Without objection, it is so ordered.

Thereupon, at 5:27 p.m., the Senate recessed until 6:30 p.m., and reassembled when called to order by the Presiding Officer (Mr. BROWN).

The PRESIDING OFFICER. The Senator from Illinois is recognized.

RECESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate stand in recess until 7 p.m.

There being no objection, the Senate, at 6:31 p.m., recessed until 7 p.m., and reassembled when called to order by the Presiding Officer (Mrs. SHAHEEN).

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—Continued

Mr. REID. Madam President, earlier today, the Labor Department announced that the unemployment rate had gone up very high. We now find the housing crisis is worse, with lending freezes still upon us, and small businesses are shutting down as we speak. Job losses are significant this month alone; that is, the month of January, with 600,000 jobs lost, and the month of February is starting to be even worse than January as far as layoffs. In Nevada, the unemployment rate has gone well over 9 percent.

Leading economists are now comparing today's crisis to the early days of the Great Depression. We are doing everything we can to make sure this severe recession we are in does not become another Great Depression, and we are a long ways from a Great Depression. The Great Depression saw the stock market drop 89 percent, and 25 percent of all Americans were unemployed, with millions of others underemployed. But we do not want this recession we are in to march into a depression, and that is why we have worked all week to come up with a solution to these problems, to try to help jump-start this economy.

President Obama himself acknowledged that his plan wasn't perfect. I have to be very candid with everyone here. I have learned a lot in the last few days by people coming in good faith and saying what is in here should not be in here and, on a few occasions, listening to what was propounded by those who have come up with this bipartisan agreement, we had to swallow real hard, but it was all done in good faith. This is a very critical juncture in time for our great country. It is an important time for the Congress. Faced with this grave and growing economic crisis, we are now close—closer—to joining President Obama in helping turn the economy around.

I think the process here has been very good. We have had a large number of amendments debated and voted upon. The managers have worked very hard. Senators BAUCUS and INOUYE, with their counterparts, have moved through a lot of amendments. It has been an open process. Some of the votes have been difficult votes to take. But now we are at a point where people of good will are going to move forward and complete this work. The question of when we do it is certainly something we are concerned about, but we are going to do it—if not tonight, in the next day or so.

I express my appreciation to a Senator on our side of the aisle—Senator BEN NELSON—who took this difficult assignment on our side to come up with something we could pass, is the best way to say it. There were a number of Senators who worked with him on this side of the aisle, a number of Senators who worked with Senator COLLINS on the other side of the aisle. I am not going to run through all the people who worked on this, but from my perspective Senator NELSON and Senator COLLINS are the two people who got us to where we are now, with great work by others. I hope I don't offend anyone by not mentioning them, but from my perspective tonight there are four people who need to talk about this. But for them, we would not be in a position where we could move forward to try to help the American people: That is Senators BEN NELSON, SUSAN COLLINS, ARLEN SPECTER, and JOE LIEBERMAN.

So, Madam President, I ask unanimous consent—and certainly if the Republican leader cares to say anything, but I wish to get this consent request entered first. If he wants to say something before the time begins on these other individuals, he certainly has that right. He can do it beforehand, if he wants, but I want to get this out of the way.

I ask unanimous consent that Senator BEN NELSON be recognized for 10 minutes; that Senator SUSAN COLLINS be recognized for 10 minutes; Senator ARLEN SPECTER be recognized for 15 minutes; Senator LIEBERMAN be recognized for 10 minutes; and that the Republicans, following these statements by these four Senators, have equal time—that is 45 minutes—to be divided any way they feel appropriate.

I ask unanimous consent that be approved; and I preface it by saying if Senator MCCONNELL has anything to say before the time starts running on these four individuals and the other individuals, which is going to be about 90 minutes, and I am sure he does, I ask unanimous consent that following the statement of the Republican leader that this consent be granted.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. Madam President, reserving the right to object, and I may not object, but I wish to ask the distinguished majority leader if we could alternate the speakers over that same period of an hour and a half.

Mr. REID. I would say that we are alternating. We have four people who have put this arrangement together. I think it would be appropriate for the whole body to listen to what the arrangement is. I think it would certainly be more understandable to do it that way, and we have two Republicans and two Democrats. So I think that would be fair. If my friend would allow us to do that, I think it would be good for the body.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. That is certainly not alternating speakers in terms of position on the amendment, and I would again suggest we do what we virtually always do and alternate speakers with regard to the pending issue, which is this new amendment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask my friend, through the Chair, wouldn't it be better if people who responded to these four Senators had some idea what the agreement was? That would seem to be so much more logical, and I hope my friend would allow us to proceed in that manner.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I also note that I see my friend stood to be recognized, Madam President, but we have gone out of our way to protect everybody's right. We haven't tried to blindside anyone. We have listened to all the amendments. We have been fair with all the time. I can't imagine why my friend would want to do this. My Senators need to know what this agreement is.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I will not object. I wish to respond to the majority leader through the Chair and say I am very eager to understand all of the details of this proposal, and I will be doing that by getting a copy of the proposal and digesting it over a reasonable period of time over the weekend, since it is a trillion dollar proposal. But I will not object to that specific request.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I rise this evening to speak about the need for Congress to support substantial and swift-acting help for our Nation. These days, all too often when tuning into the news, we cringe—layoffs, job losses, poor earnings, business closings, State fiscal problems, foreclosures, global financial troubles, and the worried faces of so many Americans.

Our great Nation is mired in the worst economic downturn since the Great Depression. My State of Nebraska, usually late to recessions, has been caught by the crisis too. Thousands of Nebraskans have lost their jobs or been laid off. Many business owners are worried, and the economic downturn is affecting everyone's budget and wallet and outlook. One of the strongest Nebraska values is our work ethic. But right now, a lot of Nebraskans just want to show up for work tomorrow or hope for a better job in the future.

That is why I have been pleased to work with my good friend, Senator SUSAN COLLINS, and a bipartisan group of Senators to address this crisis now, to find a plan that creates jobs and restores America's economic strength. We have reached an agreement on a bipartisan plan that does that. With so much at stake, however, and the costs to our children and our grandchildren so high, it is important that we get it right.

The economic recovery bill we support today fuels two powerful engines: major tax cuts for the middle class and to create jobs, and targeted investments in America's infrastructure and job growth. Our bipartisan group worked long and hard, going line by line, dollar by dollar, to reduce spending from the original bill. We trimmed the fat, fried the bacon, and milked the sacred cows. The savings to the American people, to taxpayers, is $110 billion—hardly the trillion dollars that was just mentioned.

The total package is $780 billion. The remaining bill consists of tax cuts for the middle class and specific job-creating investments, providing long-lasting economic benefits.

I truly thank my colleagues from across the aisle, my good friends and partners in this effort, Senator SUSAN COLLINS and Senator ARLEN SPECTER and my good friend from Connecticut, JOE LIEBERMAN, for their work. Also, we had the support of a number of our colleagues, including the Presiding Officer, on this side of the aisle. I guess I can affectionately call all of us the Jobs Squad. They made nonstop efforts and held nonstop meetings to do this work this week. They never lost hope, no matter whatever the word was on the street or the fact that there was maybe one or two or more leaks of information. We would never lose hope. Their guidance and their wise counsel were invaluable as we continued to work to advance and develop this consensus today.

Our plan pared back a very substantial amount of money that we believed didn't belong in a bill called a stimulus package that was designed to fix our economy. If we look at these proposals, many of them will work well in a budget or in another bill, but we did not think they deserved to be in this particular bill which was about jobs, jobs, jobs. If we ask taxpayers to support it, as we are, they deserve to get the biggest bang for their buck. The remaining plan will generate new jobs, save jobs, and expand job opportunities all across America as it also boosts our economy.

We recognize our plan is not perfect, but I believe it is both responsible and realistic. It is stimulative and timely and can help deliver economic recovery to the American people soon.

The tax cuts in the recovery plan will reach 95 percent of all Americans, providing direct assistance for struggling middle-class American families and to businesses so they can create or preserve jobs. The robust $350 billion in tax cuts will put a lot of money in people's pockets, money to buy a car, a refrigerator, a student's college education, or equipment for better products. Some say we do not have enough tax cuts. That $300 billion I just mentioned is the exact same amount Congress overwhelmingly approved in 2003, under the previous administration, to help the economy at that time.

Our country cannot wait another day for another approach. The American people expect us, their elected representatives, to pull together in crisis, to do the best we can, and to take appropriate action. We may not have a choice about the need for a major stimulus effort, but our bipartisan group has made tough choices, and we have improved the economic recovery bill. I believe President Obama and colleagues all across Capitol Hill, on both sides of the aisle and both sides of this wonderful Capitol, will see this as a serious and effective effort to return America to prosperity.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, I am pleased to join my colleagues, Senator NELSON, Senator SPECTER, and Senator LIEBERMAN, in offering a bipartisan compromise on the stimulus proposal that is before us. This proposal is the culmination of much deliberation and debate by so many of our colleagues on both sides of the aisle. I realize some of my Republican colleagues who were involved in the deliberations ultimately have decided not to support the compromise, but their debate, their ideas helped inform the compromise we are presenting tonight.

Our country faces a grave economic crisis, and the American people want us to work together. They do not want to see us dividing along partisan lines on the most serious crisis facing our country. That is why so many of us have worked night and day to try to come up with a stimulus package that would be a considerable improvement over the House-passed bill and would help boost our economy and create and preserve jobs.

I could not vote for the House-passed bill. Laden with unnecessary expenditures, it was a Christmas tree upon which every Member, virtually, had hung his or her favorite project. It was bloated, expensive, and ineffective. This compromise greatly improves the bill. It will help our economy recover from a dangerous recession. It will help Americans throughout this country who are struggling because they have lost their jobs.

Every day we hear more reports of massive job losses. Just today we learned our country lost nearly 600,000 jobs in January alone. The unemployment rate exceeds 7 percent, its highest level in more than 16 years. Unemployment in my home State of Maine is now 7 percent—again, a 16-year high. Just today in Maine we learned that another paper mill has been forced to lay off 140 people for at least a month because they do not have enough orders to keep the workers on the job. These are not just cold statistics. These are not just jobs. These are hard-working American people who need our help, who deserve a stimulus package that is targeted, effective, and bipartisan. That is why I have worked so hard with a bipartisan group of my colleagues to come up with a responsible plan that will jump-start our economy and help improve the lives of hard-working people.

This debate is not about Republicans or about Democrats. It is not about our new President winning or losing. It is about helping the American people. Surely we ought to be able to come together to advance that goal.

I have maintained since the beginning of this debate that in order to be effective, the money included in this package has to be able to be spent quickly to put more dollars into the taxpayers' pockets, and it has to be targeted and directed to projects that will really help. That is what we have done.

As my colleague from Nebraska has pointed out, we have reduced over $110 billion in unnecessary spending from this bill. We have cut that away. Is it perfect? No. Every compromise reflects choices that are necessary to bring people together. But this bill is an enormous improvement over the House bill. It cuts away many projects that are worthwhile projects but which do not belong in a stimulus package because they have nothing to do with turning our economy around and creating and saving jobs.

There has been a lot of talk from outside groups about our slashing the spending in this bill. We took a targeted approach. We did cut spending, even for programs we all support because they belong in the regular appropriations process. They are good programs, but they are not programs that will stimulate the economy.

So we focused on the following programs:

We included $45.5 billion for infrastructure projects—roads and bridges that are needed throughout our country that are ready to go, that will put people to work, and that will leave lasting assets in communities across this country. We helped to fund some water and sewer projects that are the

results of unfunded Federal mandates which are needed to improve public health but impose a real burden on struggling communities and States.

We included $4.4 billion to improve our electric transmission through a smart grid that will help us to transmit alternative sources of energy.

We included $87 billion in targeted temporary increases in the Federal Medicaid matching rate. This will help our States avoid deep cutbacks in health care coverage for some of our most vulnerable citizens.

We included $6 billion for special education. If you talk to schools throughout this country and you ask them how you can most help them, they will say: Start fulfilling the Federal promise to help fund special education for children with special needs. It is a promise we made back in the 1970s that we have never kept. We put in funding for special education. That will help communities across this country, and it will help retain teaching jobs as well.

We also included nearly $4 billion in Pell grants to help our neediest students go to college.

We have included funding for a 1-year fix in the alternative minimum tax, which unfairly imposes an increased tax on middle-income families. There are tax incentives for small businesses, the true job creators in this country. They will be helped by this bill. There is tax relief for low-income and middle-income families. That is so important, to help those families who are truly struggling right now, and it will help boost consumer demand as well.

We took a careful, thoughtful, comprehensive approach. We got rid of funding for such projects as $870 million for pandemic flu preparedness. That is something that may be needed but doesn't belong in a stimulus package. We made a number of cuts like that, difficult cuts but important, so that we could keep to the purpose of this package.

This has been an extremely difficult deliberation, but I believe we have an obligation to start solving the problems facing this country. The American people do not want to see partisan gridlock. They do not want to see us divided and fighting. They want to see us working together to solve the most important crisis facing our country. That is what we have done. That is why we have presented this compromise.

Again, I thank not only my colleagues, Senator NELSON, Senator SPECTER, and Senator LIEBERMAN—all of whom have worked so hard—but others whose input and insights were invaluable in crafting this package.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I begin with the enormously serious economic problems facing the United States: an unemployment rate which is rising, 4,100,000 jobs lost last year, thousands of people losing their jobs every day; recognizing the very heavy psychological factor which is at work, cited for the destruction of consumer confidence; and the eyes and the ears of the world are on the United States, on the U.S. Government, and on the Senate tonight to see whether we will be able to respond to the magnitude of the problem.

The psychological impact, if we were to reject some activist approach, I think would be devastating, not only on Wall Street and on Main Street but all across the face of the globe.

Based on the telephone calls which I have gotten in my office, this is a very unpopular vote. Perhaps the tide will turn. But the calls are mounting from one end of the political spectrum saying there are too many expenditures, and the calls are mounting on the other end of the political spectrum saying there is not enough money being spent on the proposal which we are advancing tonight.

Perhaps the tide will turn on reflection and an analysis of the program which we are setting forth. Perhaps the tide will turn as exemplified by the letter issued today from the U.S. Chamber of Commerce, principal spokesman for corporate America and principal spokesman for conservative America.

The Chamber says this:

> Therefore, this legislation, because the economy continues to deteriorate, the Chamber is for the bill because it supports pro-growth tax initiatives. The Chamber is for the bill because it applauds the inclusion of tax relief. The Chamber is for the bill because many of the spending-side provisions of the legislation will also provide stimulus to get Americans back to work focusing on infrastructure spending for roads, rails, public transportation, aviation, inland waterways and ports.

I have already noted certain grave concerns which I have and one is the rush to judgment, which we are a part, and perhaps a necessary part. When President Obama came to speak to the Republican Caucus recently, when my turn came to ask a question, I said: Why are you wedded to February 13? That is too fast to digest a bill of this magnitude.

I said we had passed a $700 billion bailout bill, TARP, where we did not know what was in the bill. We did not have the regular order of hearings, questions, and cross-examination or committee work on the markup line by line with the committee report. We did not even have floor debate.

We made a lot of mistakes. They were compounded by the administration carrying it out. I voted against the release of the second $350 billion. I said: Mr. President, let's not do it again. There is nothing magical about February 13 before we start the week of recess for Presidents Day.

The President responded, emphasizing the severe nature of the problem, and not telling us all, which he has told us privately, about the serious problems which he sees or his advisers see for any delay at all. So we are responding to his timetable. I do not like it, but I am responding to it.

There are other aspects of this bill which give me heartburn. There is a lot in this bill which ought to be part of the regular appropriations process. I served for 10 years as chairman of the subcommittee funding the Departments of Health and Human Services and Education. I have fought hard for many of the items that are in this bill but ought not to be in this bill. They ought to be part of the regular appropriations process where we set an overall budget and we fight them out on priorities.

But they are here because the administration and the bill proposed by the committee has seen fit to include them. There are many who are criticizing the amendment which we are offering here this evening. They say there are cuts in important programs. Well, that is wrong. There are not cuts in important programs. If this bill is not passed, there will not be any appropriations. So you start from zero on Head Start, and you start from zero on child development.

It is true we have made some reductions in the size of the appropriations, but that is not a cut. For example, on childcare, the committee bill has $2 billion, and we have seen fit to put $2 billion in. Well, if we do not have 60 votes, childcare does not get any additional sum. My preference would be to handle it in regular order.

Head Start is in the committee bill for $2.1 billion. It is going to have $1.05 billion.

Title I in the committee report has $13 billion and will retain $12.4 billion. Special education has $13.5 billion, and we left it all in because that is a Federal mandate. It is different.

The National Institutes of Health has $10 billion, including the Senate amendment. This is an item that has special significance to Senator HARKIN and myself as our lead in raising NIH funding since 1994 from $10 billion to the present number of approximately $30 billion. NIH will produce 70,000 jobs, according to the head of the National Institutes of Health.

Now, what have we accomplished in the amendment which is being offered now? This bill, in coming to the floor, and these figures are pretty close. They are hard to be exact. The bill starts with $885 billion. There were add-ons on the floor of $53 billion. The bill, as it is being reported is $780 billion. So we have reduced the expenditures by $105 billion. That is a lot of money.

That is something which makes everybody angry. But that is a position you are in if you are a Senator. People are unhappy because they did not get the full amount for the committee report, although absent this bill they would get zero additional. People are unhappy on spending too much money, but it is imperative, as I see it, that we do something very substantial.

There are reasons to argue that this is a bad bill. I am not saying it is a bad bill, I am saying there are reasons to argue it is a bad bill. But I do not believe there is any doubt the economy would be enormously worse off without

it. That is the kind of a choice we have to make.

Personally, I would prefer not to be on the edge of the pin, as so frequently is the case in this body. But I do believe we have to act, and I believe that under all the circumstances, this is the best we can do and we ought to do it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I thank my friends, Senator BEN NELSON of Nebraska, Senator SUSAN COLLINS of Maine, Senator ARLEN SPECTER of Pennsylvania, for their eloquent comments. I thank them for their leadership. I thank them for their courage. I am honored to be in their presence. All of America is indebted to them for what their leadership, on behalf of this unifying amendment, will mean to the people of our country.

Tonight the Senate is passing a test. It is not as hard a test as the test millions of Americans are facing every day in this terrible economic crisis our country is going through. It is not as hard as the test facing the families whose mothers and fathers have lost their jobs or whose children cannot afford to go to college or whose employers cannot afford to give them the health care benefits they have had.

I could go on and on. It is the American people who, in the midst of this economic crisis, greater than any we have faced since the Great Depression, are facing the most serious test every day. But their test now confronts the Senate, the House, this Congress, the President, our Government with another test.

Are we able to come together and give the American people, the American economy, American businesses, American workers, the help that they can get from nowhere else, to get this economy of ours moving again, to protect jobs and to create jobs. The help is not going to come from the private sector; it is not there. It is not going to come from the personal consumption that normally drives 70 percent of our gross domestic product; it is not there. You do not need to be an economist to understand that.

People see it in their own lives: lost jobs, fear that their jobs will be next, an anxiety so deep they will not buy what they need, businesses that are constantly laying off people. It has been referred to, but here it is today, 600,000 Americans lost their job last month, January of this year.

So the only place help can come from for this economy now is the Federal Government. The question is, Would we rise to the test? I think tonight, thanks to some very strong leadership from Senator NELSON, Senator COLLINS, some really courageous work by the two of them, and Senator SPECTER and others in both parties, we are going to show tonight that the U.S. Government passes the test.

As a result, we will then help the American people pass the test, restore their hope, protect their jobs, create new jobs, give them more money in their pockets as their payroll taxes go down. This journey we have been on this week, very intense, very emotional, very difficult, was never about winning or losing, it was about governing.

Would we be able to find common ground to get 60 votes to pass this legislation so critically needed by the American people. Tonight we are going to do it. It was not easy, but we are going to do it, and it should give us all in this Chamber hope as we go on to confront the next problems and challenges we will face: health care reform, climate change, entitlement reform to secure the retirement of the American people in future years.

The bill that came to the floor, as has been said, was a very strong and good-faith effort. But many of us on both sides of the aisle, both parties, even a couple of Independents, felt there were some things in it that though very well intended, could not be justified as part of an economic stimulus package.

On another level, what was clear as a result is that the proposal, as it came to the floor, simply did not have the 60 votes it needs to get adopted. You cannot get anything done, I was told a long time ago when I went into Connecticut politics, by a wise and seasoned politician: You cannot get anything done for the people who were good enough to send you to serve unless you pass legislation.

It is great to give a beautiful speech, but a beautiful speech doesn't protect anybody's job. It doesn't put more money into the paycheck. It doesn't provide health care or hope.

In what looked like another moment of failure, inability to lead, inability to govern, inability to help the people of our country who are suffering now as they haven't suffered for a long time, a gang was formed. I must say, as a teenager I never got to join a gang. The Senate has given me an unexpected opportunity to join some good gangs. It shows if you live long enough, as the old saying goes, you experience anything. This wasn't a gang of 14. This was a gang of people who wanted to get the economy moving again—Democrats, Republicans, and Independents. But it took two people with the guts to step forward and form it, lead it: Senator BEN NELSON of Nebraska and Senator SUSAN COLLINS of Maine. A lot of others of us came together. We worked very hard. We worked openly. We worked honestly. We had a common goal, as has been said; $110 billion has been cut out of this program.

Our Republican colleagues offered an amendment that would have cut the original program down to $411 billion. Senator COLLINS, in our meetings with one another, came in with a proposal of $620 billion. The bill, as it came to the floor, was $885 billion. We compromised. That is always the way anything gets done in an American legislative body because we represent this extraordinarily diverse country. We come with different philosophies, different backgrounds, different constituencies. If you try to get everything you want, you won't get anything for anybody who was good enough to send you here to represent them.

So through some steadfast, patient, creative leadership from Senator NELSON and Senator COLLINS, we moved forward and, ultimately, today have come up with this agreement. This actually cuts over 20 percent of the money recommended for spending by the Appropriations Committee, but it comes very close to the $800 billion President Obama has quite rightly said this country needs to make this stimulus work. We have a $1 trillion gap in our economy this year. This $780 billion will be spent over 2 years. Frankly, we need that, and probably more, to get the economy going in the way we want it to be going.

I wish to say a special word of thanks and admiration for Senator COLLINS and Senator SPECTER. They differed from the majority of the members of their party. I have been in that position. It is no fun. It is lonely. It is not that anybody is right—we think we are right—it is just that people come to a different decision about what the national interest requires. Both of our colleagues and others on the Republican side have put what they think to be the national interest ahead of party interest. I think what we are doing here tonight will be a tremendous help to the people of this country.

A lot of our colleagues on the Democratic side are accepting less than they thought was necessary to do the job. They are compromising too. They are compromising because they want to get something done, and they know, as they watch the economic indicators and the human suffering changing every day, getting worse and worse every day, that it is urgent we do something now.

So we come together tonight to prove we are capable of governing, we are capable of leading, we are capable of reaching across party lines to get things done when the American people need it most. I am proud to be here. I am grateful to my colleagues on both sides of the aisle. I am encouraged that what we have done tonight will set an example for what we can do for the rest of this session. The leaders of the gangs may change. The Members may come and go. But we only get things done here if we build bridges across the aisle. That is what we are celebrating tonight.

Ultimately, as I said, there were no winners or losers. This is not about winning or losing. There is a winner tonight. It is the American people. They deserve it.

The leader set up this time for debate. Therefore, I ask unanimous consent that this period of time be for debate only.

The PRESIDING OFFICER. Is there objection?

The Senator from Louisiana.

Mr. VITTER. Reserving the right to object, the previous UC, as I understand it, allows for activity besides debate?

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask unanimous consent that I be allowed to speak.

I have spoken to the distinguished Republican leader, and we have a number of amendments that he and I wish to dispose of this evening. So when this debate is completed, we will move as quickly as we can to have votes on the amendments that are pending. I am somewhat taken aback by the fact that after all we have been through since the Congress started—we have been candid and forthright. Everything has been aboveboard. I would hope that no matter how disappointed some people may be that we have a way of moving forward on this, that people would allow us to do that in a reasonable period of time. We could do it tonight. I understand that is not likely. I don't know what my friend from Louisiana is trying to do. Remember, what we do tonight sets us up for the future. There are going to be other pieces of legislation that come to the floor, other opportunities for cooperation. I don't know what my friend has in mind, but I would hope that it is nothing that throws a monkey wrench into what we have been trying to accomplish in this Congress.

The PRESIDING OFFICER (Mr. TESTER). The Republican leader.

Mr. MCCONNELL. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. The Republicans have 45 minutes. Senator SPECTER has 5 minutes.

Mr. MCCONNELL. I will be the leadoff speaker. Then Senator MCCAIN will follow me. I ask unanimous consent that he control the balance of our time after that.

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

Mr. MCCONNELL. Mr. President, the question of whether the economy needs help is not in debate. I don't think there is a single Member of the Senate who believes that no action is the appropriate course for us to take. But one of the good things about reading history is, you learn a good deal. We know for sure the big spending programs of the New Deal did not work. In 1940, unemployment was still 15 percent. It is widely agreed among economists that what got us out of the doldrums we were in during the Great Depression was the beginning of World War II.

We have another example, what is called in Japan ''the lost decade of the 1990s,'' where stimulus packages similar to the ones we are considering tonight were tried again and again and again. And at the end of the 1990s, Japan looked very much like it did at the beginning of the 1990s, except it had a much larger debt.

We have not seen the compromise proposal which has been discussed tonight. I know there has been a good-faith effort on the part of those involved to pare down the size of the underlying Senate measure. But as nearly as we can tell, even after those efforts, it is roughly the same size as the House bill. According to the figures I have been given, the House bill is about $820 billion. The Senate bill, under the compromise, we believe would be about $827 billion. Bear in mind, the interest costs on either of those proposals would be $348 billion. So we are talking about a $1.1 trillion spending measure.

We are already looking at a $1 trillion deficit for this fiscal year. We believe the Secretary of the Treasury and the President are going to be suggesting to us, as early as next week, that we need to do a new, what has commonly been referred to as, TARP round, some kind of additional assistance for the financial system, as early as next week. We are talking about an extraordinarily large amount of money and a crushing debt for our grandchildren.

If most Republicans were convinced that this would work, there might be a greater willingness to support it. But all the historical evidence suggests it is highly unlikely to work. So then you have to balance the likelihood of success versus the crushing debt we are levying on the backs of our children, grandchildren and, yes, their children and the need to finance all of this debt, which many suspect will lead to ever higher and higher interest rates, which could create a new round of problems for our economy.

Let me sum it up by saying, no action is not what any Republican colleague that I know is advocating. But most of us are deeply skeptical this will work. That level of skepticism leads us to believe this course of action should not be chosen.

We had an opportunity to do this on a truly bipartisan basis, and the President said originally he had hoped to get 80 votes. It appears the way this has developed, there will be some bipartisan support but not a lot. It is not likely, in the judgment of most of us, to produce the result we all desire.

I will not be in a position to recommend support for this product, as it has developed, in spite of the best efforts of those who worked on the compromise. I commend them for their willingness to try to work this out. It seems to me it falls far short of the kind of measure we should be passing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, after I speak, my side will speak relatively briefly: Senators KYL, THUNE, COBURN, and Senator GRAHAM. I have had some kind of Orwellian experiences in the Senate over the years I have been here, but this one ranks up near the top in the word ''bipartisanship'' that is being thrown around as far as this package is concerned, this $1.1 trillion package. Let's have no doubt about that. There are 178 Members of the House of Representatives who are Republicans. They all voted against the bill, plus 11 Democrats. There are 40 Republican Senators here. We now have two—count them, two—who have decided behind closed doors, without consultation with the other 38, to come to an agreement, which you can call a lot of things but bipartisan is not one of them, unless you say that two individuals and possibly a third, but no more than that, out of 40 are in agreement.

I have been involved in a lot of bipartisan legislation around here, but I guarantee this is not bipartisan. So let's make sure we understand that to start with.

Second of all, let's talk about how much it costs. There has been a lot said about reduction in the cost. The fact is, they say it is $780 billion. If you include the amendments that were already passed and are going to be included in this bill, it is now $827 billion. That is $7 billion more than the House of Representatives passed, the debt service being $348 billion, bringing us to a total of $1.175 trillion. Then you add that to, on Monday, the new Secretary of Treasury is going to announce a new TARP—$500 billion, $1 trillion. Waiting in the House is another Omnibus appropriations bill of $400 billion. We just spent $750 billion—or are in the process of spending another $750 billion—in the form of TARP I and II. My goodness, it is a moment in history of spending the likes of which this Nation has never seen.

By the way, let's suppose it is only $827 billion we are going to pass here. That only costs around, according to the Congressional Budget Office—and I urge every one of my colleagues to read it—on February 4 they said the bill, as passed and proposed, would have created between 1.3 million and 3.9 million jobs. At $827 billion, if you create 1.3 million jobs, that is $636,000 per job. If it creates 3.9 million jobs, which is the high estimate of the Congressional Budget Office, then you now are only paying $212,000 per job.

So let's have no doubt. As to the elimination of unnecessary, wasteful projects, I have already submitted for the RECORD page after page after page of porkbarrel projects which were put in on a partisan basis, not a bipartisan basis. Let's make sure we understand that.

Mr. President, there is $150 million for honey bee insurance. Some have said: $150 million, $200 million, that is not much. Mr. President, $300 million to bring USDA facilities into workplace safety compliance—the list goes on and on. This is a Christmas tree done by appropriators. And we proved when we tried to eliminate the earmarks that there are three kinds of Senators in the Senate: Republicans, Democrats, and appropriators.

The fact is, we turned down—although we got 44 votes—what would have given us at least some shred of confidence that we will be addressing

this terrible deficit we are laying on future generations of Americans, and that would have been a trigger that when we have two quarters of GDP growth, we would be on the automatic path to reducing spending and bringing us a balanced budget. That was rejected by this body. Why? Why in the world, once the economy recovers, wouldn't we want to put this country on the path to a balanced budget and stop laying—we have already done $10 trillion. Now there are more trillions coming, not to mention Social Security and Medicare.

So let's have no doubt—let's have no doubt—this is not bipartisan. This is two Republican Senators who decided to join after meetings behind doors, in which almost all of the rest of us were not present. It is as expensive or more expensive than the legislation passed by the House if you count the amendments that have already been passed, which we are told would be included in this bill. There is no provision—there is no provision—whatsoever, once our economy recovers, to somehow begin to reduce this multitrillion-dollar debt we have laid on future generations of Americans. If this legislation is passed, it will be a very bad day for America.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

Mr. President, first, everyone understands we need to act to help people who are hurting in this country, to try to create jobs and stimulate the economy. That is not the issue. The question is whether the deal that has been struck here this afternoon is a solution to the problem or whether it is still a wasteful and ineffective bill.

I wish to comment briefly on five quick things. First of all, it is a little hard to tell because we do not have text yet, but my staff has just reconfirmed the numbers, that as compared with the House-passed bill—which was described here this evening as a very bad bill—this bill would create a deficit of $827 billion; the House bill, $820 billion. So it is $7 billion more in deficit spending than the House bill.

My colleague from Maine described this as a targeted approach because, of course, much of the spending they have tried to remove from the bill is ordinarily handled through the regular appropriations process. They wanted that spending to be handled in the regular order through the Appropriations Committee, and therefore they are going to target things that should not be handled through that process. Then I heard described items like Pell grants. Now, we have a lot of Pell grants, a lot of students who have benefited from Pell grants. They have all benefited from Pell grants because the Appropriations Committee has appropriated money for Pell grants, and we voted for that here in the Senate. There has never been a stimulus bill to pass Pell grants before. So if this is a targeted approach and we are going to have $6 billion in there for Pell grants, there seems to be a contradiction.

It was also indicated that this deal is better than the House bill because this will really stimulate the economy as opposed to the approach in the House bill. Then there was described items such as $6 billion for special education. Well, once again, everybody is in favor of special education, but how does special education—$6 billion—stimulate the economy? I suppose you could say: Well, it at least enables us to hire more special education teachers. How long does it take to educate a special education teacher? About 4 or 5 years in college? Hopefully, we are out of the recession by then.

There was a description of $87 billion in ''targeted increases'' in Medicaid. Well, it appears to be the very same amount of money that came out of the Finance Committee—$87 billion for Medicaid. The CBO has said that of this $87 billion, only $10.8 billion is targeted for Medicaid. The rest is, in effect, free cash for the States. This is not a targeted approach at all.

Moreover, the committee—and I will see when we understand how this bill is actually written—provides a 27-month cliff. In other words, in order not to look as if it is spending too much money, it assumes that after 27 months everybody will just be removed from the rolls. Well, I defy my colleagues in this body, after a lot of people have been added to the Medicaid rolls, after 27 months to just inform them they are going to have to be removed because we did not provide the funding for it. Obviously, the program is going to be continued and the cost to the American taxpayer will be much greater.

Finally, just to comment about working together, we all try to work together, and it is true that the American people want us to work together. But they do not want us to work together to waste a lot of their money. So the question still remains: Is the deal that was struck today a better deal in terms of wasting the public's money and being effective at stimulating economic growth? Certainly, the case was not made in 45 minutes on the floor this evening.

I will be looking forward to the debate here after we have had a chance to read the bill, to understand why the proponents really think this will be better, and we will be willing to debate that. In the meantime, I remain convinced that we do need a targeted—a really targeted—approach and that it needs to be aimed toward stimulating the economy and creating jobs, just not spending more money.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, my colleagues have described it well, but we all should remember what this is. This is still an $827 billion debt we are handing off to future generations. This is the largest intergenerational transfer of debt in human history, and we spent 3 days now—4 days, I guess, if you count today—debating it. I think the managers of the bill have been patient in allowing us to offer some of our amendments, but to suggest for a minute that the Republicans are slowing this down or that we have had way more than enough time to debate this misses the point.

A trillion dollars—a trillion dollars—is something I think most of us have a hard time grasping. In fact, the borrowing amount that is included in this bill does represent the equivalent of what America as a nation borrowed between the time of the Revolutionary War and the Presidency of Jimmy Carter. We borrowed $800 billion between the Revolutionary War and the Presidency of Jimmy Carter, and we are going to borrow that amount of money in one fell swoop from future generations with this bill.

Much has been said about the discussions in the last few days and how this is going to be a ''bipartisan compromise,'' they are going to reduce the size of the bill. The irony in all this is that the bill as it came over from the House, as has already been noted by my colleagues, was about $820 billion. The bill that we now have in front of us, the so-called compromise, is $827 billion. So it has not gotten smaller coming from the House, it has gotten larger.

A lot of people have gotten up in the Chamber and complained about the House bill and its dimensions and its size, and I think the American people have picked up on that theme because everywhere you go, they talk about this pork-laden bill that came out of the House, and surely the Senate will do something to improve upon it to shrink it in size and get rid of some of the wasteful spending, and yet here we are. We have a so-called compromise, an agreement that is actually larger in size and scope than the bill that came over from the House.

So make no mistake about it, we are borrowing this money from future generations. It is a larger amount of borrowing than was included in the bill that left the House of Representatives. Frankly, we do not know—because we have not seen it yet—about many of the provisions that were included. Many of us have reacted and I think the American public has reacted negatively to much of the wasteful spending that is included in the bill. We have all highlighted the things we think are extraneous and wasteful and do not stimulate the economy, do not grow the economy, do not create jobs.

So we will have an opportunity, hopefully over the weekend, to take a look at it and digest it a little bit. But I think it is fair to say, if at least you are talking about the overall macronumber, that this thing has not gotten any smaller; it has gotten bigger. I would bet by the time we have analyzed this legislation closely, many of the new programs that were created in the bill that was passed by the House and the bill we were debating earlier in the week are continued, and a lot of the new programs that create

mandatory spending—not one-time spending—that are allegedly designed to stimulate the economy on a short-term, temporary basis but will have spending that is going to go on and on and on and is going to be a liability for generations to come.

So as we move toward perhaps a final vote on this at some time this weekend—and I suspect the votes are there—the other point I would make—and make no mistake about this either—you cannot call this a bipartisan effort without redefining the word ''bipartisan.'' This came out of the House of Representatives without a single Republican vote. In fact, 11 Democrats in the House voted against it. And here in the Senate, there will be two, perhaps at most three, Republicans who will vote for this. So out of 535 Members of Congress and some 220 or thereabouts Republicans in the Congress, to have 2 hardly qualifies this particular effort as a bipartisan effort.

It went through the House quickly. Republicans were not given an opportunity over there to have impact or have amendments considered. We have had some amendments here. Most of the amendments we have offered that have tried to reduce the size of this thing and change some of the substance of it so it is more targeted, more focused, more focused on job creation—most of those amendments have been defeated. We are faced today with a bill that is actually larger than where we started when this whole initiative got underway in the House of Representatives last week.

So, Mr. President, I hope the American people, as they tune in to the debate, will look very closely at this so-called compromise and give consideration to how this is going to impact them and their family budgets. We all know the statistics. We all know there are people who are hurting in this country, people who have lost their jobs. The people who are going to be hurting the most, however, are the children and grandchildren whom we are going to be handing this debt to—a trillion dollars in debt that we will be handing to our children and our grandchildren—and adding to already what has become a historic high level of debt for this country, so historic that it exceeds by almost two times the average deficit to GDP of many of our allies in the European Union. We are talking about enormous amounts of debt, enormous amounts of borrowing.

As my colleague from Arizona noted, the CBO estimates on job creation as few as 1.3 million jobs for over $800 billion in borrowing. What does that come down to on a per-job basis? Hundreds of thousands of dollars per job.

We can do this better. We can do it in a way that is responsible to the next generation of Americans. I hope when this comes up for a final vote we will be able to defeat it. The American people will get engaged in this effort and let their Senators know how they feel. I believe when that happens, you will start seeing people change their minds about the effort that is in front of us this evening.

Mr. President, I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I can't say I didn't expect that we would be where we are tonight. But this country needs to know the way this bill we have been talking about, and probably the bill we are going to see, is undoubtedly the largest generational theft bill in the history of mankind. When I say generational theft, I am not just talking about money. I am talking about opportunities and I am talking about futures.

There is nobody on this side of the aisle who doesn't want to do something to fix our economy and stimulate our economy. What this bill does—and the families who are listening to this right now, you ought to think: If you are one of those who are unemployed right now and hurting, $12,000 is going to be added to your debt once you get a job again, for your family. If you are struggling out there, but you are holding on, we are going to steal $12,000 from you and your kids. Then those of us who might be doing well, we are going to take $12,000 from you, so maybe that is OK in a time such as this. But what is not OK is how this bill is going to spend that money.

If you like how efficient the post office is that lost $3 billion this year, and if you like the way the Federal Government works, wait until this money starts going through the Federal Government. If we have $450 billion that is going to be in programs, 10 percent of it is going to get chewed up before it ever leaves Washington. Then, when it gets to your State to supposedly be a stimulus, another 10 percent of it is going to get chewed up. So we are going to lose $90 billion because we are going to decide to run it through the inefficient bureaucracies. I would ask: What does that stimulate? Federal workers are great, but they don't produce wealth, and the money ought to go into job-creating exercises that create wealth. What is going to happen to your family? The question will be, What is going to happen if we don't do anything? We are not proposing to do nothing.

There could be a true bipartisan solution to this, but that hasn't been offered. We have seen slow walked all day the inability to get amendments. It is highly unlikely any other amendments will be offered.

I want my colleagues to think how can we best stimulate this economy, and how can we do no harm as we do that? This bill—this generational theft bill—does tons of harm. Let me tell my colleagues the biggest harm it does. There is no guarantee this is going to work, especially when we haven't fixed the housing and mortgage system and we haven't fixed the liquidity issue. Here is the harm it does. Every State, save California and New York, will get more money out of this bill than their deficits are today—every State. We are going to transfer, by what we are doing here, a lack of fiscal responsibility to every State. We have had Governors calling up here from all across this country saying, You are going to send us a whole lot more money than we need. I have legislators who are trying to spend money. They are slow walking me now, so I can't run this State and keep it fiscally sound. That is coming from Democratic and Republican Governors alike. We are going to transfer the incompetence of the Federal Government in Congress to every State house in this country. Think about what we are doing with $12,000 per family.

One final point I will make. Barack Obama is my close personal friend. One of the things he said is that we ought to get rid of the programs that don't work. We ought to put metrics on the programs so we can measure them, and then when we look at them we will know whether we are truly investing in an adequate way. We are blindly going to invest in things and there is not one iota in this bill or the House bill that eliminates any of the $300 billion that we know is being wasted right now and can be fully documented—not one attempt to do that. So if we cared about stimulating the economy and we cared about the future and we cared about those who are having a hard time today, why wouldn't we do the hard work to get rid of what doesn't work before we spend more money on things that don't work?

I would end with this. We got in trouble and we are in this mess because we spent money that we didn't have on things we didn't need. And the answer for Congress is to do more of the same. When we do more of the same, what we do is we mortgage—the only thing we are doing on mortgages is we are mortgaging our children's and grandchildren's future.

This body works on the power of 60, and it will happen, but the precarious nature we find ourselves in today, the responsibility of passing this bill when most of it is not going to make a big difference—not truly going to stimulate the economy—and claiming it is bipartisan when it is not, is going to leave a legacy that nobody who votes for this bill is going to embrace.

With that, I yield the floor.

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

Mr. GRAHAM. Mr. President, a couple of observations as we bring this night to a close. I don't know what we are going to do after tonight.

I am asked to talk about an amendment that I have never seen. It has been described to me and things have been said about it that I need to take exception to. Not the people. I know the people. I have been in a position where being the odd guy out is tough. JOE LIEBERMAN, by the way, has earned the right to do and say anything he

ever wants to do as far as I am concerned. When JOE stood up for what he believed in Iraq, got in a primary, got beat and ran as an Independent, he knew what was coming his way, and I love him to death. When JOE said there are no winners and losers tonight, I disagree. I think the American people have lost a lot more than $820 billion.

What we have done is we have lost a young President's promise to change things. That is not readily obvious. But that speech last night—I am sure you are not, but if you are listening, think twice about doing that again. There is a lot to be done in this country. Closing GTMO and moving the prisoners, I would like to help you. What are we going to do about Social Security and Medicare? I would like to help you. I hope you believe it is OK for me to be somewhat concerned about the process here and how we wound up spending $1.1 trillion. Please don't say this is change I can believe in. And please don't underestimate how the public is pulling for you, but they don't like this bill. Please don't overestimate your ability to persuade people because you are a very gifted orator. People are pulling for you. I am pulling for you. But they are watching what you are doing and they are watching what I am doing.

Here is what happened here. This bill started in the House with the attitude: We won, we write it. Not one Republican was able to vote for the bill. Maybe it is us. Maybe we have so lost our way that we can't be reasonable with anybody anymore. You can explain the 11 Democrats somehow, but not only did you not get one Republican in the House, you lost 11 Democrats, and the more the American people saw what was in the bill, you lost them.

I am not your problem. The American people are not your problem. The problem is the system we have been playing around with is broken, and our dear friends on the other side, you have reinforced everything bad about it. You haven't fixed it. Who are we to criticize? I am not so sure we did a whole lot better, but we got a chance to start over. We are in the first month of the administration, and I have never been more concerned about lost opportunity than I am tonight.

To my two friends who decided they had to find a compromise: I respect you. I like you. But when you say this was the best we could do, I disagree with you. This is not remotely close to what we could have done if we would have sat down in a true bipartisan fashion and found a better way. We could have come out with a bill that spent less, that created jobs more efficiently, and would have built the confidence of the American people, but instead we have come out in our corners more rigid than ever.

To say this is bipartisan is not quite fair. When JOE voted with us it wasn't bipartisan; it was us and JOE. You have two of my dear friends believing they had to act. But the one thing I will tell them, that is not a very good statement about the confidence you have in me. I believe we have to act too. So you must have felt that people like me are hopeless; you had to take all this on yourself and none of us would have met you in the middle. There are at least a dozen to fifteen Republicans who would have voted for a bill that did more than cut taxes who would have spent money on infrastructure, who would have helped the States, but most of us—all but two—could not tolerate this process, and at the end of the day we cannot tolerate the way this ship is shaped and how much it spends.

The second big loss is the future when it comes to acting together regarding the banking crisis and the housing crisis. We have in the name of a stimulus package spent over $1 trillion and the average cost, if there are 1.3 million jobs created, is $636,000 a job, and if we somehow can create 4 million jobs, it is $212,051. People complain about us being overpaid. I will take it: $212,000 a job. We can do better than that.

But here is what we have lost. Because this bill is not better, it is worse; because it is not bipartisan, it is the same old way of doing business. Because it has been so politicized by a lot of people—and I don't say I am not to blame—we now have lost more confidence. TARP I was tough. TARP II was really tough. TARP III is going to be impossible, and you are going to need TARP III. The administration is probably going to come out Monday with a $500 billion or $600 billion request to help get this country through a crisis we haven't seen since the Great Depression and they are going to tell us we need more money for housing and we need to get credit flowing and $310 billion left in TARP is not enough.

The problem they are going to have and the problem I am going to have is that people are bailout weary, and they are so tired of us. They are so tired of us sitting up here in a matter of a couple of weeks trying to jam something through they don't understand and they don't like and then, when it is over, trying to celebrate. There is nothing to celebrate here. There are no bad guys, there are no good guys—men or women—but what we have lost is a great opportunity to start over. We have sunk back into the swamp. We have spent more money than we should. History will not judge us well, and the hard part is yet to be done. We will wake up tomorrow and we will try to figure out how to straighten out this mess. America somehow survives everything. I hope we can survive this. I believe we can.

I want to end on this note. I am not mad at anybody because I have been in this spot myself. I am deeply disappointed that we could not do better, because there is a big loser tonight, and that is the American people.

I yield back.

Mr. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen minutes.

Mr. MCCAIN. I recognize the Senator from Nebraska for 3 minutes.

Mr. JOHANNS. Mr. President, if you could give me an alert with about a half a minute left, I would appreciate it.

I rise tonight to speak about the agreement that was announced within the last hour or so. We have taken a lot of votes over the last few days. In fact, I have had colleagues on both sides of the aisle say to me we have voted a lot on this bill. As I pointed out, I am new here, but it sure seems as though we have. But the one thing that occurs to me is that in all of this debate, we are not going to vote for how to pay for this bill. I want people to understand this bill is going to be totally, completely financed with borrowed money.

The other thing we are not going to vote on any time is a plan for our future to pay for this bill and the other spending that seems to be headed our way like a freight train. We are not going to cast that vote. We are asking a tremendous amount of our country to try to figure out a way to withstand that. The cost of this bill by any definition—I don't care where you land in terms of what the ultimate costs are—is mind boggling. And because it is all financed, it will be well over $1 trillion in spending. I listened to the testimony tonight, and so many people I respect on both sides of the aisle got up and said we have to do this now.

I wasn't in this body when TARP was passed, like so many others. I was out on the campaign trail. But the same argument was made then: We have to act now.

Mr. President, I have in front of me the bill that was put on my desk this morning. It just goes on, page after page. It takes a lot of pages to spend $1 trillion. We have not seen the compromise yet. I heard tonight from the four speakers that we could get an idea what the compromise was all about. We will have it. Somewhere in the next 48 hours, we are going to get a whole new plan—this compromise—and we are going to be asked to make an assessment on it and to go down there and cast our vote yes or no on $1 trillion worth of spending.

Let's slow down and take our time. Few things are going to be as important as this.

Mr. MCCAIN. Mr. President, I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I know we all understand the seriousness of the moment, the seriousness of the situation our country is in. It is for that reason many of us, in goodwill, attempted to work together to try to improve upon the product that is this bill on the desk. As the process went on, I felt as if I could no longer support the effort because it was not going in a direction I thought was prudent or useful to our effort. The fact is, in this bill we

now have before us, we will have a bill that is larger than the House-passed bill. There is a point to be made that the stimulus ought to be sufficiently large to stimulate. My concern is it doesn't stimulate, and too much of what is contained in this bill—and now the substitute which will be even more expensive than the original bill or than the House bill—I am concerned we still do not do the kinds of expenditures that are not part of an appropriations process but part of a stimulus process.

I wonder just how much of this bill will spend out in the next 2 years and how much will spend out after that. The State of Florida is in dire need. We are going through the most difficult time I can remember in my adult life. Unemployment is almost double digits. Every corner of the State is suffering from the foreclosure crisis. We do precious little in that arena, which I understand to be something that is so desperately needed.

At the end of the day, we are going to be spending a lot of the taxpayers' money with not too many other opportunities to get it right. We cannot continue to spend at this level. So it is incumbent upon us to get it right. That is why I believed it was more important we get it right than we get it right now. Let's get it right. We got this today, and we will have the weekend or overnight to make our decisions on it.

I, frankly, commend those who worked together in a bipartisan fashion. I think we should try to do that. I just don't think there was a good bipartisan construction of this bill that was done by the majority, and it was too difficult for us to try to fix it.

I yield the floor.

Mr. MCCAIN. Madam President, how much time remains?

The PRESIDING OFFICER (Mrs. HAGAN). Ten minutes.

Mr. MCCAIN. I yield to the Senator from Alabama.

Mr. SESSIONS. I thank Senator MCCAIN for his leadership. Actually, I felt strongly that his combination of substantial infrastructure and targeted tax relief would have injected more strength into this economy than the present bill, and with a cost of half of that. As we know, this bill cost over $1.1 trillion. The bill itself is $827 billion, but when you add the $300 billion plus in interest, which the Congressional Budget Office adds to it for the 10-year budget window, you end up with an unprecedented amount of money—with far too little impact.

In fact, if you look at what our own Congressional Budget Office tells us—and who else can we rely on—hired by the Democratic majority, they conclude that over a 10-year period—shouldn't we be thinking at least 10 years ahead? Senator COBURN says it will be on our children and grandchildren. But they conclude that the bill will have a negative impact on the economy. Yes, it will help some in the short term. Over the 10-year period, the drain of the interest and capital taken out of the economy to fund this effort will actually weaken the economy, and the total gross domestic product over that period of time will be less than if we had no bill at all. That doesn't mean we should not have a bill. What we should have is a bill from which we can get some results.

I hope and I do believe the American people will continue to talk to their Congressmen and Senators; they will be sharing their thoughts with them. My phones are ringing off the hook. They know you cannot get something for nothing and that debts have to be repaid. There is nothing mysterious about these fundamental principles. We act like they are not a reality. The CBO score points out what happens is when you take money out of the future to put into today—or when you borrow it and put it into the economy today, it crowds out about a third of a dollar's worth of private domestic capital. That is the kind of thing that weakens our potential to bounce back from this problem we are in. It is real and it is serious and I certainly favor taking action.

Madam President, I thank the Chair. I am grieving tonight. Hopefully, there will be an opportunity to do better than the bill before us now. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, as we complete this part of the ongoing effort to address a truly terrible time in America's history, full of economic difficulties and woes and sadness, we also face enormous challenges abroad. Every time we see a news report, we see some new challenge around the world.

I hope we also have learned from this experience that maybe it is best to begin our discussions in addressing the challenges that face America on a truly bipartisan basis, and that everybody be allowed to participate; that it be the input of both sides and all points of view, and that we can then reach consensus and go to the American people in a united fashion.

The President of the United States, just a few days ago, said he believed we would pass this bill through the Senate with 80 votes or more. That, obviously, is not going to happen. I argue it is because of the way it began. People are saying: We won the election, so we will write the bill. They can do that, but I can assure my friends and colleagues the American people want us to work together. They are tired of the bitter partisanship. That is one of the major reasons we have such low approval ratings from the American people.

So I hope we can, the next time—and there will be a next time because TARP III will be coming up, and we will be addressing national security challenges, the Omnibus appropriations bill, and we will be addressing other issues. My urgent request to my colleagues is, let's not say: We won so we wrote the bill. I am not saying that wasn't true on this side of the aisle when we were victorious. Unfortunately, from time to time, we were guilty of the hubris that goes with victory. But I hope all of us understand that, in the view of many, including this Member, the challenges we face are enormous, and the American people and the world deserve an approach where all of us are included in the takeoff so that all of us will be included in the landing.

I have been on the Senate floor and I have not been in the ''negotiations'' that went on. I think it has been a good debate on the floor. There have been contributions from virtually every Member of this body. I think the American people who have observed that probably learned a lot from it. I hope next time we can show the American people we have come together at the beginning and have a truly bipartisan approach to the challenges we face.

I wish to say also that I believe the majority leader has allowed a large number of amendments and vigorous debate. Also, I think the Senator from Montana has managed the bill in a respectful fashion. I hope we do better next time, Madam President.

I yield the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, Senator NELSON has a few minutes left, but he is not here. Before the Senator leaves the floor, I want to say that JOHN MCCAIN and I came to Washington together going on 27 years ago. He and I have done a number of things together, and we have had a number of things that we didn't do together. I know the strength of his feelings. He has expressed them on this floor. I want everyone to understand how much I appreciate his leadership. The statement he gave today was a very positive statement. He talked about how we have had robust debate and about how he didn't like the product we are coming up with and that we can do better next time. So I just want my friend from Arizona to know I appreciate his projection of authority and leadership, which I have watched for 27 years. Sometimes when he projects that leadership, you don't want to be on the other end of it.

Tonight, I say I appreciate that.

Mr. MCCAIN. Madam President, I thank my old friend, the majority leader, from our neighboring State. Sometimes, from time to time, all of us don't know how difficult his job is, but we appreciate it. I know that comes from all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to vote in relation to the pending amendments in the order specified in this agreement; that prior to each vote, there be 2 minutes of debate prior to each vote; that the previous order regarding intervening amendments remain in effect; that the debate time be equally divided and controlled in the usual form; that after the first vote, the succeeding votes be 10 minutes in duration: Conrad-Graham No. 501, as modified; Dodd No. 145, with a modification which is at the desk; Grassley, 297; Enzi No. 293, as modified; Cantwell No. 274, as further modified; Vitter No. 107; Feinfold No. 485; Bunning No. 531; Wyden No. 468; Thune No. 538; and Murray No. 110; that upon disposition of these amendments, the majority leader be recognized.

I would tell all members here, we are hopeful and confident that we will not have to have recorded votes on all of those. We hope everybody will be understanding. And if we have to have a vote, we will have one. We would rather that we could work some of these out. The managers are willing to accept a number of them.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, there is one amendment on there, and I do see the distinguished Senator from Wyoming, Mr. ENZI, on the floor. I would object to a time agreement such as this, I would object to any time agreement on it as it now stands. With the modification, there is a major change in the privacy aspects of the modification that comes under the jurisdiction of the Senate Judiciary Committee. It is different than what we have proposed.

I would have no objection to the list, with the exception of the Enzi amendment. I would wonder if it would be possible for the leader to get the whole list and allow the Senator from Wyoming and I some time to talk about his amendment. I say this only because the Senator from Wyoming is on the floor. I would not have said this if he were not here and not able to respond.

Mr. ENZI. Madam President, it was my understanding it had been worked out between the Senators, through the staffs, and that is the only reason we put that modification in. These are technical corrections, hoping to be able to have a usable Health IT bill when we finish.

Mr. REID. Madam President, I say to my friend, why do we not take this one out of this tranche and see if this can be worked out while we are working through these other amendments.

Mr. ENZI. Madam President, I waited for 3 days to be able to make a technical correction amendment. Yes, I will agree to do that. I hope it does not get left out. I think without that amendment, the Health IT portion will not work. It is not anything about money, it is about having a portion that will or will not work.

Mr. REID. During these votes I say to my friend from Wyoming, the two managers and you and Senator LEAHY can meet and get some staff to meet and work this out.

I would ask that the agreement I have suggested be approved, with the exception of 293; we will work on that during the votes.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Madam President, reserving the right to object, I hope I did not miss something, but I asked earlier several times today about an amendment, I believe 239, the E-Verify amendment that I think has broad support.

But it keeps not getting on the list. So I am wondering what kind of assurance the leader could have, that if we are not on this list, what opportunity there will be to get a vote, and if there is a decided intention to deny a vote on this, it is something I feel very strongly about and would have to resist, if I could.

Mr. REID. I would say to my friend from Alabama, there are a number of Senators who have amendments they would like to offer. The Republican leader and I felt it was appropriate to get rid of these that have been brought before the body. I have a number on this side that are in the same standing as you, and we will have to work on those. That is the best I can say.

Mr. SESSIONS. Well, I thank the majority leader. I am very uneasy about it. I am afraid this amendment, which I am confident would have an overwhelming vote, there may be some objections somewhere from having a chance to vote on it. So I withdraw my objection at this time and hope we can work on it.

Mr. REID. We do not know what it is. We have to take a look at it.

Mr. SESSIONS. It has to do with the people who get money, contracts under this agreement who would have to use the E-Verify system to make minimal checks that the persons they hire are legally in this country.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Reserving the right to object, I have to ask one additional question. My amendment would still be pending then?

Mr. REID. The answer is yes.

Mr. LEAHY. But, Madam President, not in this batch.

The PRESIDING OFFICER. Correct.

Without objection, it is so ordered.

The amendment No. 145, as modified, is as follows:

On page 263, between lines 10 and 11, insert the following:

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1201. Section 257 of the National Housing Act (12 U.S.C. 1715z-23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), is amended—

(1) in subsection (e)(1)(B), by inserting after ''being reset,'' the following: ''or has, due to a decrease in income,'';

(2) in subsection (k)(2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''shall, upon any sale or disposition of the property to which the mortgage relates, be entitled to 25 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the eligible mortgage refinanced under this section.'';

(3) in subsection (i)—

(A) by inserting '', after weighing maximization of participation with consideration for the solvency of the program,'' after ''Secretary shall'';

(B) in paragraph (1), by striking ''equal to 3 percent'' and inserting ''not more than 2 percent''; and

(C) in paragraph (2), by striking ''equal to 1.5 percent'' and inserting ''not more than 1 percent''; and

(4) by adding at the end the following:

''(x) AUCTIONS.—The Board shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

''(y) COMPENSATION OF SERVICERS.—To provide incentive for participation in the program under this section, each servicer of an eligible mortgage insured under this section shall be paid $1,000 for performing services associated with refinancing such mortgage, or such other amount as the Board determines is warranted. Funding for such compensation shall be provided by funds realized through the HOPE bond under subsection (w).''.

At the end of division B, add the following:

TITLE VI—FORECLOSURE PREVENTION

SEC. 6001. MANDATORY LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended—

(1) by striking the last sentence;

(2) by striking ''To the extent'' and inserting the following:

''(1) IN GENERAL.—To the extent''; and

(3) by adding at the end the following:

''(2) LOAN MODIFICATIONS REQUIRED.—

''(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

''(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than $50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

''(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

''(i) loan guarantees and credit enhancements;

''(ii) the reduction of loan principal amounts and interest rates;

''(iii) extension of mortgage loan terms; and

''(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

''(D) DESIGNATION AUTHORITY.—

''(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

''(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

''(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with

the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

''(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

''(i) upon development of the plan required by this paragraph, a report describing such plan; and

''(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.''.

At the end of division B, add the following:

TITLE VI—FORECLOSURE MITIGATION

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Help Families Keep Their Homes Act of 2009''.

SEC. 7002. DEFINITIONS.

For purposes of this title—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the Act'' means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 7003; and

(9) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 7003(b).

SEC. 7003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized to make payments to eligible servicers, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—An eligible servicer may collect reasonable incentive fee payments, as established by the Secretary, not to exceed $2,000 per loan.

(2) CONSULTATION.—The fees permitted under this section shall be subject to standards established by the Secretary, in consultation with the Secretary of Housing and Urban Development and the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, which standards shall—

(A) include an evaluation of whether an eligible mortgage is affordable for the remainder of its term; and

(B) identify a reasonable fee to be paid to the servicer in the event that an eligible mortgage is prepaid.

(3) FORM OF PAYMENT.—Fees permitted under this section may be paid in a lump sum or on a monthly basis. If paid on a monthly basis, the fee may only be remitted as long as the loan performs.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage or the homeowner; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated pursuant to a derivative instrument to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number and percent of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number and percent of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, including the performance of mitigated loans, disagreggated for each form of loss mitigation, which forms may include—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive or forbear with respect to the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection and summary data.

SEC. 7004. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

SEC. 7005. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

AMENDMENT NO. 501, AS MODIFIED, TO AMENDMENT NO. 98

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote in relation to amendment No. 501 offered by the Senator from South Carolina.

Mr. CONRAD. I will take the time, since I do not see the Senator from South Carolina. I will say very simply, colleagues, this amendment is designed to help address the housing crisis by reallocating money from lesser priority areas to the FDIC mortgage foreclosure mitigation plan.

Sheila Bair, the head of the FDIC, has written us and said to us, if this amendment is passed, it will prevent 1.5 million American homes from being foreclosed on. It is paid for. This is critically important to economic recovery. Virtually every economist has told us if this is not dealt with, the housing crisis, and dealt with effectively, we cannot expect economic recovery.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Madam President, I rise in opposition to this amendment for one very simple reason. The Senator from Connecticut, Mr. DODD, the Senator from Florida, Mr. MARTINEZ, have the identical amendment coming up next, but instead of taking the money out of this proposal, it takes the money out of the TARP where it belongs.

This is a proposal related to housing, related to the economic crisis. This week the President will announce a TARP proposal, where he will send to us a letter, where $50 to $100 billion will be used for housing. The amendment of the Senator from Connecticut will do that.

I ask my colleagues, if this is a worthy cause, which it is, would we rather take the money out of this proposal—where we are fighting for every nickel? We have different views. Some want more tax cuts, some want more spending—when we can take it out of the TARP where the money otherwise would go to the large banks and others. And we are not happy with where the money went.

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

Mr. BAUCUS. I would like 30 seconds on this amendment.

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

Mr. BAUCUS. There are about $20 billion in this amendment of cuts which complicate the package that has been agreed to. For that reason alone, in addition to the reasons already mentioned, I think it is going to be highly imprudent to adopt this amendment. It would throw a monkey wrench into the agreement that has been reached earlier today.

For that reason, I also urge that the amendment not be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be 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) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 39, nays 57, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—39

Alexander	Chambliss	Crapo
Barrasso	Coburn	DeMint
Bennett	Cochran	Dorgan
Bond	Conrad	Ensign
Brownback	Corker	Enzi
Burr	Cornyn	Feingold
Graham	Lugar	Sessions
Grassley	Martinez	Shelby
Hatch	McCain	Specter
Inhofe	McConnell	Thune
Isakson	Murkowski	Vitter
Johanns	Risch	Voinovich
Kyl	Roberts	Wicker

NAYS—57

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

NOT VOTING—3

Gregg	Hutchison	Kennedy

The amendment (No. 501), as modified, was rejected.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 145, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote in relation to amendment No. 145, as modified, offered by the Senator from Connecticut, Mr. DODD.

The Senator from Connecticut.

Mr. DODD. Madam President, I will take part of the 1 minute and then offer time to my colleague from Florida, who is my cosponsor on this amendment, Senator MARTINEZ, to quickly address the amendment.

This amendment is the response to how we ought to deal with the foreclosure mitigation issue. We require in this amendment that $50 billion of the second tranche of the TARP money be dedicated to foreclosure mitigation as well as some modifications of the HOPE for Homeowners Act.

The third part—I want to commend my colleague from Florida—is a very solid and wise suggestion he made dealing with services, and I yield to him to explain his part of the amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Madam President, this part of the amendment simply goes at the servicers, the private servicers who are now part of the GSEs. They hold about 15 percent of the mortgages, but they are about 50 percent of the foreclosures. These folks will now be incentivized to make workouts with the homeowners to keep them in their homes; further, they will also be given a safe harbor so they are not subject to litigation. With that incentive, we believe the private servicers will begin to do the kinds of workouts that are necessary to keep people in their homes and avoid foreclosures.

I yield the floor.

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

Mr. DODD. Madam President, I commend my colleague for his very wise suggestion to this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana.

Mr. BAUCUS. Madam President, I suggest we vote on this amendment by voice.

Mr. CORKER. Madam President, did the Chair say ''in opposition''?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Madam President, may I ask the distinguished Senator from Connecticut: It was my understanding that all TARP funding was to be used for things the taxpayer would get back. In other words, these were supposed to be investments for which the taxpayers knew they would get 100 percent of their money back and more. So to use this money, is this not taking away from the very essence of what TARP was to be used for and now spending money we know the taxpayers will never get back?

Mr. DODD. Madam President, if I could have 30 seconds to respond?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Taxpayers not losing their homes is preserving something—not getting something back, No. 1. No. 2, when we wrote the original legislation in September, there were four requirements that we expected of the TARP funds, one of which was foreclosure mitigation. Regrettably, nothing was done at all about it. Not a nickel was spent on foreclosure mitigation. We are merely fulfilling the obligation we agreed to when the TARP legislation was adopted on October 1.

The PRESIDING OFFICER. All time has expired.

Mr. DODD. Madam President, I will accept a voice vote at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 145), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 297

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on amendment No. 297, offered by the Senator from Iowa, Mr. GRASSLEY.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, this amendment is a very simple vote. The complex funding formula for spending the $87 billion in Medicare in this bill is not fair. It should be a flat increase to all States. That is the way we have done it in the past, and that is what my amendment does now. Thirty-four States do better with the formula

under my amendment. So this is a vote to give your State its fair share or not, as you choose. I believe there are 65 Members in the Senate here today whose States do better under my amendment, and if you do not know how your State does—although I put it in the RECORD this afternoon—come to me before you cast your vote and I will show you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I strongly oppose this amendment and hope it will be defeated. Yes, the State of West Virginia would do 117 percent better because of the across-the-board funding under Medicaid, but that means in the future, if we have some kind of a further recession, we get no special help. We want to have special money set aside that is used for States that have special needs, special poverty, special unemployment, and special hurt. That is the point of Medicaid, to be flexible and to react to the needs of the people.

I hope this amendment will be defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—47

Alexander	DeMint	McConnell
Barrasso	Dorgan	Murkowski
Bennett	Enzi	Nelson (NE)
Bingaman	Feingold	Pryor
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Harkin	Sessions
Burr	Hatch	Shaheen
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kohl	Udall (NM)
Conrad	Kyl	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Wicker
Crapo	McCain	

NAYS—49

Akaka	Carper	Kerry
Baucus	Casey	Klobuchar
Bayh	Dodd	Landrieu
Begich	Durbin	Lautenberg
Bennet	Ensign	Leahy
Boxer	Feinstein	Levin
Brown	Gillibrand	Lieberman
Burris	Hagan	Martinez
Byrd	Inouye	McCaskill
Cantwell	Johnson	Menendez
Cardin	Kaufman	Merkley
Mikulski	Sanders	Warner
Murray	Schumer	Webb
Nelson (FL)	Specter	Whitehouse
Reed	Stabenow	Wyden
Reid	Tester	
Rockefeller	Udall (CO)	

NOT VOTING—3

Gregg	Hutchison	Kennedy

The amendment (No. 297) was rejected.

Mr. LEVIN. Madam President, I move to reconsider the vote.

Ms. STABENOW. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 274, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote in relation to amendment No. 274, as modified, offered by the Senator from Washington, Ms. CANTWELL.

Ms. CANTWELL. Madam President, I thank my cosponsors of this amendment, Senator HATCH, Senator BINGAMAN, Senator STABENOW, Senator ALEXANDER, Senator SNOWE, Senator KERRY, Senator CARPER, and Senator SCHUMER. What this amendment does is make an investment in not only stimulative activity for construction, engineering, and manufacturing jobs now, but it also makes an investment in our future in electric plug-in vehicles by making sure we create the right incentives for investment in that kind of manufacturing.

The United States right now leads in R&D on battery technology and components, but we have zero manufacturing—zero. The Chinese have 250,000 people in manufacturing and battery technology and over 150 partners. If we are going to create economic opportunity now, this is the amendment to do that and create jobs for the future in getting us off of our foreign dependence on oil.

Mr. GRASSLEY. Madam President, the amendment No. 274 would reduce the efficiency credit by $1.8 billion—that is almost half the tax benefit for these energy efficient home improvements.

The principal defect of this change will be felt in the emerging high-energy efficiency market. As anyone with conventional windows in this cold winter knows, inefficient windows suck a lot of heat out of a home.

Moreover, the tax benefit shifts, in part, to electric plug-in motorcycles, three wheelers, and golf carts.

Does this make sense?

However, there are a couple provisions I am glad to see are included. For instance, I am glad to see that the depreciation schedule for smart meters was cut from 10 to 5 years. Also, I am glad to see that businesses that make real plug-in electric cars—I don't support it for those that make golf carts, three wheelers, or motorcycles—can expense manufacturing facilities that make these cars.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank the Senator from Washington who is committed to improving our environment and our energy efficiency. I have great hopes for hybrid automobiles. However, I urge my colleagues on this day when we are passing so much on this bill and going around our committees to not support the amendment.

I note that I wrote earlier in the year and hope to receive a response soon from the Department of Energy to do a study on hybrids, diesel, ethanol, and other methods for both environment and efficiency. Our committees have been having hearings. This would choose one technology. It would have a cost of about $8 billion for the subsidies which are 10 percent of a vehicle's cost. I would say I favor moving forward, but I think it is premature. So I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, the amendment is paid for, but pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAUCUS. Madam President, I ask unanimous consent that this be a 10-minute vote.

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

Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—80

Akaka	Conrad	Landrieu
Alexander	Corker	Lautenberg
Baucus	Crapo	Leahy
Bayh	Dodd	Levin
Begich	Dorgan	Lieberman
Bennet	Durbin	Lincoln
Bennett	Ensign	Lugar
Bingaman	Feingold	Martinez
Bond	Feinstein	McCain
Boxer	Gillibrand	McCaskill
Brown	Graham	Menendez
Brownback	Hagan	Merkley
Burr	Harkin	Mikulski
Burris	Hatch	Murkowski
Byrd	Inouye	Murray
Cantwell	Isakson	Nelson (FL)
Cardin	Johnson	Nelson (NE)
Carper	Kaufman	Pryor
Casey	Kerry	Reed
Chambliss	Klobuchar	Reid
Collins	Kohl	Risch

Roberts	Specter	Voinovich
Rockefeller	Stabenow	Warner
Sanders	Tester	Webb
Schumer	Thune	Whitehouse
Shaheen	Udall (CO)	Wyden
Snowe	Udall (NM)	

NAYS—16

Barrasso	Enzi	Sessions
Bunning	Grassley	Shelby
Coburn	Inhofe	Vitter
Cochran	Johanns	Wicker
Cornyn	Kyl	
DeMint	McConnell	

NOT VOTING—3

Gregg	Hutchison	Kennedy

The PRESIDING OFFICER (Mr. BENNET). On this vote the yeas are 80, the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question is on agreeing to amendment No. 274, as further modified.

Mr. VITTER. Mr. President, what amendment is that?

The PRESIDING OFFICER. The Cantwell amendment No. 274, as further modified.

The amendment (No. 274), as further modified, was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Murray amendment No. 110 be withdrawn and the Feingold amendment No. 485 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. For the Senators who did not hear, I ask unanimous consent that the Murray amendment No. 110 be withdrawn and the Feingold amendment No. 485 be withdrawn.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. KYL. Mr. President, I object simply for this reason: Can we go in the order we agreed to? People are confused when we bounce around. If we can go in the order on the list, then I don't think we will be confused.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 107

Mr. KYL. Mr. President, am I correct that the Vitter amendment No. 107 is the next amendment?

The PRESIDING OFFICER. That is correct. Under the previous order, there is 2 minutes equally divided on amendment No. 107 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana.

Mr. VITTER. Mr. President, this amendment is very simple and straightforward. It would prohibit ACORN from receiving funds under this bill, including the Neighborhood Stabilization Program. We did that in the housing bill last year. We made that change, as we should have. We should do that in this bill in light of two things: No. 1, a lot of ACORN's activities in this area are to encourage things such as subprime mortgages which have led to problems. No. 2, ACORN has been guilty of massive voter registration fraud and politicization of their activities.

I encourage everyone to support this commonsense amendment which mirrors what we did in the housing bill last year.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in opposition to this amendment. This Senator from Louisiana is asking us to prohibit funding for one organization in America, ACORN. It exists in 110 different cities.

What kind of work does it do? Mortgage counseling, weatherization, earned-income tax credit, and volunteer work. In fact, after Hurricane Katrina in Louisiana, hundreds of ACORN volunteers went to the home State of the Senator offering this amendment and literally helped rehabilitate 3,500 homes. This is the show of gratitude they receive for helping him in his home State.

I urge my colleagues to oppose this amendment. It is unnecessary. Any work they do they will have to compete for under an amendment previously offered and accepted. Please vote no on the Vitter amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. VITTER. I yield back my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. BAUCUS. I ask this be a 10-minute vote.

The PRESIDING OFFICER. They are 10-minute votes.

The question is on agreeing to amendment No. 107.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—45

Alexander	Cornyn	McCain
Barrasso	Crapo	McConnell
Baucus	DeMint	Murkowski
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Risch
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Hagan	Shelby
Burr	Hatch	Snowe
Byrd	Inhofe	Specter
Chambliss	Isakson	Tester
Coburn	Johanns	Thune
Cochran	Kyl	Vitter
Collins	Lugar	Voinovich
Corker	Martinez	Wicker

NAYS—51

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

NOT VOTING—3

Gregg	Hutchison	Kennedy

The amendment (No. 107) was rejected.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I wanted to give everyone an idea of the schedule. We are having a difficult time finishing this business before midnight. That being the case, we will file cloture likely after midnight. And that being the case, in case anyone has forgotten, tomorrow is Saturday, which would mean we would have a cloture vote Monday morning sometime.

Now, we will be happy to work with the Republicans to determine what time we get to an end game on this legislation, but at this stage it appears that we will not have anything here on Sunday. And tomorrow, if people want—and I have spoken to a number of my colleagues on this side of the aisle—there will be some time for debate. So tomorrow, tentatively what we will do is, we will be in session from 11 a.m. to 3 p.m.—2 hours for the majority, 2 hours for the minority. The one side will talk about how good the bill is, and the other will be talking about how close to being good the bill is.

So we will do that tomorrow, and I will work with Senator MCCONNELL to find out how we get toward the end process. I remind everyone that we will want to get this done as early as we can next week so that we can have the Presidents Day recess. Each time we run into a procedural roadblock, it makes it very difficult.

I think tonight we only have a couple more amendments. We have two or three more votes tonight, but no one needs to take any extra time or stop us from doing some of the withdrawals, because I have acknowledged it will be past midnight, so there is no need to worry about that.

I think I have explained things about as well as I can. As to what we are going to do Monday and a time for that, I will work with Senator MCCONNELL during the next couple of votes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 485, WITHDRAWN

Mr. BAUCUS. Mr. President, I ask unanimous consent that Feingold amendment No. 485 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

AMENDMENT NO. 531

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to the vote in relation to amendment No. 531 offered by the Senator from Kentucky, Mr. BUNNING.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, over 30 years ago, in 1976, Russell Long stood right here where we are today and voted for legislation that set the capital loss limit at $3,000. President Gerald Ford signed the bill into law. That was a long time ago, and Senator Long and President Ford are both gone.

What is the legacy we will leave for future generations? The bill we are considering today will pile a staggering amount of debt on their shoulders—more than $1 trillion. But let's at least do some good here. At a time when the stock market is down 40 percent from its highs, when $7.5 trillion in paper wealth has been destroyed, there is a crying need to update the 30-year capital loss limit. We have a rare opportunity to fix a longstanding problem with the Tax Code at a time when economists say the change is also good policy.

It will stimulate the economy by encouraging private risk taking. When investors take risks, the economy expands, and the fear we are experiencing will be dispelled.

I urge you to vote for the amendment.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment increases the amount of capital losses that could be used to offset ordinary income from $3,000 to $15,000 at a cost of probably about $11 billion over 10 years. I do think perhaps the capital loss provision applied to income should be increased at some point, but this is too much of an increase. From $3,000 to $15,000 is too much of a leap. I think, therefore, we should not support this amendment. I urge we vote against this amendment.

Mr. BUNNING. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 41, nays 55, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—41

Alexander	DeMint	McConnell
Barrasso	Ensign	Murkowski
Bennett	Enzi	Risch
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Hatch	Shelby
Burr	Inhofe	Specter
Chambliss	Isakson	Thune
Coburn	Johanns	Udall (CO)
Cochran	Kyl	Vitter
Collins	Landrieu	Voinovich
Corker	Lugar	Webb
Cornyn	Martinez	Wicker
Crapo	McCain	

NAYS—55

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
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (NM)
Conrad	Lincoln	Warner
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Merkley	
Feingold	Mikulski	

NOT VOTING—3

Gregg	Hutchison	Kennedy

The amendment (No. 531) was rejected.

Mr. GRASSLEY. Mr. President, I voted for Bunning amendment No. 531 because the $3,000 of capital losses that people can use to offset their ordinary income hasn't been indexed for inflation, and has been at that $3,000 level since 1976. The $15,000 level is only $4,500 higher than the level it would be—$10,500—if it had been indexed for inflation.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 110 WITHDRAWN

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Murray amendment, No. 110, be withdrawn.

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

AMENDMENT NO. 468

Under the previous order, there will now be 2 minutes equally divided on amendment No. 468 offered by the Senator from Oregon, Mr. WYDEN.

Mr. WYDEN. Mr. President, Senators of both parties have worked hard to limit the costs of the economic recovery legislation. This bipartisan amendment that I offer with Senator SNOWE and Senator LINCOLN will, according to the Joint Committee on Taxation, reduce the cost of this bill by $3.2 billion.

This amendment provides a way to quickly return to taxpayers a substantial portion of the money that was recently paid out in excessive bonuses to companies under the Troubled Asset Relief Program. Our people were horrified to learn that Citigroup and others that had received extensive Federal support had paid out billions of dollars in excessive bonuses. This amendment makes it clear that it is not enough to say the excessive bonuses are wrong; it requires that companies pay those bonuses back to our taxpayers. The amendment gives the companies a choice: Pay back the cash portion of any bonus paid in excess of $120,000 or pay an excise tax of 35 percent.

This is a bipartisan amendment. I urge my colleagues to accept it on a voice vote.

The PRESIDING OFFICER. Is there debate in opposition? Is all time yielded back?

Mr. COBURN. I yield back our time.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 468) was agreed to.

AMENDMENT NO. 538

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided prior to a vote in relation to amendment No. 538, offered by the Senator from South Dakota, Mr. THUNE.

Mr. THUNE. Mr. President, there are two ways to stimulate the economy with a trillion dollars. One is to have the Government do it. The other is to have the American people do it. We are going to spend $1 trillion. Seventy percent of our gross domestic product is in the form of consumer spending. What better way than to give consumers' dollars back into their hands and allow them to stimulate the economy. If we are going to borrow a trillion dollars from our children and grandchildren, let's at least do it in a way that helps American families.

Under my amendment, if you are someone who makes under $250,000 a year, you are going to be eligible for a check in the amount of $5,143. If you are a married couple filing jointly, you are going to be eligible for a check for $10,286. Anybody who files a tax return is going to be eligible for a rebate in that amount. I think this is a way to provide real stimulus to the American economy, and I urge my colleagues to adopt this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is now a sufficient second. The yeas and nays are ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I urge Members not to adopt this amendment. It strikes the entire underlying bill, and it replaces it with a tax cut for all Americans, except at least 8 million Americans who do not file. This rebate will go to filers. There are about 8 million Americans, at least, who do not file income tax returns; they pay payroll taxes, many of them.

Under the underlying bill, the rebate goes to people who work and pay payroll taxes. Under the Thune amendment, it only goes to people who pay income taxes, not payroll taxes. At least 8 million people would not get the benefit of this rebate. It strikes the whole underlying bill. So I urge it not be adopted.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, while we have everyone's attention, we all recognize this has been a long, rough week. We have had 46 amendments that have been offered. We have had 19 amendments that have been agreed to; 25 or so have been voted on. So we have done a lot of work.

We are going to come in tomorrow, from noon until 3 o'clock. The time will be evenly divided for people to talk about the legislation that is before us. We had more time than that, but some of the people who were wanting to speak have fallen off.

I am working now with the Republican leader. I think what we are going to do is come in about 1 o'clock on Monday. We do not have this firmed up. We will do a consent before the evening is over. We will come in Monday at 1 o'clock, have debate until 5:30, have a cloture vote at 5:30.

At noon on Tuesday, we will have, the way things now are, we will have a budget point of order. If we get 60 votes on that, that will be the end of this matter, and we can start going to conference immediately.

The House is coming in Monday to start the conference process. And I say to everyone here, we are going to do our utmost to have a conference. It is something we have not done very often here in recent years. But we are going to try to get in the habit of doing conferences. I hope I have answered at least the broad outline.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask a question of the majority leader. I had an amendment that would simply require those who get contracts to build infrastructure, that they would use the E-Verify system to determine whether a person is using a valid Social Security number. It is a proven system; 2,000 businesses are voluntarily signing up each week.

So I would hope we get a vote on that. Am I now being told we will not be able to vote on that amendment? I hate to object.

Mr. REID. I have not asked for any unanimous consent. I would suggest, during this vote, you could talk to the manager of this bill. I did not ask for any consent.

Mr. SESSIONS. I thank the majority leader. I know he has a million things to worry about. But it is an important matter. I would be very disappointed if we did not get a chance to vote on this.

Mr. REID. We had, as I indicated, 450 amendments filed. We are trying to be as fair to everyone as we can.

Mr. BAUCUS. Mr. President, I raise a pay-go budget point of order against the Thune amendment.

Mr. THUNE. Mr. President, I would ask to waive the applicable point of order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Texas (Mrs. HUTCHISON).

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

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—35

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hatch	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Specter
Coburn	Johanns	Thune
Cochran	Kyl	Vitter
Corker	Lugar	Wicker
Cornyn	Martinez	

NAYS—61

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

NOT VOTING—3

Gregg	Hutchison	Kennedy

The PRESIDING OFFICER. On this vote, the ayes are 35, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Wyoming.

AMENDMENT NO. 293, AS FURTHER MODIFIED

Mr. ENZI. Mr. President, I believe the pending amendment is the Enzi amendment No. 293, as modified, and I ask unanimous consent that it be further modified.

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

The amendment (No. 293), as further modified, is as follows:

On page 265, line 2, add at the end the following: ''community mental health center (as defined in section 1913(b)), renal dialysis facility, blood center, ambulatory surgical center described in section 1833(i) of the Social Security Act,''.

On page 265, line 23, strike ''means'' and insert ''includes''.

On page 266, line 2, insert ''access,'' after ''maintenance,''.

On page 270, strike lines 1 through 11, and insert the following:

''(1) STANDARDS.—The National Coordinator shall—

''(A) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004;

''(B) make such determinations under subparagraph (A), and report to the Secretary such determinations, not later than 45 days after the date the recommendation is received by the Coordinator;

''(C) review Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published under paragraph (3); and

''(D) provide comments and advice regarding specific Federal health information technology programs, at the request of the Office of Management and Budget.''.

Beginning on page 273, strike line 21, and all that follows through line 8 on page 274, and insert the following:

''(5) HARMONIZATION.—The Secretary may recognize an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(6) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.''.

On page 276, strike lines 15 through 24, and insert the following:

(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including—

(i) the required level of Federal funding;

(ii) expectations for regional, State, and private investment;

(iii) the expected contributions by volunteers to activities for the utilization of such records; and

(iv) the resources needed to establish or expand education programs in medical and health informatics and health information management to train health care and information technology students and provide a health information technology workforce sufficient to ensure the rapid and effective deployment and utilization of health information technologies.

On page 282, between lines 3 and 4, insert the following:

''(vi) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and gender information.

''(vii) Technologies and design features that address the needs of children and other vulnerable populations.''.

On page 283, strike lines 10 through 12, and insert the following:

''(ix) Methods to facilitate secure access by an individual to such individual's protected health information.

''(x) Methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia that prevents a patient from accessing the patient's individually identifiable health information.''.

On page 283, between lines 21 and 22, insert the following:

''(4) CONSISTENCY WITH EVALUATION CONDUCTED UNDER MIPPA.—

''(A) REQUIREMENT FOR CONSISTENCY.—The HIT Policy Committee shall ensure that recommendations made under paragraph (2)(B)(vi) are consistent with the evaluation conducted under section 1809(a) of the Social Security Act.

''(B) SCOPE.—Nothing in subparagraph (A) shall be construed to limit the recommendations under paragraph (2)(B)(vi) to the elements described in section 1809(a)(3) of the Social Security Act.

''(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.''.

On page 284, strike lines 1 through 13, and insert the following:

''(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

''(A) One member shall be appointed by the Secretary.

''(B) One member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

''(C) One member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

''(D) One member shall be appointed by the Majority Leader of the Senate.

''(E) One member shall be appointed by the Minority Leader of the Senate.

''(F) One member shall be appointed by the Speaker of the House of Representatives.

''(G) One member shall be appointed by the Minority Leader of the House of Representatives.

''(H) Eleven members shall be appointed by the Comptroller General of the United States, of whom—

''(i) three members shall represent patients or consumers;

''(ii) one member shall represent health care providers;

''(iii) one member shall be from a labor organization representing health care workers;

''(iv) one member shall have expertise in privacy and security;

''(v) one member shall have expertise in improving the health of vulnerable populations;

''(vi) one member shall represent health plans or other third party payers;

''(vii) one member shall represent information technology vendors;

''(viii) one member shall represent purchasers or employers; and

''(ix) one member shall have expertise in health care quality measurement and reporting.

''(3) CHAIRPERSON AND VICE CHAIRPERSON.—The HIT Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

''(4) NATIONAL COORDINATOR.—The National Coordinator shall serve as a member of the HIT Policy Committee and act as a liaison among the HIT Policy Committee, the HIT Standards Committee, and the Federal Government.

''(5) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(6) TERMS.—

''(A) IN GENERAL.—The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

''(7) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy and security;

''(B) improving the health of vulnerable populations;

''(C) health care quality and patient safety, including individuals with expertise in the measurement and use of health information technology to capture data to improve health care quality and patient safety;

''(D) long-term care and aging services;

''(E) medical and clinical research; and

''(F) data exchange and developing health information technology standards and new health information technology.

''(8) QUORUM.—Ten members of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(9) FAILURE OF INITIAL APPOINTMENT.—If, on the date that is 45 days after the date of enactment of this title, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint—

''(A) the number of members that such official is authorized to appoint shall be reduced to the number that such official has appointed as of that date; and

''(B) the number prescribed in paragraph (8) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

''(10) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.''.

On page 287, between lines 16 and 17, insert the following:

''(5) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.''.

On page 288, strike lines 4 through 19 and insert the following:

''(3) BROAD PARTICIPATION.—There is broad participation in the HIT Standards Committee by a variety of public and private stakeholders, either through membership in the Committee or through another means.

''(4) CHAIRPERSON; VICE CHAIRPERSON.—The HIT Standards Committee may designate one member to serve as the chairperson and one member to serve as the vice chairperson.

''(5) DEPARTMENT MEMBERSHIP.—The Secretary shall be a member of the HIT Standards Committee. The National Coordinator shall act as a liaison among the HIT Standards Committee, the HIT Policy Committee, and the Federal Government.

''(6) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

''(7) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) OPEN AND PUBLIC PROCESS.—In providing for the establishment of the HIT Standards Committee pursuant to subsection (a), the Secretary shall ensure the following:

''(1) CONSENSUS APPROACH; OPEN PROCESS.—The HIT Standards Committee shall use a consensus approach and a fair and open process to support the development, harmonization, and recognition of standards described in subsection (a)(1).

''(2) PARTICIPATION OF OUTSIDE ADVISERS.—The HIT Standards Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve healthcare quality and patient safety;

''(D) long-term care and aging services; and

''(E) data exchange and developing health information technology standards and new health information technology.

''(3) OPEN MEETINGS.—Plenary and other regularly scheduled formal meetings of the HIT Standards Committee (or established subgroups thereof) shall be open to the public.

''(4) PUBLICATION OF MEETING NOTICES AND MATERIALS PRIOR TO MEETINGS.—The HIT Standards Committee shall develop and maintain an Internet website on which it publishes, prior to each meeting, a meeting notice, a meeting agenda, and meeting materials.

''(5) OPPORTUNITY FOR PUBLIC COMMENT.—The HIT Standards Committee shall develop a process that allows for public comment during the process by which the Entity develops, harmonizes, or recognizes standards and implementation specifications.

''(e) VOLUNTARY CONSENSUS STANDARD BODY.—The provisions of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) and the Office of Management and Budget circular 119 shall apply to the HIT Standards Committee.''.

On page 290, line 14, strike ''INITIAL SET OF''.

On page 291, between lines 6 and 7, insert the following:

''(3) SUBSEQUENT STANDARDS ACTIVITY.—The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 3003(b)(2).''.

Beginning on page 293, strike line 7 and all that follows through line 2 on page 295, and insert the following:

SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—Nothing in section 3001 shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with the requirements of a voluntary consensus standards body so as to allow the Secretary to recognize the National eHealth Collaborative as the HIT Standards Committee.

''(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.''.

On page 292, strike lines 6 through 12, and insert the following:

''(a) IN GENERAL.—The National Coordinator shall support the development and routine updating of qualified electronic health record technology (as defined in section 3000) consistent with subsections (b) and (c) and make available such qualified electronic health record technology unless the Secretary and the HIT Policy Committee determine through an assessment that the needs and demands of providers are being substantially and adequately met through the marketplace.''.

On page 305, strike line 5, strike ''shall coordinate'' and insert ''may review''.

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

On page 355, line 25, insert before the period the following: ''and the information necessary to improve patient outcomes and to detect, prevent, and manage chronic disease''.

Beginning on page 357, strike line 1 and all that follows through line 12 on page 359, and insert the following:

''(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

''(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

''(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

''(2) REGULATIONS.—The Secretary shall promulgate regulations on what disclosures must be included in an accounting referred to in paragraph (1)(A) and what information must be collected about each such disclosure not later than 18 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 13101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of individuals in learning when their protected health information was disclosed and to whom it was disclosed, and the usefulness of such information to the individual, and takes into account the administrative and cost burden of accounting for such disclosures.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) requiring a covered entity to account for disclosures of protected health information that are not made by such covered entity; or

''(B) requiring a business associate of a covered entity to account for disclosures of protected health information that are not made by such business associate.

''(4) REASONABLE FEE.—A covered entity may impose a reasonable fee on an individual for an accounting performed under paragraph (1)(B). Any such fee shall not be greater than the entity's labor costs in responding to the request.

''(5) EFFECTIVE DATE.—

''(A) CURRENT USERS OF ELECTRONIC RECORDS.—In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

''(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

''(i) January 1, 2011; or

''(ii) the date that it acquires an electronic health record.

''(C) LATER DATE.—The Secretary may set an effective date that is later that the date specified under subparagraph (A) or (B) if the Secretary determines that such later date it necessary, but in no case may the date specified under—

''(i) subparagraph (A) be later than 2018; or

''(ii) subparagraph (B) be later than 2014.''.

On page 359, line 15, strike ''shall'' and all that follows through ''those'' on line 18, and insert the following: ''shall review and evaluate the definition of health care operations under section 164.501 of title 45, Code of Federal Regulations, and to the extent appropriate, eliminate by regulation''.

On page 359, line 22, insert ''In promulgating such regulations, the Secretary shall not require that data be de-identified or require valid authorization for use or disclosure for activities within a covered entity described in paragraph (1) of the definition of health care operations under such section 164.501.'' after ''disclosure.''.

On page 360, line 6, insert at the end the following: ''Nothing in this subsection may be construed to supersede any provision under subsection (e) or section 13406(a).''.

On page 361, line 2, strike ''and'' and all that follows through ''pose'' on line 5.

On page 361, line 7, strike ''and'' and all that follows through line 10, and insert the following: '', subject to any regulation that the Secretary may promulgate to prevent protected health information from inappropriate access, use, or disclosure.''.

On page 362, strike lines 9 through 13, and insert the following:

(3) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Secretary shall promulgate regulations to carry out this subsection. In promulgating such regulations, the Secretary—

(A) shall evaluate the impact of restricting the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, on research or public health activities, including those conducted by or for the use of the Food and Drug Administration; and

(B) may further restrict the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, if the Secretary finds that such further restriction will not impede such research or public health activities.

Beginning on page 364, strike line 1 and all that follows through line 3 on page 365, and insert the following:

(2) PAYMENT FOR CERTAIN COMMUNICATIONS.—A communication by a covered entity or business associate that is described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations if the covered entity receives or has received direct or indirect payment in exchange for making such communication, except where—

(A) such communication describes only a health care item or service that has previously been prescribed for or administered to the recipient of the communication, or a family member of such recipient;

(B) each of the following conditions apply—

(i) the communication is made by the covered entity; and

(ii) the covered entity making such communication obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; or

(C) each of the following conditions apply—

(i) the communication is made on behalf of the covered entity;

(ii) the communication is consistent with the written contract (or other written arrangement described in section 164.502(e)(2) of such title) between such business associate and covered entity; and

(iii) the business associate making such communication, or the covered entity on behalf of which the communication is made, obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication.

On page 365, strike lines 4 through 7.

On page 369, lines 10 and 11, strike ''Secretary of Health and Human Services shall'' and insert ''the Federal Trade Commission shall, in accordance with section 553 of title 5, United States Code,''.

On page 390, after line 21, insert the following:

(e) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this section, the Government Accountability Office shall submit to Congress and the Secretary of Health and Human Services a report on the impact of any of the provisions of, or

amendments made by, this division or division B that are related to the Health Insurance Portability and Accountability Act of 1996 and section 552a of title 5, United States Code, on health insurance premiums and overall health care costs.

The PRESIDING OFFICER. The question occurs on the amendment, as further modified.

The Senator from Vermont.

Mr. LEAHY. Mr. President, with the forbearance of my friend from Wyoming, I am pleased to tell the managers of the bill and all that we have reached agreement with Senators ENZI, KENNEDY, SNOWE, and KLOBUCHAR to preserve the important privacy protections of electronic health records in the bill. I think these changes will help ensure there are meaningful privacy protections for America's electronic health records in place. I know that is something both the Senator from Wyoming and I are interested in. This helps. I support the amendment, and I urge its immediate adoption.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Vermont for his consideration, and I particularly thank the Senator from Minnesota, who is the subcommittee chair for information technology, who has played a very interesting role in this and has made some very good emphasis, and who understands what we are trying to do. So I thank her for all of her efforts too.

Mr. President, I ask for an immediate vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 293), as further modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 98 WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent to withdraw amendment No. 98.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate convenes on Saturday, February 7, the following be the order: that the Collins and Nelson of Nebraska amendment be called up, the reading be waived; that cloture be filed on the amendment, and that the mandatory quorum be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that no further amendments or motions be in order for the duration of the consideration of H.R. 1; and that on Saturday, February 7, the time from 12 noon to 3 p.m. be equally divided and controlled between the leaders or their designees; that there be debate only with no amendments or motions in order; provided further that when the Senate reconvenes on Monday, February 9, the time from 1 p.m. to 5:30 p.m. be divided and controlled in the same manner and that at 5:30 p.m., the Senate proceed to vote on the motion to invoke cloture on the Reid for Collins and Nelson of Nebraska, among others, amendment; that if cloture is invoked on the amendment, then postcloture time run during any recess or adjournment of the Senate on Monday; and that all postcloture time be considered expired at 12 noon on Tuesday; that on Tuesday, February 10, after the Senate reconvenes, the time until 12 noon be equally divided and controlled as provided above; and that if a budget point of order is made against the amendment, then a motion to waive the applicable point of order be considered made; that if the waiver is successful, the amendment be agreed to, and the motion to reconsider be laid upon the table; that if there is no point of order against the amendment, then adoption of the amendment be subject to a 60-vote threshold; the bill, as amended, be read a third time, and the Senate then proceed to a vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees, with the ratio agreed upon by the leaders, with the above all without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I note 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.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO JOE BLANTON

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an outstanding athlete from my home State of Kentucky, Joe Blanton, who was a pitcher for the Philadelphia Phillies 2008 World Series Championship team.

Blanton, who played baseball at Edmonson County High School in Brownsville, KY continued his baseball career in the Commonwealth by playing for the University of Kentucky. He was drafted by the Oakland Athletics after college and was traded to the Phillies during the All-Star break this past summer.

Recently, the Daily News in Bowling Green, KY, published an article detailing Mr. Blanton's journey and accomplishments. I will ask to have the full article printed in the RECORD.

I also ask my colleagues to join me in honoring Joe Blanton for his accomplishments in the 2008 Major League Baseball postseason. Kentucky is proud of his success, and we look forward to seeing more of his prodigious athletic talent on the baseball diamond in the years ahead.

Mr. President, I ask unanimous consent to have the article 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 the Daily News, Jan. 24, 2009]

BLANTON'S DAY IN BROWNSVILLE: EDMONSON COUNTY HONORS WORLD SERIES CHAMPION PITCHER

(By Micheal Compton)

It's been an offseason to remember for Joe Blanton.

Traded from the Oakland A's to the Philadelphia Phillies in July, Blanton became a key member of a Philadelphia team that celebrated its first World Series championship since 1980 by beating the Tampa Bay Rays in five games in October.

Blanton was honored Saturday at Edmonson County High School, where he pitched until 1998, getting his jersey retired in front of family, college coach and Edmonson County alum Keith Madison and several hundred fans.

Blanton, who signed autographs and took pictures with fans, said his participation in the fundraiser for the ECHS baseball program was his way of giving back to a community that gave him so much as a young man.

''This is kind of a little way that I hope I can help (the Edmonson County baseball program) a little bit, to make it easier on them and give them a few nice things here and there,'' Blanton said.

Edmonson County coach Clint Clark said Saturday's event has been in the works since August. But once Blanton won the World Series with the Phillies in October, the process sped up.

''What Joseph means to this community, words can't describe,'' Clark said. ''By bringing him home and honoring Joseph and having (former University of Kentucky) coach Madison back to be a part of it, we wanted to be able to bring back the tradition here at Edmonson County.''

2008 was a year of highs and lows for Blanton, culminating in a World Series performance that included one of the most memorable moments in baseball history.

''It's been a ride,'' Blanton said. ''When you get traded, it is definitely weird. It always shocks you a little bit. I didn't know anybody (in Philadelphia), any of the coaches, but it seemed to work out pretty good for me.''