate to capture all of the nuance that only cameras could capture and convey.

In *House v. Bell*, a 5-3 opinion authored by Justice Kennedy, June 12, 2006, the Supreme Court held that because House had made the stringent showing required by the actual innocence exception to judicially-established procedural default rules, he could challenge his conviction even after exhausting his regular appeals. Justice Alito took no part in considering or deciding the House case. It bears noting, however, that if one justice had been on the other side of this decision it would have resulted in a 4-4 tie and, ultimately, led to affirming the lower court's denial of House's post-conviction habeas petitions due to a procedural default.

In *Hamdan v. Rumsfeld*, a 5-3 decision in which Chief Justice Roberts took no part, the Supreme Court held that Hamdan could challenge his detention and the jurisdiction of the President's military commissions to try him despite recent enactment of the Detainee Treatment Act. A thin majority of the justices supported the decision despite knowledge that the DTA explicitly provides "no court . . . shall have jurisdiction to hear or consider . . . an application for . . . habeas corpus filed by . . . an alien detained

. . . at Guantanamo Bay." In deciding the merits, the Court went on to hold that the President lacked authority to establish a military commission to try Hamdan or others without enabling legislation passed by both houses of Congress and enacted into law. This case was one of a handful of recent cases in which the Supreme Court released audiotapes of oral arguments almost immediately after they occurred. Yet it would have been vastly preferable to watch the parties' advocates grapple with the legal issues as the justices peppered them with jurisdictional, constitutional and merits-related questions from the High Court's bench.

In another fascinating 5-3 case, *Jones v. Flowers*, April 26, 2006, the Supreme Court considered whether, when notice of a tax sale is mailed to the owner and returned undelivered, the government must take additional reasonable steps to provide notice before taking the owner's property. In an opinion by Chief Justice Roberts, the Court held that where the Arkansas Commissioner of State Lands had mailed Jones a certified letter and it had been returned unclaimed, the Commissioner had to take additional reasonable steps to provide Jones notice. Justices Thomas, Scalia and Kennedy dissented and Justice Alito took no part in the decision.

Though *Jones v. Flowers* involved the Due Process Clause of the Fourteenth Amendment, not the Takings Clause of Fifth Amendment, one could draw interesting analogies to the Court's controversial 2005 decision in *Kelo v. City of New London*. In *Kelo*, a majority of the justices held that a city's exercise of eminent domain power in furtherance of a privately initiated economic development plan satisfied the Constitution's Fifth Amendment "public use" requirement despite the absence of any blight. Four justices dissented in *Kelo* and public opinion turned sharply against the decision immediately after it was issued.

It's possible, though merely speculative, that the public ire aimed at *Kelo* informed what became a majority of justices in *Jones v. Flowers*. In a passage by Chief Justice Roberts, the Court notes, "when a letter is returned by the post office, the sender will ordinarily attempt to resend it, if it is practicable to do so. This is especially true when, as here, the subject matter of the letter concerns such an important and irreversible prospect as the loss of a house."

Not only lawyers but all homeowners could benefit from knowing how the Court grapples with legal issues governing the rights to their houses. My legislation creates the opportunity for all interested Americans to watch the Court in action in cases like these. From his perch on the High Court one justice has been heard to contend that most Americans could care less about the arcane legal issues argued before the Court. But as elected representatives of the people we must endeavor to

view America from a bottoms-up, rather than a top-down perspective.

Regardless of one's view concerning the merits of these decisions, it is clear that they frequently have a profound effect on the interplay between the government, on the one hand, and the individual on the other. So, it is with these watershed decisions in mind that I introduce legislation designed to make the Supreme Court less esoteric and more accessible to common men and women who are so clearly affected by its decisions.

Given the enormous significance of each vote cast by each justice on the Supreme Court, televising the proceedings of the Supreme Court will allow sunlight to shine brightly on these proceedings and ensure greater public awareness and scrutiny.

In a democracy, the workings of the government at all levels should be open to public view. With respect to oral arguments, the more openness and the more real the opportunity for public observation the greater the understanding and trust. As the Supreme Court observed in the 1986 case of *Press-Enterprise Co. v. Superior Court*, "People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C-SPAN to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in *Richmond Newspapers v. Virginia* that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has "long been recognized as an indisputable attribute of an Anglo-American trial."

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media: "Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system."

To be sure, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media over another. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in *Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue*. In the 1977 case of *ABC v. Cuomo*, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that: "Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable."

However, in the 1965 case of *Estes v. Texas*, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the *Estes* opinion.

In its 1981 opinion in *Chandler v. Florida*, the court recognized that *Estes* must be read narrowly in light of the state of television technology at that time. The television coverage of *Estes*' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite *Estes*, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in *Estes* that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on

Administrative Oversight and the Courts held a hearing titled "Allowing Cameras and Electronic Media in the Courtroom." The primary focus of the hearing was Senate bill S. 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give Federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, the late Judge Edward R. Becker, then-Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a Federal judge, a State judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

On November 9, 2005, the Judiciary Committee held a hearing to address whether Federal court proceedings should be televised generally and to consider S. 1768, my earlier version of this bill, and S. 829, Senator GRASSLEY's "Sunshine in the Courtroom Act of 2005." During the November 9 hearing, most witnesses spoke favorably of cameras in the courts, particularly at the appellate level. Among the witnesses favorably disposed toward the cameras were Peter Irons, author of *May It Please the Court*, Seth Berlin, a First Amendment expert at a local firm, Brian Lamb, founder of C-SPAN, Henry Schleif of Court TV Networks, and Barbara Cochran of the Radio-Television News Directors Association and Foundation.

The notable exception was the Honorable Judge Jan DuBois of the Eastern District of Pennsylvania, who testified on behalf of the Judicial Conference. Judge DuBois warned of problems particularly at the trial level, where witnesses who appear uncomfortable because of cameras might seem less credible to jurors. I note, however, that appellate courts do not appear susceptible to this criticism because there are no witnesses or jurors present for appellate arguments.

The Judiciary Committee considered and passed both bills on March 30, 2006. The Committee vote to report S. 1768 was 12-6, and the bill was placed on the Senate Legislative Calendar. Unfortunately, due to the press of other business neither bill was allotted time on the Senate Floor. Again, in the 110th Congress, I introduced this legislation, and it was reported out of the Judiciary Committee by a vote of 11-7.

During their confirmation hearings over the past two years, Chief Justice John Roberts stated he would keep an open mind on the issue and Justice Alito stated that as a circuit judge he unsuccessfully voted, in the minority, to permit televised open proceedings in the Third Circuit. I applaud the fact the new Chief Justice has taken steps to make the Court more open and to

ensure the timely publication of audio recordings of the arguments as well as the written transcripts.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is clearly no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested "in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish." While the Constitution specifically creates the Supreme Court, it left it to Congress to determine how the Court would operate. For example, it was Congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the original jurisdiction of the Court, it provides that appellate jurisdiction exists "with such exceptions and under such regulations as the Congress shall make."

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal in my view given the relatively minor ensure that Supreme Court justices would undertake through television appearances. Also, any concerns could be mitigated by focusing only on the attorneys presenting arguments. There is no requirement that the justices permit the cameras to focus on the bench.

As I explained earlier, the Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key

decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

This legislation embodies sound policy and will prove valuable to the all Americans. I urge my colleagues to support this bill.

By Mr. LEVIN:

S. 447. A bill to amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy and agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEVIN. Mr. President, over the past couple of years energy prices have taken the American people on an unpredictable, expensive, and damaging roller coaster ride. In early 2007, a barrel of crude oil cost about \$50. Over the course of the year, the price rose steeply, nearly doubling by the end of the year to almost \$100 per barrel. Oil prices continued to soar through the first half of 2008, peaking at nearly \$150 per barrel in July. Then, over the next few months, oil prices crashed back down to \$35 per barrel, a drop of over \$110 per barrel.

These huge price swings can't be explained by simple changes in supply and demand. Even taking into account the recession now plaguing our country and the world economy, many market analysts believe that it was a stampede of speculators into the crude oil futures market that first drove prices far higher than justified by global supply and demand, and now an exodus of those same speculators has driven prices much lower than justified by supply and demand.

Like crude oil, the natural gas, gasoline, and heating oil markets have also seen large price changes. The prices are way up, they're way down, they're unpredictable—making it impossible for many businesses and consumers to plan for and afford energy costs and related goods and services.

Unpredictable energy prices continue to take a tremendous toll on millions of American consumers and businesses. Unless we act to protect our energy markets from excessive speculation and price manipulation, the American economy will continue to be vulnerable to wild price swings affecting the prices of transportation, food, manufacturing and everything in between, endangering the economic security of our people, our businesses, and our nation.

Congress should act now to help tame rampant speculation and reinvigorate supply and demand as market forces.

That is why I am re-introducing legislation today that is nearly identical to the legislation I and others introduced near the end of the last Congress that provides strong and workable measures to prevent excessive specula-

tion and price manipulation in U.S. energy and agricultural markets. It will close the loopholes in our commodities laws that now impede the policing of U.S. energy trades on foreign exchanges and in the unregulated over-the-counter market. It will ensure that large commodity traders cannot use these markets to hide from CFTC oversight or avoid limits on speculation. It will strengthen disclosure, oversight, and enforcement in U.S. energy markets, restoring the financial oversight that is crucial to protect American consumers, American businesses, and the U.S. economy from further energy shocks.

This legislation, which addresses commodity markets, is one important piece of the broader reform effort needed to repair our financial regulatory system, stop abusive practices, and put the cop back on the beat in all of our markets.

Specifically, this particular legislation would make four sets of changes.

First, it would require the CFTC to set limits on the holdings of traders in all of the energy futures contracts traded on regulated exchanges to prevent traders from engaging in excessive speculation or price manipulation. Since we closed the Enron loophole last year all futures contracts must be traded in regulated markets.

Second, it would close the "London loophole" by giving the CFTC the same authority to police traders in the United States who trade U.S. futures contracts on a foreign exchange and by requiring foreign exchanges that want to install trading terminals in the United States to impose comparable limits on speculative trading as the CFTC imposes on domestic exchanges to prevent excessive speculation and price manipulation.

Third, it would close the "swaps loophole" by requiring traders in the over-the-counter energy markets to report large trades to the CFTC, and it would authorize the CFTC to set limits on trading in the presently unregulated over-the-counter markets to prevent excessive speculation and price manipulation.

Finally, it would require the CFTC to revise the standards that allow traders who use futures markets to hedge their holdings to exceed the speculation limits that apply to everyone else.

My Permanent Subcommittee on Investigations has shown that one key factor in price spikes of energy is increased speculation in the energy markets. Traders are now trading millions of contracts for future delivery of oil, creating a demand for paper contracts that gets translated into increases in prices and increasing price volatility.

Much of this increase in trading of futures has been due to speculators who are not in the oil business but who are buying and selling oil futures contracts in the hope of making a profit from changing prices. According to the CFTC's data, the number of futures and options contracts held by speculators

grew from around 100,000 contracts in 2001, which was 20 percent of the total number of outstanding contracts, to almost 1.2 million contracts last fall, representing almost 40 percent of the outstanding futures and options contracts in oil on NYMEX. Even these statistics understate the increase in speculation, since the CFTC data classifies futures trading involving index funds as commercial trading rather than speculation, and the CFTC classifies all traders in commercial firms as commercial traders, regardless of whether any particular trader in that firm may, in fact, be speculating.

Basic economic theory tells us that the greater the demand there is to buy futures contracts for the delivery of a commodity, the higher the price will be for those futures contracts.

Not surprisingly, therefore, massive speculation that the price of oil will increase, together with massive purchases of futures contracts in pursuit of that belief, have, in fact, helped increase the price of oil to a level far above the price justified by the traditional forces of supply and demand.

In June 2006, I released a Subcommittee report, *The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put a Cop on the Beat*. This report found that the traditional forces of supply and demand didn't account for sustained price increases and price volatility in the oil and gasoline markets. The report concluded that, in 2006, a growing number of trades of contracts for future delivery of oil occurred without regulatory oversight and that market speculation had contributed to rising oil and gasoline prices, perhaps accounting for \$20 out of a then-priced \$70 barrel of oil.

Oil industry executives and experts arrived at similar conclusions. As oil prices neared \$100 in late 2007, the President and CEO of Marathon Oil said, "\$100 oil isn't justified by the physical demand in the market. It has to be speculation on the futures market that is fueling this." At about the same time, Mr. Fadel Gheit, oil analyst for Oppenheimer and Company described the oil market as "a farce." "The speculators have seized control and it's basically a free-for-all, a global gambling hall, and it won't shut down unless and until responsible governments step in." In January of 2008, when oil first hit \$100 per barrel, Mr. Tim Evans, oil analyst for Citigroup, wrote: "[T]he larger supply and demand fundamentals do not support a further rise and are, in fact, more consistent with lower price levels." At a joint hearing on the effects of speculation my Subcommittee held in late 2007, Dr. Edward Krapels, a financial market analyst, testified: "Of course financial trading, speculation affects the price of oil because it affects the price of everything we trade. . . . It would be amazing if oil somehow escaped this effect." Dr. Krapels added that as a result of this speculation "there is a bubble in oil prices."

Last summer, the Presidents and CEOs of major U.S. airlines described the disastrous effects of rampant speculation on the airline industry. The CEOs stated: “normal market forces are being dangerously amplified by poorly regulated market speculation.” The CEOs wrote: “For airlines, ultra-expensive fuel means thousands of lost jobs and severe reductions in air service to both large and small communities.”

To rein in this rampant speculation, the first step to take is to put a cop back on the beat in all our energy markets to prevent excessive speculation, price manipulation, and trading abuses.

With respect to the commodity futures markets, the legislation we are introducing today requires the CFTC to establish limits on the amount of futures contracts any trader can hold. Currently, the CFTC allows the futures exchanges themselves to set these limits. This bill would require the CFTC to set those limits to prevent excessive speculation and price manipulation. It would preserve, however, the exchanges’ obligation and ability to police their traders to ensure they remain below these limits.

This legislation would also require the CFTC to conduct a rulemaking to review and revise the criteria for allowing traders who are using the futures market to hedge their risks in a commodity to acquire holdings in excess of the limits on holdings for speculators.

Another step is to give the CFTC authority to prevent excessive speculation in the over-the-counter markets. In 2007, my Subcommittee issued a report on the effects of speculation in the energy markets entitled, *Excessive Speculation in the Natural Gas Market*. This investigation showed that speculation by a single hedge fund named Amaranth distorted natural gas prices during the summer of 2006 and drove up prices for average consumers. The report demonstrated how Amaranth had shifted its speculative activity to unregulated markets, under the “Enron loophole,” to avoid the restrictions and oversight in the regulated markets, and how Amaranth’s trading in the unregulated markets contributed to price increases.

Following this investigation, I introduced a bill, S. 2058, to close the Enron loophole and regulate the unregulated electronic energy markets. Working with Senators FEINSTEIN and SNOWE, and with the members of the Agriculture Committee in a bipartisan effort, we included an amendment to close the Enron loophole in the farm bill, which Congress passed last year.

The legislation to close the Enron loophole placed over-the-counter, OTC, electronic exchanges under CFTC regulation. However, this legislation did not address the separate issue of trading in the rest of the OTC market, which includes bilateral trades through voice brokers, swap dealers, and direct

party-to-party negotiations. In order to ensure there is a cop on the beat in all of the energy commodity markets, we need to address the rest of the OTC market as well.

A large portion of this OTC market consists of the trading of swaps relating to the price of a commodity. Generally, commodity swaps are contracts between two parties where one party pays a fixed price to another party in return for some type of payment at a future time depending on the price of a commodity. Because some of these swap instruments look very much like futures contracts—except that they do not call for the actual delivery of the commodity—there is concern that the price of these swaps that are traded in the unregulated OTC market could affect the price of the very similar futures contracts traded on the regulated futures markets. We don’t yet know for sure that this is the case, or that it is not, because we don’t have any access to comprehensive data or reporting on the trading of these swaps in the OTC market.

The legislation introduced today includes provisions to give the CFTC oversight authority to stop excessive speculation in the over-the-counter market. These provisions represent a practical, workable approach that will enable the CFTC to obtain key information about the OTC market to enable it to prevent excessive speculation and price manipulation.

Under these provisions, the CFTC will have the authority to ensure that traders cannot avoid the CFTC reporting requirements by trading swaps in the unregulated OTC market instead of regulated exchanges. It will enable the CFTC to act, such as by requiring reductions in holdings of futures contracts or swaps, against traders with large positions in order to prevent excessive speculation or price manipulation regardless of whether the trader’s position is on an exchange or in the OTC market.

This bill also gives the CFTC the authority to establish position limits in the over-the-counter market for energy and agricultural commodities in order to prevent excessive speculation and price manipulation. The CFTC needs this authority to ensure that large traders are not using the over-the-counter markets to evade the position limits in the futures markets.

The “London loophole” allowed crude oil traders in the U.S. to avoid the position limits that apply to trading on U.S. futures exchanges by directing their trades onto the ICE Futures Exchange in London.

In the last Congress, after I and others introduced legislation to close the London loophole that is similar to the legislation we are now introducing, the CFTC imposed more stringent requirements upon the ICE Futures Exchange’s operations in the United States—for the first time requiring the London exchange to impose and enforce comparable position limits in

order to be allowed to keep its trading terminals in the United States. This is the very action our legislation called for. However, the current CFTC position limits apply only to the nearest futures contract. Our legislation will ensure that foreign exchanges with trading terminals in the U.S. will apply position limits to other futures contracts once the CFTC establishes those limits for U.S. exchanges.

Although the CFTC has taken these important steps that will go a long way towards closing the London loophole, Congress should still pass this legislation to make sure the London loophole stays closed. The legislation would put the conditions the CFTC has imposed upon the London exchange into statute, and ensure that the CFTC has clear authority to take action against any U.S. trader who is manipulating the price of a commodity or excessively speculating through the London exchange, including requiring that trader to reduce positions.

The legislation also provides authorization for the CFTC to hire an additional 100 employees to oversee the commodity markets it regulates. The CFTC has been understaffed and underfunded for years. This authorization is a necessary first step to reinvigorate the agency’s oversight and enforcement capabilities.

In summary, the legislation I am introducing today will give the CFTC ability to police all of our energy commodity markets to prevent excessive speculation and price manipulation. This legislation is necessary to close the loopholes in current law that permit speculators in commodity markets to avoid trading limits designed to prevent the type of excessive speculation that has been contributing to high energy and other commodity prices. I hope my colleagues will support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and support material be printed in the RECORD.

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

S. 447

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Prevent Excessive Speculation Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of energy and agricultural commodity.
- Sec. 3. Speculative limits and transparency of off-shore trading.
- Sec. 4. Authority of Commodity Futures Trading Commission with respect to certain traders.
- Sec. 5. Working group of international regulators.
- Sec. 6. Position limits for energy and agricultural commodities.
- Sec. 7. Over-the-counter transactions.
- Sec. 8. Index traders and swap dealers.
- Sec. 9. Disaggregation of index funds and other data in energy and agricultural markets.

Sec. 10. Additional Commodity Futures Trading Commission employees for improved enforcement.

**SEC. 2. DEFINITIONS OF ENERGY AND AGRICULTURAL COMMODITY.**

(a) DEFINITION OF ENERGY COMMODITY.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively; and

(2) by inserting after paragraph (12) the following:

“(13) ENERGY COMMODITY.—The term ‘energy commodity’ means—

“(A) crude oil;

“(B) natural gas;

“(C) coal;

“(D) gasoline, heating oil, diesel fuel, and any other source of energy derived from coal, crude oil, or natural gas;

“(E) electricity;

“(F) ethanol and any other fuel derived from a renewable biomass;

“(G) any commodity that results from the management of air emissions, including but not limited to greenhouse gases, sulfur dioxide, and nitrogen oxides; and

“(H) any other substance that is used as a source of energy, as the Commission, in its discretion, deems appropriate.”.

(b) DEFINITION OF AGRICULTURAL COMMODITY.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (1) through (35) as paragraphs (2) through (36), respectively; and

(2) by inserting a new paragraph (1) as follows:

“(1) AGRICULTURAL COMMODITY.—The term ‘agricultural commodity’ means any commodity specifically described in paragraph (5).”.

(c) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

(A) in subitem (AA), by striking “section 1a(20)” and inserting “section 1a(21)”;

(B) in subitem (BB), by striking “section 1a(20)” and inserting “section 1a(21)”.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking “section 1a(32)” and inserting “section 1a”.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking “section 1a(33)” and inserting “section 1a”; and

(ii) in paragraph (2)(D), by striking “section 1a(13)” and inserting “section 1a”.

**SEC. 3. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-SHORE TRADING.**

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States, or otherwise subject to the jurisdiction of the Commission, direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy commodity that settles against any price (including the daily or final settlement price) of one or more contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade—

“(i) makes public daily trading information regarding the agreement, contract, or

transaction that is comparable to the daily trading information published by the registered entity for the one or more contracts against which the agreement, contract or transaction traded on the foreign board of trade settles; and

“(ii) promptly notifies the Commission of any change regarding—

“(I) the information that the foreign board of trade will make publicly available;

“(II) the position limits and position accountability provisions that the foreign board of trade will adopt and enforce;

“(III) the position reductions required to prevent manipulation; and

“(IV) any other area of interest expressed by the Commission to the foreign board of trade; and

“(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(i) adopts position limits or position accountability provisions for the agreement, contract, or transaction that are comparable to the position limits or position accountability provisions adopted by the registered entity for the one or more contracts against which the agreement, contract or transaction traded on foreign board of trade settles;

“(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process; and

“(iii) provides information to the Commission that is comparable to the information that the Commission determines to be necessary to publish the commitments of traders report of the Commission for the one or more contracts against which the agreement, contract or transaction traded on the foreign board of trade settles.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall not be effective with respect to any agreement, contract, or transaction in an energy commodity executed on a foreign board of trade to which the Commission had granted direct access permission prior to the date of enactment of this subsection until the date that is 180 days after the date of enactment of this subsection.

“(3) EXISTING CONTRACTS.—No contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange or market located outside the United States for purposes of subsection (a) shall be void, voidable or unenforceable and no party to such contract shall be entitled to rescind or recover any payments made with respect to such contract based upon the failure of the foreign board of trade to comply with any provision of this Act.”.

**SEC. 4. AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION WITH RESPECT TO CERTAIN TRADERS.**

(a) IN GENERAL.—

(1) RESTRICTION OF FUTURES TRADING TO CONTRACT MARKETS OR DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended by inserting after the first sentence the following: “The Commission may adopt rules and regulations requiring the maintenance of books and records by any person that is located within the United States (including the territories and possessions of the United States) or that enters trades directly into the trade matching system of a foreign board of trade from the United States (including the territories and possessions of the United States).”

(2) COMMISSION AUTHORITY OVER TRADERS.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) The Commission shall have authority under this Act to require or direct a person located in the United States, or otherwise subject to the jurisdiction of the Commission, to limit, reduce, or liquidate any position on a foreign board of trade to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process with respect to any contract listed for trading on a registered entity.

“(f) CONSULTATION.—Before taking any action under subsection (e), the Commission shall consult with the appropriate—

“(1) foreign board of trade; and

“(2) foreign futures authority.”.

(3) VIOLATIONS.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by inserting “(including any person trading on a foreign board of trade)” after “Any person” each place it appears.

(4) EFFECT.—No amendment made by this subsection limits any of the otherwise applicable authorities of the Commodity Futures Trading Commission.

**SEC. 5. WORKING GROUP OF INTERNATIONAL REGULATORS.**

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 4(a)(2)(B)) is amended by adding at the end the following:

“(g) WORKING GROUP OF INTERNATIONAL REGULATORS.—Not later than 90 days after the date of enactment of this subsection, the Commission shall invite regulators of foreign boards of trade to participate in a working group of international regulators to develop uniform international reporting and regulatory standards to ensure the protection of the energy and agricultural futures markets from excessive speculation, manipulation, and other trading practices that may pose systemic risks to energy and agricultural futures markets, countries, and consumers.”.

**SEC. 6. POSITION LIMITS FOR ENERGY AND AGRICULTURAL COMMODITIES.**

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”; and

(B) by adding after and below the end the following:

“(2) In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to energy and agricultural commodities, the Commission, within 90 days after the date of the enactment of this paragraph, shall issue a proposed rule, and within 180 days after issuance of such proposed rule shall adopt a final rule, after notice and an opportunity for public comment, to establish limits on the amount of positions that may be held by any person with respect to contracts of sale for future delivery or with respect to options on such contracts or commodities traded on or subject to the rules of a contract market or derivatives transaction execution facility, or on an electronic trading facility with respect to a significant price discovery contract.

“(3) In establishing the limits required in paragraph (2), the Commission shall set limits—

“(A) on the number of positions that may be held by any person for the spot month, each other month, and the aggregate number of positions that may be held by any person for all months;

“(B) to the maximum extent practicable, in its discretion—

“(i) to diminish, eliminate, or prevent excessive speculation;

“(ii) to deter and prevent market manipulation, squeezes, and corners;

“(iii) to ensure sufficient market liquidity; and

“(iv) to ensure that the price discovery function of the underlying cash market is not distorted or disrupted.

“(4) In addition to the position limits for energy and agricultural commodities that the Commission establishes under paragraph (2), the Commission may require or permit a contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract, to establish and enforce position accountability, as the Commission determines may be necessary and appropriate to accomplish the objectives set forth in paragraph (3)(B), provided that the number of positions that may be authorized under position accountability may not exceed the position limits established under paragraph (2).

“(5) Nothing in this section shall require the Commission to revise any position limit for an agricultural commodity that is in effect on the date of enactment of this Act.”

#### SEC. 7. OVER-THE-COUNTER TRANSACTIONS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

“(j) OVER-THE-COUNTER TRANSACTIONS.—

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED PERSON.—The term ‘covered person’ means a person that enters into an over-the-counter transaction that is required to be reported under paragraph (3)(C).

“(B) OVER-THE-COUNTER TRANSACTION.—The term ‘over-the-counter transaction’ means a contract, agreement, or transaction in an energy or agricultural commodity that is—

“(i) entered into only between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction;

“(ii) not entered into on a trading facility; and

“(iii) not a sale of any cash commodity for delivery.

“(2) AUTHORITY IN MAJOR MARKET DISTURBANCES.—

“(A) IN GENERAL.—In the case of a major market disturbance, as determined by the Commission, the Commission may require any trader subject to the reporting requirements described in paragraph (3) to take such action as the Commission considers to be necessary to maintain or restore orderly trading in any contract listed for trading on a registered entity, including—

“(i) the liquidation of any futures contract; and

“(ii) the fixing of any limit that may apply to a market position involving any over-the-counter transaction acquired in good faith before the date of the determination of the Commission.

“(B) MAJOR MARKET DISTURBANCE.—The term ‘major market disturbance’ means any disturbance in a commodity market that disrupts the liquidity and price discovery function of that market from accurately reflecting the forces of supply and demand for a commodity, including—

“(i) a threatened or actual market manipulation or corner;

“(ii) excessive speculation; and

“(iii) any action of the United States or a foreign government that affects a commodity.

“(C) The term ‘market disturbance’ shall be interpreted in a manner consistent with section 8a(9).

“(D) JUDICIAL REVIEW.—Any action taken by the Commission under subparagraph (A)

shall be subject to judicial review carried out in accordance with section 8a(9).

“(3) REPORTING; RECORDKEEPING.—

“(A) IN GENERAL.—The Commission shall require each covered person to submit to the Commission a report—

“(i) at such time and in such manner as the Commission determines to be appropriate; and

“(ii) containing the information required under subparagraph (B) to assist the Commission in detecting and preventing potential price manipulation of, or excessive speculation in, any contract listed for trading on a registered entity.

“(B) CONTENTS OF REPORT.—A report required under subparagraph (A) shall contain—

“(i) information describing large trading positions of the covered person obtained through one or more over-the-counter transactions that involve—

“(I) substantial quantities of a commodity in the cash market; or

“(II) substantial positions, investments, or trades in agreements or contracts relating to the commodity; and

“(ii) any other information relating to over-the-counter transactions required to be reported under subparagraph (C) carried out by the covered person that the Commission determines to be necessary to accomplish the purposes described in subparagraph (A).

“(C) OVER-THE-COUNTER TRANSACTIONS TO BE REPORTED.—

“(i) IN GENERAL.—The Commission shall identify each large over-the-counter transaction or class of large over-the-counter transactions the reporting of which the Commission determines to be appropriate to assist the Commission in detecting and preventing potential price manipulation of, or excessive speculation in, any contract listed for trading on a registered entity.

“(ii) MANDATORY FACTORS FOR DETERMINATIONS.—

“(I) IN GENERAL.—In carrying out a determination under clause (i), the Commission shall consider the extent to which each factor described in subclause (II) applies.

“(II) FACTORS.—The factors required for carrying out a determination under clause (i) include whether—

“(aa) a standardized agreement is used to execute the over-the-counter transaction;

“(bb) the over-the-counter transaction settles against any price (including the daily or final settlement price) of one or more contracts listed for trading on a registered entity;

“(cc) the price of the over-the-counter transaction is reported to a third party, published, or otherwise disseminated;

“(dd) the price of the over-the-counter transaction is referenced in any other transaction;

“(ee) there is a significant volume of the over-the-counter transaction or class of over-the-counter transactions; and

“(ff) there is any other factor that the Commission determines to be appropriate.

“(iii) PERIODIC REVIEW.—The Commission shall periodically conduct a review, but not less than once every 2 years, to determine whether to initiate a rulemaking to include any additional transactions or classes of transactions or to exclude any transactions or classes of transactions from the reporting requirements of this paragraph.

“(D) ALTERNATE REPORTING.—The Commission may permit any report required to be reported under paragraph (A) by—

“(i) a member of a derivatives clearing organization; or

“(ii) only one of the persons entering into the transaction, provided that each person entering into the transaction or transactions has notified the Commission, in the manner

specified by the Commission, that one of the persons to the transaction or transactions has assumed, on behalf of the other person to the transaction, the legal obligations for such other person to submit reports under this section, including liabilities for failure to file such reports in accordance with the Commission’s regulations. Any notification provided under this paragraph shall be effective in imposing such legal obligations and liabilities upon such person.

“(E) RECORDKEEPING.—The Commission, by rule, shall require each covered person—

“(i) in accordance with section 4i, to maintain such records as directed by the Commission for a period of 5 years, or longer, if directed by the Commission; and

“(ii) to provide such records upon request to the Commission or the Department of Justice.

“(4) POSITION LIMITS FOR OVER-THE-COUNTER TRANSACTIONS.—Upon review of the information reported to the Commission under paragraph (3), or following a major market disturbance as determined by the Commission under paragraph (2), the Commission may establish, after due notice and opportunity for hearing, by rule, regulation, or order, such limits on the amount of trading in over-the-counter transactions as the Commission determines are necessary and appropriate to accomplish one or more of the following objectives with respect to any contract listed for trading on a registered entity—

“(A) diminish, eliminate, or prevent excessive speculation;

“(B) deter and prevent market manipulation, squeezes, and corners;

“(C) ensure sufficient market liquidity; and

“(D) ensure that the price discovery function of the underlying cash market is not distorted or disrupted.

“(5) PROTECTION OF PROPRIETARY INFORMATION.—In carrying out this subsection, the Commission may not—

“(A) require the publication of any proprietary information;

“(B) prohibit the commercial sale or licensing of any proprietary information; and

“(C) except as provided in section 8, publicly disclose any information relating to any market position, business transaction, trade secret, or name of any customer of a covered person.

“(6) APPLICABILITY.—Notwithstanding subsections (g) and (h), and any exemption issued by the Commission for any energy or agricultural commodity, each over-the-counter transaction shall be subject to this subsection.

“(7) SAVINGS CLAUSE.—Nothing in this subsection modifies or alters—

“(A) the guidance of the Commission; or

“(B) any applicable requirements with respect to the disclosure of proprietary information.

“(8) BONA FIDE HEDGING TRANSACTION REVIEW.—

“(A) IN GENERAL.—The Commission shall review and revise the definition of bona fide hedging transaction in subsection (c) of Section 4a of the Commodity Exchange Act (7 U.S.C. 2(h)(2)(A)) as the Commission determines is necessary and appropriate to ensure that the commodity markets effectively perform their risk management and price discovery functions.”

#### SEC. 8. INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

“(f) INDEX TRADERS AND SWAP DEALERS.—Not later than 60 days after the date of enactment of this subsection, the Commission shall—

“(1) routinely require detailed reporting from index traders and swap dealers in markets under the jurisdiction of the Commission;

“(2) reclassify the types of traders for regulatory and reporting purposes to distinguish between index traders and swaps dealers; and

“(3) review the trading practices for index traders in markets under the jurisdiction of the Commission—

“(A) to ensure that index trading is not adversely impacting the price discovery process; and

“(B) to determine whether different practices or regulations should be implemented.”.

**SEC. 9. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURAL MARKETS.**

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 8) is amended by adding at the end the following:

“(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURAL MARKETS.—The Commission shall disaggregate and make public monthly—

“(1) the number of positions and total value of index funds and other passive, long-only positions in energy and agricultural markets; and

“(2) data on speculative positions relative to bona fide physical hedgers in those markets.”.

**SEC. 10. ADDITIONAL COMMODITY FUTURES TRADING COMMISSION EMPLOYEES FOR IMPROVED ENFORCEMENT.**

Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

“(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of enactment of this subparagraph)—

“(i) to increase the public transparency of operations in energy futures markets;

“(ii) to improve the enforcement of this Act in those markets; and

“(iii) to carry out such other duties as are prescribed by the Commission.”.

**LEVIN PREVENT EXCESSIVE SPECULATION ACT  
BILL SUMMARY**

The Prevent Excessive Speculation Act would:

Authorize Speculation Limits for all Energy and Agricultural Commodities. Direct CFTC to impose position limits on energy and agricultural futures contracts to prevent excessive speculation and manipulation and to ensure sufficient market liquidity.

Authorize CFTC to permit exchanges to impose and enforce accountability levels that are lower than CFTC-established speculation limits.

Close London Loophole by Regulating Offshore Traders and Increasing Transparency of Offshore Trades. Prohibit a foreign exchange from operating in the United States unless it imposes comparable speculation limits and reporting requirements as apply to U.S. exchanges.

Provide CFTC with same enforcement authority over U.S. traders on foreign exchanges as it has over traders on U.S. exchanges, including authority to require traders to reduce their holdings to prevent excessive speculation or manipulation.

Require CFTC to invite non-U.S. regulators to form an international working group to develop uniform regulatory and reporting requirements to protect futures markets from excessive speculation and manipulation.

Close the Swaps Loophole and Regulate Over-the-Counter Transactions. Authorize

CFTC to impose speculation limits on OTC transactions to protect the integrity of prices in the futures markets and cash markets.

Require large OTC trades that affect futures prices to be reported to CFTC. Allow one party to a transaction to authorize the other party to file the report. Require CFTC periodic review of reporting requirements to ensure key trades are covered.

Direct CFTC to revise bona fide hedge exemption to ensure regulation of all speculators, and strengthen data analysis and transparency of swap dealer and index trading.

Clarify definition of OTC transactions to exclude spot market transactions.

Protect Both Energy and Agriculture Commodities. Cover trades in crude oil, natural gas, gasoline, heating oil, coal, propane, electricity, other petroleum products and sources of energy from fossil fuels, as well as ethanol, biofuels, emission allowances for greenhouse gases, SO<sub>2</sub>, NO<sub>x</sub>, and other air emissions.

Cover trades in agricultural commodities listed in the Commodity Exchange Act.

Strengthen CFTC Oversight. Authorize CFTC to hire 100 new personnel to oversee markets.

Direct CFTC to issue proposed rules within 90 days and final rules within 180 days.

By Mr. SPECTER (for himself,  
Mr. SCHUMER, Mr. LUGAR, and  
Mr. GRAHAM):

S. 448. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I sought recognition to introduce the Free Flow of Information Act of 2009. I am honored to be joined in my efforts by Senators SCHUMER, LUGAR and GRAHAM, who are original cosponsors. Some 242 years ago, on January 16, 1767, Thomas Jefferson remarked in a letter to Col. Edward Carrington, “Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.” We take our free press for granted because it is so ingrained in our history. But we need only look at free press movements in fledgling democracies to appreciate how sometimes fragile and easily chilled freedom of press truly is.

The Free Flow of Information Act protects the public interest by ensuring an informed citizenry. In the past three years the Department of Justice has provided inconsistent numbers of subpoenaed journalists to the Judiciary Committee. We know from the public record, however, that at least 19 journalists have been subpoenaed by federal and special prosecutors for confidential source information since 2001 claim. Among them are Judith Miller, Matt Cooper, Tim Russert, Lance Williams, Mark Fainaru-Wada, and Philip Shenon. We also know 4 journalists have been imprisoned at the request either of the DoJ, U.S. Attorneys, or special prosecutors since 2000. Josh Wolf, Judith Miller, Jim Taricani, Vanessa

Leggett. Collectively, these journalists have spent over 19 months imprisoned. Journalists who are not jailed for failing to comply with subpoenas still suffer the prospect of being held in contempt. Several have suffered this fate: Toni Locy, James Stewart, Walter Pincus, Jim Taricani.

In addition to the subpoenas from special prosecutors mentioned above, more than a dozen reporters have received subpoenas in civil suits, such as the Wen Ho Lee and Hatfill privacy lawsuits against the government. A preliminary report on the 2007 Media Subpoena Survey conducted by Professor Ronnell Andersen Jones at the Law College Foundation at the University of Arizona states: 761 responding news organizations reported receiving a total of 3,602 subpoenas seeking information or material relating to newsgathering activities in calendar year 2006. Of these, 335 were subpoenas arising out of proceedings that took place in a federal forum. Sixty-four percent of responding newsroom leaders believe the frequency of media subpoenas to be greater than it was five years ago. Fifty percent of the media companies believe the risk of their own organization receiving a subpoena is greater than it was five years ago, while only 5 percent believe the risk to be less.

This bipartisan legislation would establish a qualified reporters’ privilege protecting them from being compelled to identify confidential source information. The bill seeks to reconcile reporters’ need to maintain confidentiality, in order to ensure that sources will speak openly and freely with the media, with the public’s right to effective law enforcement and fair trials. The situation in the United States today is that journalists are subject to a compulsory process to disclose confidential informants—at least in Federal courts. At the State level, there are many laws providing qualified privileges for journalists. Prior versions of this bill garnered the support of numerous bipartisan cosponsors, as well as 39 media organizations, including the Washington Post, The Hearst Corporation, Time Warner, ABC Inc., CBS, CNN, The New York Times Company, and National Public Radio.

In 2005 I cosponsored two prior bills and was principle author of yet another. In the 110th Congress, I introduced S. 1035 the Free Flow of Information Act of 2007, along with Senator SCHUMER, and Senators LUGAR, GRAHAM, and DODD other senators to join as cosponsors were Senators LEAHY, JOHNSON, BOXER, KLOBUCHAR, Salazar, Obama, Clinton, Dole, MURRAY, LANDRIEU, WEBB, TESTER, LIEBERMAN, DURBIN, BAUCUS, and LAUTENBERG. On October 4, 2007, the Committee on the Judiciary favorably reported S.2035 out of committee by a 15-4 vote, which marked the first time a reporters’ privilege bill had ever passed out of the Senate Judiciary Committee.

On March 6, 2008, I, along with Senator LEAHY, sent a letter to Majority Leader REID and Minority Leader MCCONNELL asking that S. 2035 receive floor time for full Senate consideration. They answered our call. On July 30, 2008, the Senate entertained a cloture vote on the motion to proceed to the measure that failed by a vote of 51–43. Nonetheless, the bill continues to enjoy broad bipartisan support—including the pledged support of former Senator, now—President Barack Obama. I urge all of my colleagues to join me in passing the Free Flow of Information Act of 2009, its high time we stop jailing or holding in contempt reporters who, in good faith, protect their confidential sources even in the face of a government subpoena.

There has been a growing consensus that we need to establish a Federal journalists' privilege to protect the integrity of the news gathering process, a process that depends on the free flow of information between journalists and whistleblowers, as well as other confidential sources.

Under my chairmanship, the Judiciary Committee held three separate hearings on this issue at which we heard from 20 witnesses, including prominent journalists like William Safire and Judith Miller, current and former Federal prosecutors, including former Deputy Attorney General Paul McNulty, and First Amendment scholars.

These witnesses demonstrated that there are two vital, competing concerns at stake. On one hand, reporters cite the need to maintain confidentiality in order to ensure that sources will speak openly and freely with the news media. The renowned William Safire, former columnist for the New York Times, testified that "the essence of news gathering is this: if you don't have sources you trust and who trust you, then you don't have a solid story—and the public suffers for it." Reporter Matthew Cooper of Time Magazine said this to the Judiciary Committee: "As someone who relies on confidential sources all the time, I simply could not do my job reporting stories big and small without being able to speak with officials under varying degrees of anonymity."

On the other hand, the public has a right to effective law enforcement and fair trials. Our judicial system needs access to information in order to prosecute crime and to guarantee fair administration of the law for plaintiffs and defendants alike. As a Justice Department representative told the Committee, prosecutors need to "maintain the ability, in certain vitally important circumstances, to obtain information identifying a source when a paramount interest is at stake. For example, obtaining source information may be the only available means of preventing a murder, locating a kidnapped child, or identifying a serial arsonist."

As Federal courts have considered these competing interests, they adopt-

ed rules that went in several different directions. Rather than a clear, uniform standard for deciding claims of journalist privilege, the Federal courts currently observe a "crazy quilt" of different judicial standards.

The confusion began 36 years ago, when the Supreme Court decided *Branzburg v. Hayes*. The Court held that the press' First Amendment right to publish information does not include a right to keep information secret from a grand jury investigating a criminal matter. The Supreme Court also held that the common law did not exempt reporters from the duty of every citizen to provide information to a grand jury.

The Court reasoned that just as newspapers and journalists are subject to the same laws and restrictions as other citizens, they are also subject to the same duty to provide information to a court as other citizens. However, Justice Powell, who joined the 5–4 majority, wrote a separate concurrence in which he explained that the Court's holding was not an invitation for the Government to harass journalists. If a journalist could show that the grand jury investigation was being conducted in bad faith, the journalist could ask the court to quash the subpoena. Justice Powell indicated that courts might assess such claims on a case-by-case basis by balancing the freedom of the press against the obligation to give testimony relevant to criminal conduct.

In attempting to apply Justice Powell's concurring opinion, Federal courts have split on the question of when a journalist is required to testify. In more than three decades since *Branzburg*, the Federal courts are split in at least three ways in their approaches to Federal criminal and civil cases.

With respect to Federal criminal cases, five circuits apply *Branzburg* so as to not allow journalists to withhold information absent governmental bad faith. Four other circuits recognize a qualified privilege, which requires courts to balance the freedom of the press against the obligation to provide testimony on a case-by-case basis. The law in the District of Columbia Circuit is unsettled.

With respect to Federal civil cases, 9 of the 12 circuits apply a balancing test when deciding whether journalists must disclose confidential sources. One circuit affords journalists no privilege in any context. Two other circuits have yet to decide whether journalists have any privilege in civil cases. Meanwhile, 49 States plus the District of Columbia have recognized some form of reporters' privilege within their own jurisdictions. Thirty-one States plus the District of Columbia have passed some form of reporter's shield statute, and 18 States have recognized a privilege at common law.

There is little wonder that there is a growing consensus concerning the need for a uniform journalists' privilege in Federal courts. This system must be simplified.

Today, we move toward resolving this problem by introducing the Free Flow of Information Act of 2009. The purpose of this bill is to guarantee the flow of information to the public through a free and active press, while protecting the public's right to effective law enforcement and individuals' rights to the fair administration of justice.

The bill provides a qualified privilege for reporters to withhold from Federal courts, prosecutors, and other Federal entities, confidential source information and documents and materials obtained or created under a promise of confidentiality. However, the bill recognizes that, in certain instances, the public's interest in law enforcement and fair trials outweighs a source's interest in remaining anonymous through the reporter's assertion of a privilege. Therefore, it allows courts to require disclosure where certain criteria are met.

Under the legislation, in most criminal investigations and prosecutions, the Federal entity seeking the reporter's source information must show that there are reasonable grounds to believe that a crime has occurred, and that the reporter's information is essential to the prosecution or defense. In criminal investigations and prosecutions of leaks of classified information, the Federal entity seeking disclosure must additionally show that the leak caused significant, clear, and articulable harm to national security. In noncriminal actions, the Federal entity seeking source information must show that the reporter's information is essential to the resolution of the matter.

In all cases and investigations, the Federal entity must demonstrate that nondisclosure would be contrary to the public interest. In other words, the court must balance the governmental need for the information against the public interest in newsgathering and the free flow of information.

Further, the bill ensures that Federal Government entities do not engage in "fishing expeditions" for a reporter's information. The information a reporter reveals must, to the extent possible, be limited to verifying published information and describing the surrounding circumstances. The information must also be narrowly tailored to avoid compelling a reporter to reveal peripheral or speculative information.

Finally, the Free Flow of Information Act adds layers of safeguards for the public. Reporters are not allowed to withhold information if a Federal court concludes that the information is needed for the defense of our Nation's security, as long as it outweighs the public interest in newsgathering and maintains the free flow of information to citizens, or to prevent an act of terrorism. Similarly, journalists may not withhold information reasonably necessary to stop a kidnapping or a crime that could lead to death or physical injury. Also, the bill ensures that both crime victims and criminal defendants

will have a fair hearing in court. Under this bill, a journalist who is an eyewitness to a crime or tort or takes part in a crime or tort may not withhold that information on grounds of the qualified privilege. Journalists should not be permitted to hide from the law by writing a story and then claiming a reporter's privilege.

It is time for Congress to clear up the ambiguities journalists and the Federal judicial system face in balancing the protections journalists need in providing confidential information to the public with the ability of the courts to conduct fair and accurate trials. I urge my colleagues to support this legislation and help create a fair and efficient means to serve journalists and the news media, prosecutors and the courts, and most importantly the public interest on both ends of the spectrum.

By Mr. SPECTER (for himself, Mr. LIEBERMAN, and Mr. SCHUMER):

S. 449. A bill to protect free speech; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I am introducing the Free Speech Protection Act of 2009 to address a serious challenge to one of the most basic protections in our Constitution. American journalists and academics must have the freedom to investigate, write, speak, and publish about matters of public importance, limited only by the legal standards laid out in our First Amendment jurisprudence, including precedents such as *New York Times v. Sullivan*. Despite the protection for free speech under our own law, the rights of the American public, and of American journalists who share information with the public, are being threatened by the forum shopping of libel suits to foreign courts with less robust protections for free speech.

These suits are filed in, and entertained by, foreign courts, despite the fact that the challenged speech or writing is written in the United States by U.S. journalists, and is published or disseminated primarily in the United States. The plaintiff in these cases may have no particular connection to the country in which the suit is filed. Nevertheless, the U.S. journalists or publications who are named as defendants in these suits must deal with the expense, inconvenience and distress of being sued in foreign courts, even though their conduct is protected by the First Amendment.

An example of why the legislation is necessary is found in litigation involving Dr. Rachel Ehrenfeld, a U.S. citizen and Director of the American Center for Democracy, whose articles have appeared in the *Wall Street Journal*, the *National Review*, and the *Los Angeles Times*. She has been a scholar with Columbia University, the University of New York School of Law, and Johns Hopkins, and has testified before Congress. Dr. Ehrenfeld's 2003 book, *"Fundamental Evil: How Terrorism is Financed*

and How to Stop It", which was published solely in the United States by a U.S. publisher, alleged that a Saudi Arabian subject and his family financially supported Al Qaeda in the years preceding the attacks of September 11. He sued Ehrenfeld for libel in England, although only 23 books were sold there. Why? Because under English law, it is not necessary for a libel plaintiff to prove falsity or actual malice as is required in the United States.

Dr. Ehrenfeld did not appear, and the English court entered a default judgment for damages, an injunction against publication in the United Kingdom, a "declaration of falsity", and an order that she and her publisher print a correction and an apology.

Dr. Ehrenfeld sought to shield herself with a declaration from both federal and state courts that her book did not create liability under American law, but jurisdictional barriers prevented both the Federal and New York State courts from acting. Reacting to this problem, the Governor of New York, on May 1, 2008, signed into law the "Libel Terrorism Protection Act." Congress must now take similar action. I note that the person who sued Dr. Ehrenfeld has filed dozens of lawsuits in England, and there is a real danger that other American writers and researchers will be afraid to address this crucial subject of terror funding and other important matters. Other countries should be free to have their own libel law, but so too should the United States. Venues that have become magnets for defamation plaintiffs from around the world permit those who want to intimidate our journalists to succeed in doing so. The stakes are high. The United Nations in 2008 noted the importance of free speech and a free press, and the threat that libel tourism poses to the world.

Following the New York example, the legislation my co-sponsors and I introduce today confers jurisdiction on federal courts to bar enforcement of foreign libel judgments if the material at issue would not constitute libel under U.S. law. Significantly, it also deters foreign suits in the first place by permitting American defendants to countersue from the moment papers are served on them. Damages available in the countersuit include the amount at issue in the foreign libel suit as well as treble damages if the foreign suit is part of a scheme to suppress a U.S. person's first amendment rights.

This deterrent mechanism is critical because those who bring these foreign libel suits are more interested in intimidating the authors than in actually collecting damages. They know that even if a foreign judgment cannot be enforced in the United States, the cost of defending the suit and the penalty for taking a default judgment can have a chilling effect on American writers and publishers. In particular, under English law a contempt citation may issue against authors or publishers who fail to satisfy default judgments, pursuant to which their prop-

erty may be seized and they may be imprisoned. What is worse, defendants can no longer skirt the consequences merely by avoiding contact with England. Under recent European Commission regulations, default judgments for monetary claims are enforceable in all EU countries except Denmark.

The potentially severe ramifications of a default judgment make clear that merely barring enforcement of a foreign libel judgment in U.S. courts is entirely insufficient particularly for publishers with European offices. While it is important to bar enforcement, in the words of a *New York Times* editorial, that does "not go as far as it could."

I often remark that the Senate is the world's greatest deliberative body and all the facts and arguments ought to be examined before it acts. Accordingly, I must address a letter in opposition to this bill from a prominent British libel lawyer and explain why his arguments are unpersuasive.

He notes that a "U.S. citizen . . . knocked down by the negligent driving" of a London taxi driver is "just as entitled as any British citizen" to sue in England for damages. Why should a U.S. citizen "not be entitled on the same basis, like any other UK citizen, to sue for damages to his reputation?" The answer, of course, is that the analogy is inapt. In that hypothetical, the plaintiff sues the defendant in the defendant's jurisdiction for a harm committed and suffered there, an injury that is universally recognized as a tort. By contrast, the plaintiff in a foreign libel action purposely avoids suing in the jurisdiction where the defendant journalist writes and publishes, a jurisdiction where the material is not libelous. The proper analogy would be if the injured American had sued the taxi driver in the United States instead of England because the driver's conduct would not constitute negligence under English law. That hardly seems fair play. Our bill is designed specifically to prevent such forum shopping.

That essay also asks whether "legislators will extend their intervention" to commercial matters such as contracts and debts and warns that such extension could trigger "retaliatory action on the part of UK legislators." Actually, such extension has already happened, but at the hands of British legislators not American ones. In the antitrust context, British law bars enforcement of foreign judgments for treble damages such as those awarded by U.S. courts. In addition, it allows a British corporation, against whom a judgment for treble damages was entered in a foreign court, to recover from the plaintiff any excess over actual damages. In any event, this bill is confined to the narrow area of core First Amendment rights.

"Perhaps of most significance" he continues in his letter, is that to his knowledge "very few of these claims have actually come before UK courts." But it is the chilling effect and the

mere threat of litigation that suffices to silence authors; there is no need to try the cases. In 2004, fear of a lawsuit forced Random House UK to cancel publication of "House of Bush, House of Saud," a best seller in the U.S. that was written by an American author. Similarly, in 2007, the threat of a lawsuit compelled Cambridge University Press to apologize and destroy all available copies of "Alms for Jihad," a book on terrorism funding by American authors. Indeed, an October 2008 study reported in The Guardian found that "[m]edia companies are becoming less willing to fight defamation court cases all the way to a verdict. . . . With the burden of proof effectively resting on the defendant" and attorneys' fees paid by the loser, defendants "are forced to enter into settlement negotiations."

Numerous organizations have endorsed the bill we offer today, including the ACLU and the Anti-Defamation League, as well as numerous journalists and publishers groups. Op-eds and editorials supporting our efforts have run in national papers, including the New York Times on September 15, 2008 and the New York Sun on July 28, 2008. Also drawing attention to the issue was an op-ed Senator LIEBERMAN and I penned that ran in the Wall Street Journal on July 14, 2008.

Freedom of speech, freedom of the press, freedom of expression of ideas, opinions, and research, and freedom of exchange of information are all essential to the functioning of a democracy. They are also essential in the fight against terrorism.

I thank Senators LIEBERMAN and SCHUMER, as well as Congressman PETE KING and his cosponsors for working with me on this important bill.

By Mr. BAUCUS (for himself, Ms. STABENOW, Mr. TESTER, Mr. CONRAD, Mr. JOHNSON, and Mr. SCHUMER):

S. 450. A bill to understand and comprehensively address the oral health problems associated with methamphetamine use; to the Committee on Health, Education, Labor, and Pensions.

Mr. BAUCUS. Mr. President, I rise today to re-introduce the Meth Mouth Prevention and Community Recovery Act in the 111th Congress.

In December 2007, the U.S. Department of Justice's National Drug Intelligence Center, NDIC, reported the increasing availability of high-purity methamphetamine throughout the country and the expansion of methamphetamine networks. According to the 2005 National Survey on Drug Use and Health, NSDUH, an estimated 10.4 million Americans aged 12 or older used methamphetamine at least once in their lifetimes for nonmedical reasons, representing 4.3 percent of the U.S. population in that age group. Its use has been destructive to individual people, families and communities in our nation. Lung disease, fatal heart

attacks, mental illness and decaying teeth have been implicated with its prevalent use.

Dental problems are common among drug users. Many do not care for their teeth regularly and most do not see a dentist often. But methamphetamine seems to be taking a unique and horrific toll inside its user's mouths.

In those populated areas where its use is highly concentrated, more and more dentists are encountering patients with a distinct, painful and often debilitating pattern of oral decay. The condition, known as "meth mouth", is characterized by teeth that are blackened, stained, rotting and crumbling or falling apart. Some believe meth mouth is caused by the drug's acidic nature, its ability to dry the mouth, the tendency of users to grind and clench their teeth and a drug-induced craving for sugary drinks. Often the damage is so severe that extraction is the only viable treatment option.

The Meth Mouth Prevention and Community Recovery Act authorizes funding for local, school-based initiatives to educate primary and elementary school students about the dangers of methamphetamine usage. It will also provide for enhanced research and professional training in substance use disorders, oral health and the provision of dental care.

The bill I am putting forth here today will begin to address our Nation's need to better understand and educate our population along helping the dental health providers treat the oral disease originating from this drug's abuse. The studies funded and treatment offered here will begin to stem the tide on this terrible affliction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 450

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

**SECTION 1. SHORT TITLE; PURPOSES.**

(a) SHORT TITLE.—This Act may be cited as the "Meth Mouth Prevention and Community Recovery Act".

(b) PURPOSES.—The purposes of this Act are—

(1) to investigate and report on all aspects of meth mouth, including its causes, public health impact, innovative models for its prevention, and new and improved methods for its treatment;

(2) to ensure dentists and allied dental personnel are able to recognize the signs of substance abuse in their patients, discuss the nature of addiction as it relates to oral health and dental care, and facilitate appropriate help for patients (and family members of patients) who are affected by a substance use disorder;

(3) to determine whether, how, and to what degree educating youth about meth mouth is an effective strategy for preventing or reducing the prevalence of methamphetamine use; and

(4) to underscore the many ways that dentists and other oral health professionals can

contribute to the general health of their patients, their communities, and the country as a whole.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title; purposes.

Sec. 2. Table of contents.

**TITLE I—EVIDENCE-BASED PREVENTION**

Sec. 101. Findings; purpose; definitions.

Sec. 102. Methamphetamine prevention demonstration projects.

Sec. 103. Education for American Indian and Alaska native children.

Sec. 104. Authorization of appropriations.

**TITLE II—METH MOUTH RESEARCH INVESTMENT ACT**

Sec. 201. Findings; purpose; definitions.

Sec. 202. Research on substance abuse, oral health, and dental care.

Sec. 203. Study of methamphetamine-related oral health costs.

Sec. 204. Authorization of appropriations.

**TITLE III—SUBSTANCE ABUSE EDUCATION FOR DENTAL PROFESSIONALS**

Sec. 301. Findings; purpose; definitions.

Sec. 302. Substance abuse training for dental professionals.

Sec. 303. Authorization of appropriations.

**TITLE I—EVIDENCE-BASED PREVENTION**

**SEC. 101. FINDINGS; PURPOSE; DEFINITIONS.**

(a) FINDINGS.—The Congress finds as follows:

(1) According to the Substance Abuse and Mental Health Services Administration, first-time methamphetamine use is most likely to occur between the ages of 18 and 25. Prevention efforts must therefore begin during the teen years.

(2) Most young people do not realize that methamphetamine use can quickly leave their teeth blackened, stained, rotting, and crumbling or falling apart and that the treatment options are often limited.

(3) By educating youth about meth mouth, oral health advocates can play a substantial role in helping to prevent first-time methamphetamine use.

(b) PURPOSE.—The purpose of this title is to provide for a number of projects to evaluate whether, how, and to what degree educating youth about meth mouth is an effective strategy for preventing or reducing methamphetamine use.

(c) DEFINITIONS.—In this title:

(1) ANTI-DRUG COALITION.—The term "anti-drug coalition" has the meaning given to the term "eligible coalition" in section 1023 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1523).

(2) DENTAL ORGANIZATION.—The term "dental organization" means a group of persons organized to represent the art and science of dentistry or who are otherwise associated for the primary purpose of advancing the public's oral health.

(3) DIRECTOR.—The term "Director" means the Director of the Center for Substance Abuse Prevention.

(4) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms "elementary school" and "secondary school" have the meanings given to such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) INDIAN; INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given to such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) METH MOUTH.—The term "meth mouth" means a distinct and often severe pattern of oral decay that is commonly associated with methamphetamine use.

(7) **SUBSTANCE USE DISORDER.**—The term “substance use disorder” means any harmful pattern of alcohol or drug use that leads to clinically significant impairment in physical, psychological, interpersonal, or vocational functioning.

(8) **YOUTH.**—The term “youth” has the meaning given to such term in section 1023 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1523).

**SEC. 102. METHAMPHETAMINE PREVENTION DEMONSTRATION PROJECTS.**

(a) **IN GENERAL.**—In carrying out section 519E of the Public Health Service Act (42 U.S.C. 290bb-25e), the Director of the Center for Substance Abuse Prevention shall make grants to public and private nonprofit entities to enable such entities to determine whether, how, and to what degree educating youth about meth mouth is an effective strategy for preventing or reducing methamphetamine use.

(b) **USE OF FUNDS.**—

(1) **MANDATORY USES.**—Amounts awarded under this title shall be used for projects that focus on, or include specific information about, the oral health risks associated with methamphetamine use.

(2) **AUTHORIZED USES.**—Amounts awarded under this title may be used—

(A) to develop or acquire instructional aids to enhance the teaching and learning process (including audiovisual items, computer-based multimedia, supplemental print material, and similar resources);

(B) to develop or acquire promotional items to be used for display or distribution on school campuses (including posters, flyers, brochures, pamphlets, message-based apparel, buttons, stickers, and similar items);

(C) to facilitate or directly furnish school-based instruction concerning the oral health risks associated with methamphetamine use;

(D) to train State and local health officials, health professionals, members of anti-drug coalitions, parents, and others how to carry messages about the oral health risks associated with methamphetamine use to youth; and

(E) to support other activities deemed appropriate by the Director.

(c) **GRANT ELIGIBILITY.**—

(1) **APPLICATION.**—To be eligible for grants under this title, an entity shall prepare and submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) **CONTENTS.**—Each application submitted pursuant to paragraph (1) shall include—

(A) a description of the objectives to be attained;

(B) a description of the manner in which the grant funds will be used; and

(C) a plan for evaluating the project's success using methods that are evidence-based.

(3) **PREFERENCE.**—In awarding grants under this title, the Director shall give preference to applicants that intend to—

(A) collaborate with one or more dental organizations;

(B) partner with one or more anti-drug coalitions; and

(C) coordinate their activities with one or more national, State, or local methamphetamine prevention campaigns or oral health promotion initiatives.

(d) **LIMITATIONS.**—

(1) **GRANT AMOUNTS.**—The amount of an award under this title may not exceed \$50,000 per grantee.

(2) **DURATION.**—The Director shall award grants under this title for a period not to exceed 3 years.

(e) **EVALUATION AND DISSEMINATION.**—The Director shall collect and widely disseminate information about the effectiveness of the demonstration projects assisted under this title.

**SEC. 103. EDUCATION FOR AMERICAN INDIAN AND ALASKA NATIVE CHILDREN.**

Not less than 5 percent of the funds appropriated pursuant to section 104 for a fiscal year shall be awarded to Indian tribes and tribal organizations for the purpose of educating Indian youth about the oral health risks associated with methamphetamine use.

**SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for the purpose of carrying out this title \$1,000,000 for each of fiscal years 2010 through 2012. Amounts authorized to be appropriated under this section are in addition to any other amounts authorized to be appropriated for such purpose.

**TITLE II—METH MOUTH RESEARCH INVESTMENT ACT**

**SEC. 201. FINDINGS; PURPOSE; DEFINITIONS.**

(a) **FINDINGS.**—The Congress finds as follows:

(1) As the number of regular methamphetamine users has increased, so has a peculiar set of dental problems linked to the drug. The condition (known as “meth mouth”) develops rapidly and is attributed to the drug's acidic nature, its ability to dry the mouth, the tendency of users to grind and clench their teeth, and a drug-induced craving for sugar-laden soft drinks.

(2) Meth mouth is regarded by many as an anecdotal phenomenon. Few peer-reviewed studies have been published that examine its causes, its physical effects, its prevalence, or its public health costs.

(3) Enhanced research would help to identify the prevalence and scope of meth mouth. Such research would also help determine how substances of abuse can damage the teeth and other oral tissues, and offer the possibility of developing new and improved prevention, harm-reduction, and cost management strategies.

(b) **PURPOSE.**—The purpose of this title is to provide for enhanced research examining all aspects of meth mouth, including its causes, its public health impact, innovative models for its prevention, and new and improved methods for its treatment.

(c) **DEFINITIONS.**—In this title:

(1) **CLINICAL RESEARCH; HEALTH SERVICES RESEARCH.**—The terms “clinical research” and “health services research” shall have the meanings given to such terms in section 409 of the Public Health Service Act (42 U.S.C. 284d).

(2) **INDIAN; INDIAN TRIBE; TRIBAL ORGANIZATION.**—The terms “Indian”, “Indian tribe”, and “tribal organization” shall have the meanings given to such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) **METH MOUTH.**—The term “meth mouth” means a distinct and often severe pattern of oral decay that is commonly associated with methamphetamine use.

(4) **PUBLIC HEALTH RESEARCH.**—The term “public health research” means research that focuses on population-based health measures.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(6) **SUBSTANCE USE DISORDER.**—The term “substance use disorder” means any harmful pattern of alcohol or drug use that leads to clinically significant impairment in physical, psychological, interpersonal, or vocational functioning.

**SEC. 202. RESEARCH ON SUBSTANCE ABUSE, ORAL HEALTH, AND DENTAL CARE.**

(a) **EXPANSION OF ACTIVITY.**—In carrying out part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), the Secretary shall expand and intensify the clinical research, health services research, and public health research on associations between sub-

stance use disorders, oral health, and the provision of dental care.

(b) **ADMINISTRATION.**—In carrying out subsection (a), the Secretary—

(1) may enter into contracts or agreements with other Federal agencies, including inter-agency agreements, to delegate authority for the execution of grants and for such other activities as may be necessary to carry out this section;

(2) may carry out this section directly or through grants or cooperative agreements with State, local, and territorial units of government, Indian tribes, and tribal organizations, or other public or nonprofit private entities; and

(3) may request and use such information, data, and reports from any Federal, State, local, or private entity as may be required to carry out this section, with the consent of such entity.

**SEC. 203. STUDY OF METHAMPHETAMINE-RELATED ORAL HEALTH COSTS.**

(a) **IN GENERAL.**—In carrying out section 202, the Secretary shall conduct a study to determine whether, how, and to what degree methamphetamine use affects the demand for (and provision of) dental care. The study shall account for both genders, all racial and ethnic groups (and subgroups), and persons of all ages and from all geographic areas as appropriate for the scientific goals of the research.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish a special report detailing the results of the study described in subsection (a), with findings that address—

(1) the prevalence and severity of oral health problems believed to be associated with methamphetamine use;

(2) the criteria most commonly used to determine whether a patient's oral health problems are associated with methamphetamine use;

(3) the therapies most commonly used to treat patients with meth mouth;

(4) the clinical prognosis for patients who received care for meth mouth; and

(5) the financial impact of meth mouth on publicly financed dental programs.

**SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for the purpose of carrying out this title, \$200,000 for each of fiscal years 2010 through 2012. Amounts authorized to be appropriated under this section are in addition to any other amounts authorized to be appropriated for such purpose.

**TITLE III—SUBSTANCE ABUSE EDUCATION FOR DENTAL PROFESSIONALS**

**SEC. 301. FINDINGS; PURPOSE; DEFINITIONS.**

(a) **FINDINGS.**—The Congress finds as follows:

(1) The use of certain therapeutic agents in dental treatment can jeopardize the health and affect the relapse potential of patients with substance use disorders.

(2) Screening patients for substance abuse is not a common practice among dentists, according to several peer-reviewed articles published in the “Journal of the American Dental Association”. Limited time, inadequate training, and the potential for alienating patients are among the reasons often cited.

(3) Dentists receive little formal education and training in screening patients for substance abuse, discussing the nature of addiction as it relates to oral health and dental care, and facilitating appropriate help for patients, and family members of patients, who are affected by a substance use disorder.

(4) The American Dental Association maintains that dentists should be knowledgeable about substance use disorders in order to safely administer and prescribe controlled

substances and other medications. The American Dental Association further recommends that dentists become familiar with their community's substance abuse treatment resources and be able to make referrals when indicated.

(5) Training can greatly increase the degree to which dentists, allied dental personnel, and other health professionals can screen patients for substance abuse, discuss the nature of addiction as it relates to oral health and dental care, and facilitate appropriate help for patients, and family members of patients, who are affected by a substance use disorder.

(b) PURPOSE.—The purpose of this title is to provide for enhanced training and technical assistance to ensure that dentists and allied dental personnel are able to recognize the signs of substance abuse in their patients, discuss the nature of addiction as it relates to oral health and dental care, and facilitate appropriate help for patients, and family members of patients, who are affected by a substance use disorder.

(c) DEFINITIONS.—For the purposes of this title:

(1) ALLIED DENTAL PERSONNEL.—The term “allied dental personnel” means individuals who assist the dentist in the provision of oral health care services to patients, including dental assistants, dental hygienists, and dental laboratory technicians who are employed in dental offices or other patient care facilities.

(2) CONTINUING EDUCATION.—The term “continuing education” means extracurricular learning activities (including classes, lecture series, conferences, workshops, seminars, correspondence courses, and other programs) whose purpose is to incorporate the latest advances in science, clinical, and professional knowledge into the practice of health care (and whose completion is often a condition of professional licensing).

(3) CONTINUING EDUCATION CREDIT.—The term “continuing education credit” means a unit of study that is used to officially certify or recognize the successful completion of an activity that is consistent with professional standards for continuing education.

#### SEC. 302. SUBSTANCE ABUSE TRAINING FOR DENTAL PROFESSIONALS.

(a) IN GENERAL.—In carrying out title V of the Public Health Service Act (42 U.S.C. 290 et seq.), the Administrator of the Substance Abuse and Mental Health Services Administration shall support training and offer technical assistance to ensure that dentists and allied dental personnel are prepared to—

(1) recognize signs of alcohol or drug addiction in their patients and the family members of their patients;

(2) discuss the nature of substance abuse as it relates to their area of expertise;

(3) understand how certain dental therapies can affect the relapse potential of substance dependent patients; and

(4) help those affected by a substance use disorder to find appropriate treatment for their condition.

(b) CONTINUING EDUCATION CREDITS.—The Administrator of the Substance Abuse and Mental Health Services Administration may collaborate with professional accrediting bodies—

(1) to develop and support substance abuse training courses for oral health professionals; and

(2) to encourage that the activities described in paragraph (1) be recognized for continuing education purposes.

#### SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purpose of carrying out this title, \$500,000 for each of fiscal years 2010 through 2012. Amounts authorized to be appropriated

under this section are in addition to any other amounts authorized to be appropriated for such purpose.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 49—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE IMPORTANCE OF PUBLIC DIPLOMACY

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 49

Whereas public diplomacy is the conduct of foreign relations directly with the average citizen of a country, rather than with officials of a country's foreign ministry;

Whereas public diplomacy is commonly conducted through people-to-people exchanges in which experts, authors, artists, educators and students interact with their peers in other countries;

Whereas effective public diplomacy promotes free and unfiltered access to information about the United States through books, newspapers, periodicals, and the Internet;

Whereas public diplomacy requires a willingness to discuss all aspects of society, search for common values, foster a long-term bilateral relationship based on mutual respect, and recognize that certain areas of disagreement may remain unresolved on a short term basis;

Whereas a BBC World Service poll published in February 2009 that involved 13,000 respondents in 21 countries found that while 40 percent of the respondents had a positive view of the United States, 43 percent had a negative view of the United States;

Whereas Freedom House's 2008 Global Press Freedom report notes that 123 countries (66 percent of the world's countries and 80 percent of the world's population) have a press that is classified as “Not Free” or “Partly Free”;

Whereas the Government of the United Kingdom, of France, and of Germany run stand-alone public diplomacy facilities throughout the world, which are known as the British Council, the Alliance Francaise, and the Goethe Institute, respectively;

Whereas these government-run facilities teach the national languages of their respective countries, offer libraries, newspapers, and periodicals, sponsor public lecture and film series that engage local audiences in dialogues that foster better understandings between these countries and create an environment promoting greater trust and openness;

Whereas the United States has historically operated similar facilities, known as American Centers, which—

(1) offered classes in English, extensive libraries housing collections of American literature, history, economics, business, and social studies, and reading rooms offering the latest American newspapers, periodicals, and academic journals;

(2) hosted visiting American speakers and scholars on these topics; and

(3) ran United States film series on topics related to American values;

Whereas in societies in which freedom of speech, freedom of the press, or local investment in education were minimal, American Centers provided vital outposts of information for citizens throughout the world, giving many of them their only exposure to uncensored information about the United States;

Whereas this need for uncensored information about the United States has accelerated

as more foreign governments have restricted Internet access or blocked Web sites viewed as hostile to their political regimes;

Whereas following the end of the Cold War and the attacks on United States embassies in Kenya and Tanzania, budgetary and security pressures resulted in the drastic downsizing or closure of most of the American Centers;

Whereas beginning in 1999, American Centers began to be renamed Information Resource Centers and relocated primarily inside United States embassy compounds;

Whereas of the 177 Information Resource Centers operating in February 2009, 87, or 49 percent, operate on a “By Appointment Only” basis and 18, or 11 percent, do not permit any public access;

Whereas Information Resource Centers located outside United States embassy compounds receive significantly more visitors than those inside such compounds, including twice the number of visitors in Africa, 6 times more visitors in the Middle East, and 22 times more visitors in Asia;

Whereas Iran has increased the number of similar Iranian facilities, known as Iranian Cultural Centers, to about 60 throughout the world: Now, therefore, be it

*Resolved, That—*

(1) the Secretary of State should initiate a reexamination of the public diplomacy platform strategy of the United States with a goal of reestablishing publicly accessible American Centers;

(2) after taking into account relevant security considerations, the Secretary of State should consider placing United States public diplomacy facilities at locations conducive to maximizing their use, consistent with the authority given to the Secretary under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act.

#### SENATE RESOLUTION 50—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ms. LANDRIEU submitted the following resolution; from the Committee on Small Business and Entrepreneurship; which was referred to the Committee on Rules and Administration:

S. RES. 50

*Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business and Entrepreneurship is authorized from March 1, 2009, through September 30, 2009, and October 1, 2009, through September 30, 2010, and October 1, 2010, through February 28, 2011, in its discretion—*

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expense of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed \$1,693,240, of which amount—

(1) not to exceed \$25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof

(as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed \$2,976,370, of which amount—

(1) not to exceed \$25,000 may be expended for the procurement of the services of individual consultants, organizations thereof (as authorized by section 292(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed \$1,267,330, of which amount—

(1) not to exceed \$25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee may report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2011.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate;

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) for payments to the Postmaster, United States Senate;

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(6) for the payment of Senate Recording and Photographic Services; or

(7) for payment of franked mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009, through September 30, 2009, October 1, 2009, through September 30, 2010, and October 1, 2010, through February 28, 2011, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE CONCURRENT RESOLUTION 7—HONORING AND REMEMBERING THE LIFE OF LAWRENCE "LARRY" KING

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. DURBIN, and Mr. WHITEHOUSE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 7

Whereas Larry King was a 15-year-old boy from Oxnard, California who was shot by a fellow student during English class on February 12, 2008 and died in the hospital 2 days later;

Whereas the police classified the murder as a hate crime;

Whereas in 2008, more than 150 vigils were held across the Nation in Larry's memory, and more than 18,000 students from more than 6,500 middle and high schools came together to commemorate his death;

Whereas one year later, vigils continue to be organized to call for an end to violence, bullying, and harassment in schools in the United States;

Whereas in 2007, 85 percent of lesbian, gay, bisexual, and transgender students were verbally harassed at school because of their sexual orientation, and more than 20 percent of those students were physically assaulted because of their sexual orientation;

Whereas the Gay, Lesbian, and Straight Education Network's 2007 National School Climate Survey showed that when students are harassed or assaulted at school, they find it difficult to focus on their school work, their grades drop, and they attend school less often; and

Whereas schools should be a place where all children can learn and grow in a safe environment, free from bullying and harassment: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) honors and remembers the life of Lawrence "Larry" King;

(2) condemns all hate crimes; and

(3) calls on the Federal Government, States, localities, schools, and the people of the United States to take immediate steps to stop bullying and harassment in the Nation's schools.

Mrs. FEINSTEIN. Mr. President, I rise to introduce a resolution to honor the memory of Lawrence "Larry" King, a 15-year-old boy who was shot and killed at a California junior high school on this day last year.

Larry's story is a tragic and is a poignant reminder of why it is so important to stop bullying and violence in our schools.

Larry King was a spirited boy who grew up in Oxnard, California.

At the age of 10, he told the other kids at school that he was gay, and many of them teased and taunted him as a result. At his first school, the bullying became so harsh that his parents had to transfer him to a different school. But the transfer seemed like a good one, and although Larry still endured teasing, he made some very close friends.

Near the beginning of last year, Larry decided to change the way he dressed. He started wearing girls' accessories, makeup, and a pair of high heels that he bought for himself at Target.

In February, he asked one of his male classmates to be his Valentine. The boys exchanged heated words, and the next morning Larry came to school dressed plainly and looking nervous and out of sorts.

He had English as his first class and he sat with the other students, including the boy he had asked to be his Val-

entine. The class was in the school's computer lab and the students sat typing up their papers.

At 8:30 a.m., the other boy stood up and fatally shot Larry. He had hidden a handgun in his bag, which he took out, and simply stood up silently and shot Larry twice in the back of the head. Larry died in the hospital two days later.

This act of violence is shocking and devastated his parents, and the Oxnard community.

I strongly oppose hate crimes of all kinds. When victims are targeted because of who they are—because of their race, their religion, their sexual orientation, or national origin—the harm runs very deep.

Hate crimes can cause lengthy emotional trauma; they can make people afraid to express their identities; and they are deeply divisive and can tear our communities apart.

Hate crimes and bullying in schools can cause even deeper harm.

According to a School Climate Survey in 2007, over 85 percent of gay, lesbian, bisexual, and transgender students were verbally harassed at school. And more than 20 percent of these students had been physically assaulted.

The survey also found that when children were bullied or harassed, they attended school less and their grades began to drop.

This bullying and violence has to stop. I am introducing this resolution today to commemorate the life of this young boy and to draw attention to the need for increased efforts to end bullying and violence in our schools. Schools should be safe places where children can learn and grow, free from harassment or any threat of physical attack.

I also want to take this opportunity to urge my colleagues to pass hate crimes legislation this year so that our federal law will be clear that crimes based on a person's sexual orientation, gender identity, or disability are crimes of hate and must be vigorously prosecuted because of the great harm that they cause to our communities.

I urge my colleagues to support this resolution.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate, off the Senate floor, during a roll call vote on February 13, 2009.

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

DISTRICT OF COLUMBIA HOUSE  
VOTING RIGHTS ACT OF 2009—  
MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, ordinarily I would ask consent to proceed to legislation, especially S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives, but I know there is an objection; therefore, I will not ask consent. But in view of an objection that would be lodged against the proceeding, I now move to proceed to Calendar No. 23, S. 160, and I send a cloture motion to the desk.

The PRESIDING OFFICER. Under rule XXII, the clerk will report the motion to invoke cloture on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009.

Harry Reid, Joseph I. Lieberman, Richard Durbin, Charles E. Schumer, Christopher J. Dodd, Benjamin L. Cardin, Edward E. Kaufman, Mark Udall, Daniel K. Inouye, Michael F. Bennet, Mary L. Landrieu, Mark L. Pryor, Sheldon Whitehouse, Roland W. Burris, Patty Murray, Bernard Sanders, Thomas R. Carper.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. I now withdraw the motion.

The PRESIDING OFFICER. The leader has that right. The motion is withdrawn.

Mr. REID. I now ask unanimous consent that the cloture vote occur at 11 a.m. on Tuesday, February 24; that if cloture is invoked on the motion, then all postcloture time be considered yielded back, the motion to proceed be agreed to, and the Senate proceed to the consideration of the bill.

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

EXECUTIVE SESSION

NOMINATION OF HILDA L. SOLIS  
TO BE SECRETARY OF LABOR

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the nomination of Calendar No. 18, Hilda L. Solis, of California, to be Secretary of Labor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read the nomination of Hilda L. Solis, of California, to be Secretary of Labor.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Hilda L. Solis, of California, to be Secretary of Labor.

Harry Reid, Christopher J. Dodd, Richard Durbin, Charles E. Schumer, Benjamin L. Cardin, Edward E. Kaufman, Joseph I. Lieberman, Mark Udall, Daniel K. Inouye, Michael F. Bennet, Mary L. Landrieu, Mark L. Pryor, Sheldon Whitehouse, Roland W. Burris, Patty Murray, Jack Reed, Blanche L. Lincoln, Bernard Sanders.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe, Helsinki, during the 111th Congress: the Honorable RICHARD BURR of North Carolina and the Honorable ROGER WICKER of Mississippi.

100TH ANNIVERSARY OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 35.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 35) honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 35) was agreed to.

The preamble was agreed to.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 47.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 47) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I now ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 47) was agreed to, as follows:

H. CON. RES. 47

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Thursday, February 12, 2009, through Monday, February 16, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, February 23, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, February 13, 2009, through Friday, February 20, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 2 p.m. on Monday, February 23, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.*

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

PROGRAM

Mr. REID. Mr. President, when we get back on that Monday, a week from this Monday, we are going to have Washington's Farewell Address. It will be read by Senator JOHANNIS of Nebraska. It alternates back and forth between Democrats and Republicans. This is the time for the Republicans to read the address. There will be no votes on Monday as a result of the agreement we reached just a minute ago on this unanimous consent request.

On the 24th, at 11 a.m., there will be a cloture vote on the motion to proceed

to the DC House Voting Rights Act. If cloture is invoked on the motion to proceed, postcloture time will be yielded back, and the Senate will proceed to the bill. There will be immediately another cloture vote on the nomination of HILDA SOLIS to be President Obama's Secretary of Labor.

I anticipate that after the luncheons we have every week with our caucuses, we will reach an agreement for a time certain for a vote on the confirmation of the nomination of HILDA SOLIS.

Everyone is reminded that President Obama will address a joint session of Congress Tuesday evening at 9 p.m. in the House Chamber. Members of the Senate will gather on the Senate floor at 8:30 p.m. and proceed to the House.

On Wednesday, February 25, the DC voting rights bill will be up, be open to debate and amendments. We hope to complete this bill by the end of the week.

I would recognize that the House is going to take up, the week we get back, the omnibus appropriations bill.

Friday, February 26, is an announced no-vote day.

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#### ORDERS FOR MONDAY, FEBRUARY 23, 2009

Mr. REID. So, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned under the provisions of H. Con. Res. 47 until 2 p.m. on Monday, February 23; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senator from Nebraska, Mr. JOHANNIS, be recognized to read Washington's Farewell Address; further, that following the address, the Senate resume consideration of the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009.

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#### A TEAM EFFORT

Mr. REID. Mr. President, just in closing, it has been a long, hard several weeks for our valiant staff, and there is not any way anyone could suggest well enough the enormous contributions they make to making this body flourish the way it does.

We have gotten a tremendous amount of work done this first working period of this Congress. We should be proud of what we have done. We have passed the most sweeping environmental bill in more than 25 years. We have passed the discrimination bill, the Lilly Ledbetter bill, which is an important piece of legislation for women all over America. We passed the Children's Health Insurance Program, which allow millions of American children to have health insurance coverage that they would not have ordinarily. And we just passed this bill to help our struggling economy. So I think the American people should see that we have

worked together on a bipartisan basis to accomplish a lot.

We are so fortunate to have our new President. It is a pleasure to work with him. I have had, this past couple of weeks, the ability to visit with him firsthand in legislative combat.

They are competent. I am so impressed. The President's chief of staff Rahm Emanuel—we could not have done this without his assistance, guidance, and directness.

We had the head of the Office of Management and Budget, Peter Orszag, who I called personally last night to tell him that I know he is not a long-time person involved in politics, but he is a natural. He is a brilliant man. He has a degree from Princeton. He has a Ph.D. from the London School of Economics. I am very impressed with this man, who I did not know other than to say hello to, but I have gotten to know him well because we have spent days together in the last short period of time.

The President's representative up here, who we will deal with all the time, Phil Schiliro, has done a really wonderful job.

Rob Nabors, who was the longtime staff assistant, director of the Appropriations Committee for Chairman OBEY, has been magnificent in his work for the White House, working as Peter Orszag's assistant.

There are a lot of people who allowed us to get to where we are, and I appreciate very much their help. It was a real long, hard pull.

The Presiding Officer, my dear friend, the senior Senator from the State of Illinois, who came to Washington with me in 1982, has been invaluable during this very difficult time working on this bill.

Senator SCHUMER of New York, of course, works with me and Senator DURBIN on all the things we do.

And the final point of that legislative team is PATTY MURRAY. She is such a contributor to this Senate. I have such respect for her. She has such a soft touch, but she is as strong as anybody in the Senate.

I am not going to go through the entire list of people. Many, many worked hard.

The chairman of the Appropriations Committee, Senator INOUE, is a hero in many different ways. He is a Member of the Senate who has had the Congressional Medal of Honor awarded to him for his valiant efforts in World War II.

The chairman of the Finance Committee, Senator BAUCUS, was involved in this from the very beginning and did such a great job.

My personal staff has spent longer hours than I have put in. My chief of staff Gary Myrick is very quiet but such a help to me and the Senate; Randy Devalk, everyone in the Senate depends on him. He is a wealth of knowledge, a fountain of legislative information, and he has just been, really, a remarkably good person.

Mr. President, I am sure I have left off people, but this piece of legislation, I am so happy we were able to get it done.

I will never, ever forget the valiancy of those three brave Republicans who broke from the pack and stood alone to tell America that we needed to do something with our economy which needed help: Senator SNOWE from Maine, and Senator COLLINS from Maine, Senator SPECTER from Pennsylvania. But for them we would not be where we are.

Senator INOUE was masterful in what he did. Senator BAUCUS was tremendous in the Finance Committee, and his staff. Senator BAUCUS's staff was really very good, led by Russ Sullivan, who we depend on—all of us—for his knowledge. He is a CPA. He has been a feature in the Senate for a long time and he was so very important.

I did not mention a person we have come to depend on in the Senate—all of us—because he has been the chief person on the Appropriations Committee for Senator BYRD, and that is Chuck Kieffer, who was with us all the time, as was Senator INOUE's chief clerk on the Appropriations Committee, Charlie Houy.

Now, as I said, I am sure I have missed a few people because this was, really, a big team effort.

In my own mind, this piece of legislation is the most important piece of legislation I have worked on for the country. The country is in trouble, and we are so fortunate we were able to get it passed. It is going to give this country a shot in the arm. My State of Nevada needs this so very much. We are going to have a number of meetings in Nevada next week to talk about all the good that will flow to Nevada as a result of its passage.

As usual, Lula Davis is so important to how we function here. She is the person who tells us how we can move forward on things. She is invaluable to every Democratic Senator, and especially to me.

As I announced earlier, Mr. President, the next vote will occur at 11 a.m., Tuesday, February 24. That vote will be on the motion to invoke cloture on the motion to proceed to the District of Columbia House voting rights legislation.

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#### ADJOURNMENT UNTIL MONDAY, FEBRUARY 23, 2009, AT 2 P.M.

Mr. REID. So, Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

The PRESIDING OFFICER. Without objection, the foregoing requests are all agreed to.

Thereupon, the Senate, at 11:03 p.m., adjourned until Monday, February 23, 2009, at 2 p.m.